

# 2025 Guaranteed Energy Savings Contracts Annual Report

A Report to the  
Joint Legislative Oversight Committee on  
Agriculture and Natural and Economic Resources;  
Fiscal Research Division; and  
Local Government Commission

Pursuant to §143-64.17H



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**Preface:**

This report contains the Department of Environmental Quality's annual status update to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources; Fiscal Research Division; and Local Government Commission for guaranteed energy savings contracts pursuant to G.S. §143-64.17H. As required, this report contains information pertaining to Guaranteed Energy Savings Contracts that are executed for state-owned buildings. The contracts evaluate, recommend, or implement energy conservation measures that result in guaranteed monetary savings exceeding the costs of designing, installing, repairing, or replacing equipment.

## Table of Contents

I. Executive Summary .....	5
II. Purpose & Background .....	6
A. Roles and Responsibilities of Key Entities .....	7
III. Annual Reporting Requirements.....	9
A. G.S. §143-64.17G, <i>Report on guaranteed energy savings contracts entered into by local governmental units.</i> .....	9
B. G.S. §143-64.17H, <i>Report on guaranteed energy savings contracts entered into by State governmental units.</i> .....	9
IV. Program Effectiveness Update .....	13
V. Local Governmental GESPC Update.....	16

## List of Tables

Table 1. Roles and Responsibilities for Key Entities .....	7
Table 2. GESPC Summary of Terms and Reporting Status of Current Projects.....	11
Table 3. GESPC Summary of Terms and Reporting Status of Completed Projects.....	12

## List of Acronyms

Acronym	Definition
DAC	Department of Adult Corrections
DEQ	Department of Environmental Quality
DOA	Department of Administration
DNCR	Department of Natural and Cultural Resources
DPS	Department of Public Safety
ECM	Energy Conservation Measure
EO80	Executive Order Number 80
ePX	eProject eXpress
ESA	Energy Service Agreement
ESC	NC Chapter of the Energy Services Coalition
ESCO	Energy Services Company
G.S.	North Carolina General Statute
GESPC	Guaranteed Energy Savings Performance Contract
IAQ	Indoor Air Quality
IGA	Investment Grade Audit
IJA	Infrastructure Investment and Jobs Act
IRA	Inflation Reduction Act
LED	Light Emitting Diode
LGC	Local Government Commission
M&V	Measurement and Verification
NAESCO	National Association of Energy Service Companies
NC	North Carolina
NCAC	North Carolina Administrative Code
OSBM	Office of State Budget and Management
RFP	Request for Proposal
SCO	State Construction Office
SEO	State Energy Office
UNC	University of North Carolina
USI	Utility Savings Initiative

## Definitions

**Qualified Provider** means a person or business experienced in the design, implementation, and installation of energy conservation measures who has been prequalified by the State Energy Office according to the prequalification criteria established under the Department of Administration rules contained in North Carolina Administrative Code (NCAC), Title 01, Subchapter 41B, *Guaranteed Energy Savings Contracts*.

**Qualified Reviewer** means an architect or engineer who is (i) licensed in this state and (ii) experienced in the design, implementation, and installation of energy efficiency measures.

## **List of Appendices**

- Appendix A: Guaranteed Energy Savings Contract Process
- Appendix B: General Statute Chapter 143, Article 3B, *Conservation of Energy, Water, and Other Utilities in Government Facilities*.
- Appendix C: North Carolina Administrative Code, Title 01, Subchapter 41B, *Guaranteed Energy Savings Contracts*
- Appendix D: General Statute Chapter 142, Article 8, *State Energy Conservation Finance Act*
- Appendix E: General Statute Chapter 116-30.3B, *Energy Conservation Savings*
- Appendix F: Executive Order Number 80, *North Carolina's Commitment to Address Climate Change and Transition to a Clean Energy Economy*
- Appendix G: Executive Order Number 246, *North Carolina's Transformation to a Clean, Equitable Economy*
- Appendix H: List of Qualified Providers in North Carolina

## I. Executive Summary

Since 2002, General Statute (G.S.) §143-64 allows for state agencies and universities to utilize a Guaranteed Energy Savings Performance Contract (GESPC) process to implement major facility upgrades. These contracts ensure that the cost of improvements is paid for entirely through verified energy savings, with no upfront capital required. Under this law, energy savings resulting from the performance of the contract must equal or exceed the total cost of the contract. Additionally, contracts may not exceed a term of 20 years from the date of the installation and acceptance by the state governmental unit (i.e., state agencies or the University of North Carolina (UNC) System). Established under this legislative framework, 24 total GESPCs executed among governmental agencies and private energy service providers since 2005. As of FY2024-25, 19 active GESPCs are underway across state agencies and UNC institutions, while five projects have completed their contract terms collectively exceeding guaranteed savings by over \$2.2 million. The total guaranteed savings across all active contracts amounts more than \$442 million, with \$241 million already achieved to date. This represents over \$32 million above the guaranteed amount to date, demonstrating the continued effectiveness of performance contracting in delivering cost savings and infrastructure improvements.

State governmental units with executed GESPCs are required to report annual summaries of guaranteed savings to the Department of Environmental Quality (DEQ), State Energy Office (SEO). For FY2024-25, M&V data for 15 of the 19 active projects were reported by state governmental units in accordance with G.S. §143-64.17H<sup>1</sup>. The SEO estimates that of the projected over \$442 million in guaranteed savings for currently executed GESPCs, more than \$241 million has been saved to date<sup>2</sup>. However, of the 15 projects that submitted M&V data, only 7 had their savings verified by third-party reviewers as required by G.S. §143-64.17M. The remaining unconfirmed savings are due to factors such as reporting entities submitting M&V reports that (1) do not have third-party verification; (2) contain stipulated savings; (3) are preliminary draft values; and/or (4) are in the process of obtaining third-party reviews for their current performance year. This year's values are updated and reported to the best of SEO's ability, including obtaining and properly storing official contract documents and M&V reports, and maintaining consistent communication with both the ESCO and state governmental unit of the GESPC year-round in preparation for this annual reconciliation. The State Energy Office continues to emphasize the importance of timely ESCO recertification process, which occurs every three years as required by administrative code. The ESCO recertification process was most recently completed in 2025.

Notably, Elizabeth City State University and North Carolina Central University did not submit complete documentation for this reporting cycle. Updates will be incorporated into future revisions once their records are finalized. Additionally, the NC School of Science and Mathematics is in the process of canceling its performance contract; the SEO has worked closely with their team to ensure compliance and accurate recordkeeping during this transition. The contract, which had a total guaranteed savings amount of \$3,919,020, was in its third year when concerns were raised by newly involved campus leadership who were previously unaware of all details of the agreement. Although both parties engaged in ongoing discussions, including with a third-party representative

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<sup>1</sup> M&V data for the Department of Adult Corrections GESPC was not submitted for FY2024-25 because the project is still under construction.

<sup>2</sup> Totals include pass-through values from previous years for Elizabeth City State University, North Carolina Central University and North Carolina School of Science and Math since no M&V reports were filed with DEQ.

and mediation with the SEO, they were ultimately unable to reach a consensus regarding the condition of existing equipment, contributing to the decision to terminate the project.

The five GESPC projects completed thus far achieved more than \$2.2 million above guaranteed savings, and ongoing projects have totaled \$32 million in above guaranteed savings throughout the period of performance. Given this demonstrated success, performance contracting should continue to be looked to as a cost-effective financing method for implementing energy efficiency projects at state-owned buildings. Momentum for performance contracting continues to grow statewide. Through collaboration with the Energy Services Coalition (ESC), qualified ESCOs, and third-party reviewers, the SEO continues to strengthen the GESPC process. Ongoing site visits conducted under the Utility Savings Initiative (USI) reaffirm that campuses and agencies see performance contracting as a practical solution for deferred maintenance and limited funding especially when conventional capital resources are unavailable.

## **II. Purpose & Background**

In 2002, North Carolina (NC) codified G.S. §143-64.17 allowed for all local and state governmental units, including state agencies and universities, to utilize the GESPC process to implement and to finance major facility upgrades that save energy and reduce utility expenditures. A GESPC is a design-build procurement process where the single point of responsibility is held by an ESCO. ESCOs are prequalified by the SEO under the Department of Administration (DOA) rules contained in North Carolina Administrative Code (NCAC), Title 01, Subchapter 41B, *Guaranteed Energy Savings Contracts*. Based on these rules, an ESCO, in collaboration with the governmental unit, works to design and to propose a package of energy conservation measures (ECMs), installs the selected ECMs, provides measurement and verification (M&V) of the annual savings for the duration of the contract, and contractually guarantees the dollar savings of the energy savings. Utility budget savings resulting from the implementation of the guaranteed ECMs provide repayment of the multi-year loans executed by governmental units to finance the energy upgrades.

State governmental units conduct open solicitations for proposals and establish the final contract terms with ESCOs. Once the contracted ECM projects have been implemented, ESCOs are further required to provide annual reconciliation statements based on M&V of actual energy savings. These reconciliation statements must be submitted annually within 60 days of the annual project acceptance anniversary. State governmental units are then required to engage a qualified third-party reviewer to verify and report the ESCO calculations prior to sending a summary to the SEO along with the respective third-party review documents. The annual report is based on the annual savings guaranteed in the Energy Service Agreement (ESA) between the state governmental unit and the ESCO prior to construction and is verified in the post-implementation summary reports.

SEO staff provide technical assistance and guidance to governmental units throughout the GESPC process. In addition, the SEO conducts reviews during the contract development, approval process, and construction phases of each project. These reviews include recommendations to the Council of State, the Department of State Treasurer, and the Office of State Budget and Management (OSBM) for GESPCs being considered by agencies and universities. For GESPC projects undertaken by local governmental units, these reviews include recommendations to local school boards and county commissioners, and then to the Local Government Commission (LGC) who is



the final approving authority for all local government GESPCs. SEO staff continue to provide support and technical assistance for all local and state governmental units and ESCOs throughout the terms of each agreement. This guidance is designed to streamline the GESPC process to identify and resolve issues prior to the approving authorities receiving a proposed project.

## A. Roles and Responsibilities of Key Entities

Table 1 provides a detailed breakdown of responsibilities that entities involved with GESPC are required to perform throughout the process with reference to the corresponding legislation or rule. Appendices B, C, and D provide text corresponding to the general statutes and DOA regulations cited in Table 1.

**Table 1. Roles and Responsibilities for Key Entities**

Entity	Responsibility	Reference
SEO	Review Request for Proposal (RFP), proposal, cost benefit analysis and other documents prior to award.	G.S. §143- 64.17A(d1)
	Report annually on GESPCs by state governmental units, including expected savings evaluation, to the Local Government Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and Fiscal Research Division.	G.S. §143-64.17H
	Provide template for RFP solicitation documents.	01 NCAC 41B .0302
	Conduct precertification of providers for three-year intervals.	01 NCAC 41B .0400
SEO, DOA	May provide recommendations to Council of State on contracts under consideration.	G.S. §143-64.17F(c)
DOA, with SEO, State Treasurer	Adopt rules in consultation with SEO, with approval from State Treasurer.	G.S. §143-64.17F(b)
DOA State Construction Office (SCO)	Provide inspection and compliance certification if requested by state government units and community colleges.	G.S. §143-64.17K
Local Governmental Unit and LGC	Report biennially on GESPC by local government to the Joint Legislative Commission on Government Operations, and evaluate savings realized with assistance from SCO and SEO.	G.S. §143-64.17G
State Treasurer	Approve local government GESPC financing contracts, including community colleges, K–12 schools, cities, and counties.	G.S. §142, Article 8, State Energy Conservation Finance Act
	Approve security instrument from Qualified Providers.	G.S. §143-64.17B(c)
	Approve financing option.	01 NCAC 41B .0701

Entity	Responsibility	Reference
	Monitor \$500 million cap on aggregate outstanding amount.	G.S. §142-63
	Approve changes to Rules.	G.S. §143-64.17F(b)
OSBM	Approve and certify funds for state contracts.	G.S. §142-64; 01 NCAC 41B .0511 and .0701
Council of State, with OSBM, State Treasurer	Approve GESPC financing contracts for state government agencies and universities.	G.S. §142, Article 8, State Energy Conservation Finance Act
Governmental Unit (local, state agency, university)	Local governmental unit notifies the LGC at least 15 days in advance of issuing an RFP.	G.S. §143-64.17A(a1)
	Issue RFP, evaluate proposals, select Qualified Provider, retain Qualified Reviewer, advertise, award RFP and award, and approve contract terms and conditions.	G.S. §143-64.17A(a)
	Post advertisements for RFP and subsequent award.	G.S. §143-64.17A(a)
	Conduct vendor conferences and site visits.	01 NCAC 41B .0307
	Report contract terms to LGC and SEO.	G.S. §143-64.17G
	Report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the SEO within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a GESPC, the state governmental unit must report the status of the contract to the SEO, including any details required by the SEO.	G.S. §143-64.17H
Qualified Provider/ESCO	Provide cost savings analysis compared to project costs for term to the state governmental unit.	G.S. §143-64.17A(d1)
	Provide security to State Treasurer.	G.S. §143-64.17B(c)
	Provide IGA when feasible including life cycle cost analysis.	G.S. §143-64.17B(f)
	Determine guaranteed savings using acceptable M&V methodology and provide annual reconciliation statements including actual, not stipulated, energy and operational savings during guarantee year.	G.S. §143-64.17B(g)
Qualified Reviewer/ Third Party Reviewer	Evaluate proposals, provide letter with qualitative and quantitative evaluation.	G.S. §143-64.17A(b)
	Provide analysis of energy conservation measures (ECMs) prior to and post implementation.	G.S. §143-64.17M; 01 NCAC 41B .0507;

Entity	Responsibility	Reference
UNC Board of Governors	Authorize GESPCs for constituent institutions, and ECMs without GESPC at NC State University and UNC Chapel Hill.	G.S. §143-64.17L

### III. Annual Reporting Requirements

#### A. G.S. §143-64.17G, *Report on guaranteed energy savings contracts entered into by local governmental units.*

*A local governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the Local Government Commission and the State Energy Office of the Department of Environmental Quality. The Commission shall compile the information and report it biennially to the Joint Commission on Governmental Operations. In compiling the information, the Local Government Commission shall include information on the energy savings expected to be realized from a contract and, with the assistance of the Office of State Construction and the State Energy Office, shall evaluate whether expected savings have in fact been realized.*

This provision requires the LGC to report on GESPCs entered into by local governmental units – this includes K-12 schools and community colleges. Therefore, minimal information regarding local government GESPCs is included in this report.

#### B. G.S. §143-64.17H, *Report on guaranteed energy savings contracts entered into by State governmental units.*

*A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of Environmental Quality within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized.*

State law requires the State Energy Office to compile and report on all Guaranteed Energy Savings Performance Contracts executed by state governmental units, including state agencies and institutions within the University of North Carolina (UNC) System. Each report provides both the total guaranteed savings to date and an evaluation of actual savings achieved. As of FY2024–25, there are 19 active GESPCs across state agencies and UNC institutions, including one for the Department of Adult Correction (DAC) currently in the construction phase. Table 2 presents the contract terms, reporting status, and energy savings progress for each active project, while Table 3 summarizes completed projects and the corresponding verified savings. Notably, the Department

of Administration's (DOA) Museum of Art project was the first to reach completion in FY2019-20. In FY2020-21, the DOA Downtown Complex and UNC Greensboro concluded their respective contract terms, achieving more than \$1.6 million above guaranteed savings. Two additional projects the UNC System Office and Appalachian State University finished in FY2022-23, bringing the total number of completed contracts to five.

Together, these completed projects have exceeded their guaranteed savings by more than \$2.2 million, while active projects have collectively achieved over \$32 million in above-guaranteed savings to date. The slight reduction in the total above-guaranteed savings compared to the previous reporting period is primarily due to performance variances associated with the NC State University Cogeneration and Centennial Campus Utility Plant (CCUP) project, which reflected a temporary shortfall of approximately \$1.6 million as shown in Table 2. Additionally, the State Energy Office did not receive current-year reporting from several projects still within their active performance terms. These factors modestly affected the aggregate figures but do not diminish the overall performance and verified success of the program. Guaranteed Energy Savings Performance Contracting continues to demonstrate strong fiscal accountability and measurable value, reaffirming its role as a reliable mechanism for achieving long-term energy efficiency and infrastructure improvements across North Carolina's public sector.

Table 2. GESPC Summary of Terms and Reporting Status of Current Project

Contract #	State-Owned Unit	Project Term Status (year)	M&V Report Received	Third-Party Verified	Total Guaranteed Savings for Contract Term	Total Guarantee to Date	Total Savings to Date	Above Guaranteed Savings to Date	Total Projects Savings to Date (Completed and Active)	ESCO
1	Appalachian State University 2	9 of 13	Yes	Yes	\$23,606,099	\$15,913,016	\$18,304,288	\$2,391,272		Constellation (formerly Pepco)
2	Department of Adult Corrections	0 of 20	N/A	N/A	\$59,154,197	<i>N/A (in construction)</i>	<i>N/A (in construction)</i>	<i>N/A (in construction)</i>		Schneider Electric
3	Department of Public Safety (now DAC)	8 of 14	Yes	In Process	\$21,180,286	\$11,949,039	\$13,505,745	\$1,556,706		Noresco
4	Department of Transportation 1	9 of 15	Yes	No	\$8,897,860	\$5,358,952	\$5,897,468	\$538,516		Brady Trane
5	Department of Transportation 2	6 of 15	Yes	No	\$51,295,813	\$19,667,685	\$21,752,238	\$2,084,553		Brady Trane
6	Elizabeth City State University*	12 of 17	No	No	\$9,137,823	\$4,260,510	\$4,708,392	\$447,882		Honeywell
7	Fayetteville State University	9 of 17	Yes	In Process	\$16,167,881	\$8,478,203	\$9,664,579	\$1,186,376		Brady Trane
8	NC Ag and Tech State University	9 of 17	Yes	No	\$6,174,110	\$3,036,970	\$3,091,999	\$55,029		Noresco
9	NC Central University*	11 of 15	No	No	\$10,103,507	\$4,311,133	\$5,458,252	\$1,147,119		Engie
10	NC School of Science and Math*	4 of 15	In Process	In Process	\$3,919,020	(\$321,726)	\$137,086	(\$184,640)		Brady Trane
11	NC State University 1	12 of 19	Yes	Yes	\$35,633,779	\$20,924,332	\$24,064,275	\$3,139,943		Schneider Electric
12	NC State University 2 (Cogen)	12 of 17	Yes	Yes	\$103,005,060	\$69,130,254	\$87,313,213	\$18,182,959		Ameresco
13	NC State University 3 Phytotron	10 of 15	Yes	Yes	\$9,012,635	\$6,007,385	\$6,335,267	\$327,882		Self-performed
14	NC State University 4 (Cogen) Centennial CCUP	6 of 18	Yes	Yes	\$36,669,402	\$10,630,623	\$8,945,758	(\$1,684,865)		Self-performed
15	UNC Charlotte	11 of 15	Yes	In Process	\$11,468,220	\$7,853,950	\$8,878,879	\$1,024,929		Ameresco
16	UNC Pembroke	12 of 17	Yes	Yes	\$7,491,431	\$5,010,846	\$5,360,396	\$349,550		Siemens
17	UNC Wilmington 1	13 of 20	Yes	No	\$8,694,471	\$5,113,330	\$5,211,276	\$97,946		Brady Trane
18	UNC Wilmington 2	7 of 16	Yes	Yes	\$9,533,977	\$4,192,380	\$5,208,414	\$1,016,034		Ameresco
19	Winston Salem State University	9 of 15	Yes	No	\$11,512,711	\$6,454,841	\$7,653,599	\$1,198,758		Siemens
	<b>Totals</b>				<b>\$442,658,282</b>	<b>\$207,971,723</b>	<b>\$241,491,124</b>	<b>\$32,875,949</b>	<b>\$326,338,294</b>	

\*Contracts and M&V documents not on file at DEQ; additional validation is required.

**Table 3. GESPC Summary of Terms and Reporting Status of Completed Projects**

<b>State-Owned Unit</b>	<b>Project Completed (year)</b>	<b>Total Guaranteed Savings</b>	<b>Total Savings During Contract Term</b>	<b>Total Above Guaranteed Savings During Contract Term</b>	<b>ESCO</b>
Appalachian State University 1	FY23	\$9,050,909	\$9,551,144	\$500,235	Constellation (formerly Pepco)
UNC System Office	FY23	\$29,203,975	\$29,045,792	(\$158,183)	Johnson Controls
DOA Downtown Complex	FY21	\$30,646,888	\$31,824,818	\$1,177,930	Constellation (formerly Pepco)
UNC Greensboro	FY21	\$7,200,000	\$7,646,320	\$446,320	Trane
DOA Museum of Art	FY20	\$6,498,888	\$6,779,096	\$280,208	Trane
<b>Total</b>		<b>\$82,600,660</b>	<b>\$84,847,170</b>	<b>\$2,246,510</b>	

## **IV. Program Effectiveness Update**

Executive Order 80 (EO80, Appendix F) established a goal to reduce energy consumption in all state-owned buildings by at least 40 percent from FY2002–03 levels by 2025. A comprehensive energy conservation program, the Utility Savings Initiative (USI), was established under G.S. §143-64.12 and continues to guide state agencies and universities toward achieving this target. Since its inception, the USI has resulted in more than \$1.3 billion in avoided utility costs for the State, with roughly one-quarter (over \$326 million) achieved through Guaranteed Energy Savings Performance Contracting (GESPC) projects. North Carolina continues to build on this progress by advancing energy efficiency, operational performance, and occupant comfort across state-owned facilities. In parallel, Executive Order 246 (EO246, Appendix G), issued in 2022, expanded upon EO80's foundation by establishing a statewide goal to reduce greenhouse gas emissions 50 percent below 2005 levels by 2030 and achieve net-zero emissions by 2050. Together, these executive directives reinforce the importance of energy reduction and clean energy adoption as key drivers of sustainability and fiscal responsibility across public facilities. Through the efforts of the NC GESPC program housed in USI, the State Energy Office (SEO) continues to support agencies, universities, community colleges, and local governments in meeting these energy and emissions goals. By strengthening partnerships, improving communication, and expanding access to performance contracting, the SEO enables public institutions to modernize infrastructure and lower operating costs without drawing from limited capital or maintenance budgets. These efforts have positioned performance contracting as a practical and reliable financing tool, one that delivers measurable savings, enhances facility comfort, and advances North Carolina's long-term clean energy and decarbonization objectives.

During FY2024-25, the State Energy Office (SEO) took deliberate steps to enhance program efficiency, data integrity, and communication across all participating entities. This year also marked the completion of the ESCO recertification cycle, a process required every three years under 01 NCAC 41B .0400 authorized by G.S. §143-64.17F(b) has been a cornerstone of maintaining quality and accountability within North Carolina's performance contracting program. Through this effort, the SEO reaffirmed its commitment to upholding standards of transparency, technical excellence, and fiscal responsibility. The SEO successfully evaluated and recertified eight (8) Energy Service Companies (ESCOs) as Qualified Providers for performance contracting in North Carolina. Each ESCO went through a thorough and structured review process that included an updated Request for Qualifications (RFQ), comprehensive documentation analysis, and formal interviews to assess their technical expertise, financial stability, project performance, and compliance with state statutes and administrative requirements. These evaluations not only confirmed each ESCO's ongoing capacity to perform guaranteed energy savings projects but also strengthened the partnership between the SEO and the private sector firms that help drive energy efficiency across the state. The recertification process also served as an opportunity for meaningful dialogue and collaboration.

During interviews, providers offered constructive feedback on ways to streamline future submissions, enhance document clarity, and further align project tracking with the needs of agencies and universities. Many praised the SEO's responsiveness, professionalism, and technical support, noting how the office's consistent communication and guidance have improved the overall performance contracting experience. The feedback confirmed what the SEO's partners have expressed over the past several years: confidence in the state's leadership, trust in the process, and appreciation for the program's balance of rigor and support. Beyond the eight recertified

ESCOs, the program's reputation continues to attract new interest. As of this reporting period, additional firms have formally inquired about becoming certified, reflecting a renewed confidence in the stability and growth of North Carolina's GESPC market. These new applicants represent both national and regional energy service providers eager to participate in upcoming opportunities and contribute to the continued success of performance contracting across the state. The completion of this recertification cycle reinforced the SEO's central role in maintaining the integrity of the GESPC program and ensuring that agencies, universities, community colleges, and local governments have access to qualified, experienced partners. It also demonstrated how deliberate oversight, clear communication, and collaborative engagement continue to strengthen the state's capacity to deliver measurable energy savings and long-term value through performance contracting.

The SEO's leadership as a DOE ESPC Campaign Partner continued to gain national recognition this year. Staff participated in multiple U.S. Department of Energy webinars and case studies, sharing North Carolina's experience through the Department of Adult Correction (DAC) performance contract and interagency collaboration model. DAC's project, which officially will begin its first year of performance in FY2025–26, integrates Energy Efficiency Conservation Block Grant (EECBG) funding for the installation of a solar array, proving how performance contracting can successfully blend grant resources with guaranteed savings to enhance long-term benefits.

Throughout FY2024-25, the SEO also expanded outreach and technical assistance efforts statewide. Staff presented at the State Energy Conference, multiple agency and university webinars, and community college and local government sessions, helping new audiences understand how performance contracting can meet energy, operational, and financial goals. SEO representatives also spoke during the DOE/ESC Peer Exchange, highlighting lessons learned from the DAC case study, third-party verification practices, and interagency collaboration successes. These sessions, combined with increased technical assistance requests from statewide entities, signal strong interest in the USI and the PC programs.

USI's 2024–2025 USI Site Visit Recommendations Report further reinforced the role of GESPCs as a key financing solution for schools, community colleges, and agencies facing budget limitations, staff shortages, and aging infrastructure. Many institutions visited expressed interest in exploring GESPCs after learning how they can fund critical improvements through guaranteed savings rather than new appropriations. These insights will shape the SEO's training initiatives in the future, which may include additional learning opportunities and workshops aimed at helping agencies, universities, community colleges, and local governments strengthen their energy management practices, improve operational efficiency, and identify opportunities for long-term savings.

The State Energy Office (SEO) continues to work closely with partners such as The National Association of Energy Services Companies (NAESCO), North Carolina Energy Services Coalition (NC ESC), the Local Government Commission (LGC), Energy Service Companies (ESCOs), third-party reviewers, and other key stakeholders to strengthen and refine the state's Guaranteed Energy Savings Performance Contracting (GESPC) process. Through this collaborative approach, the SEO provides timely project reviews, technical guidance, and on-site support that help ensure each project moves efficiently from planning to completion. By promoting the value of performance contracting and its advantages for public-sector entities, the SEO helps agencies and



institutions identify the best pathways to meet energy and infrastructure goals. This hands-on involvement reinforces confidence in the program and highlights why GESPCs remain one of the most competitive and cost-effective financing tools available for major facility improvements across North Carolina's governmental units.

To strengthen oversight and transparency within North Carolina's Guaranteed Energy Savings Performance Contract (GESPC) program, the State Energy Office (SEO) is modernizing its data collection and management processes. The office's goal is to ensure that reporting across all participating entities is accurate, timely, and aligned with state standards. The SEO will actively work with agencies and Energy Service Companies (ESCOs) to obtain key project documents such as contract summaries, construction schedules, financing agreements, and Measurement and Verification (M&V) reports to ensure consistency and quality assurance across all active projects. Drawing on its long-standing experience in administering one of the nation's leading GESPC programs, the SEO has partnered with the U.S. Department of Energy (DOE) and Lawrence Berkeley National Laboratory (LBNL) in the past to implement eProject eXpress (ePX), a secure web-based system designed for centralized project tracking. The ePX platform enables both state and local government entities, as well as ESCOs, to store and manage project information in one standardized location. It supports the efficient tracking of cost savings, greenhouse gas reductions, and job creation data, ultimately promoting transparency and accountability across the program. Looking ahead, broader adoption of the ePX platform is expected to streamline the reporting process by allowing ESCOs and governmental units to input project information directly, giving the SEO centralized access to real-time data. The office is currently working to onboard existing projects into ePX.

The State Energy Office's meetings with participating government entities and Energy Service Companies (ESCOs) have underscored the crucial necessity for a robust partnership and consistent communication throughout the GESPC process. It is evident that maintaining a strong partnership and open lines of communication is vital for all stakeholders involved. Over the course of a lengthy contract, the collaboration between the ESCO and the governmental unit may start to wane post-construction phase. To address this challenge, the SEO diligently works with both parties as a liaison to ensure that communication remains active, effective, and bridges potential knowledge gaps in the intricate GESPC process. The SEO's role can extend to providing on-site technical support with thorough review and training on contracting documents, aiding governmental units in comprehending risks and obligations involved. By engaging with the project from its inception through construction and beyond, the SEO fosters continuity and enhances communication channels between the ESCO and the governmental unit, contributing to the success of GESPC projects.

The SEO's outreach and training initiatives continue to deepen understanding of performance contracting and strengthen collaboration among participating agencies. Through a proactive lens of scheduled site visits, webinars, quarterly meetings, and training events, the office equips agencies, universities, community colleges, and local governments with the tools, knowledge, and confidence needed to navigate the process and achieve successful project outcomes. The SEO's outreach efforts including presentations at the State Energy Conference, multiple webinars, and speaking engagements with universities, community colleges, and state agencies have greatly expanded awareness of GESPC benefits. North Carolina also remains an active DOE ESPC Campaign Leader, both receiving and providing technical assistance, while contributing to national case studies and DOE webinars.

## **V. Local Governmental GESPC Update**

Local governments and school districts continue to use Guaranteed Energy Savings Performance Contracts (GESPCs) to address aging infrastructure and high utility costs without increasing the burden on taxpayers. Many K-12 school systems and community colleges have pursued projects that replace outdated systems, improve comfort, and reinvest operational savings into educational and facility priorities. Interest among K-12 districts has increased notably this year. Many superintendents and facility leaders have reported high staff turnover, extensive maintenance backlogs, and aging equipment, coupled with limited budgets to address their needs. The State Energy Office (SEO) has met with numerous school districts to discuss how performance contracting can serve as a practical solution to these challenges. These meetings have helped school boards and administrators better understand the process, benefits, and considerations of GESPCs. Several districts have since moved forward with developing Requests for Proposals (RFPs) or obtaining board approval to proceed, citing the SEO's guidance and access to ready-to-use templates and resources available through the program's website.

A significant milestone this fiscal year was the approval of a new Yadkin County Performance Contract, which demonstrates continued local government engagement with performance contracting. The project includes a comprehensive scope of work such as HVAC system upgrades, energy management controls, lighting improvements, water conservation measures, chiller replacements, and building envelope enhancements. These upgrades will reduce long-term operational costs, improve comfort and reliability, and modernize the county's infrastructure while utilizing a self-funded model through guaranteed savings.

Across the state, local governments continue to explore how GESPCs can be combined with available financial resources to fund energy efficiency, comfort, and resiliency projects. The SEO is providing ongoing technical assistance and strategic guidance to help local partners identify opportunities and structure projects that maximize both energy and fiscal outcomes. These collaborations are helping local governments, community colleges, and school systems build stronger, more sustainable facilities while supporting statewide goals for energy efficiency and responsible resource management.

The State Energy Office (SEO), in collaboration with the Local Government Commission (LGC), remains encouraged by the continued growth of local interest in performance contracting. Together, these efforts are expanding opportunities for energy and cost savings, improving facility reliability, and strengthening communities across North Carolina through smart, sustainable investments in public infrastructure.

## **Appendix A**

### **Guaranteed Energy Savings Contract Process**

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## Guaranteed Energy Savings Contract Process

The list below provides a walkthrough of the GESC process from the RFP phase to legislative reporting phase, and where each entity's responsibility fits into the overall process.

### 1) Template RFP

- G.S. §143-64.17A(d1)
- SEO sends template for RFP to Governmental Unit

### 2) RFP Review

- G.S. §143-64.17A(a) and (a1)
- Governmental Unit submits RFP to SEO for review
- Governmental Unit submits RFP for a qualified reviewer
- Local Governmental Unit notifies the LGC 15 days prior to issuing RFP

### 3) RFP Public Notice

- G.S. §143-64.17A(a)
- Governmental Unit publishes RFP notice in local newspaper

### 4) Pre-Bid

- G.S. §143-4.17A(a) & 01 NCAC 41B .0307
- Governmental Unit schedules pre-bid meeting & site visits with qualified provider

### 5) Proposal

- G.S. §143-64.17A(a)
- Qualified Provider/ESCO evaluates and creates proposal and submits to Governmental Unit

### 6) Review Proposals

- G.S. §143-64.17A(b)
- Governmental Unit receives & evaluates proposals along with their Qualified Reviewer

### 7) Cost Savings Analysis

- G.S. §143-64.17A(d1)
- Governmental Unit requires top ranked qualified provider provides a cost savings analysis

### 8) Review Proposals

- G.S. §143-64.17A(d1)
- SEO reviews selected proposal, cost-savings analysis, and other relevant documents

## 9) Publish NOI

- G.S. §143-64.17A(d1) & G.S. §143-64.17B(b)
- Governmental Unit publishes notice of intent to award

## 10) IGA &amp; LCCA

- G.S. §143-64.17B(f)
- Qualified Provider/ESCO selected performs, when feasible, an IGA and LCCA

## 11) Energy Savings Analysis

- G.S. §143-64.17M(a)
- A third-party Qualified Reviewer performs an energy savings analysis to validate savings prior to implementation of an ECM

## 12) Review IGA

- G.S. §143-64.17B(f)
- Governmental Unit reviews the IGA and determines to move forward or terminate process

## 13) Financial Approval

- G.S. §142, Article 8, State Energy Conservation Finance Act
- Qualified Provider/ESCO financial approval at the Council of State for State Governmental Units or Treasurer for Local Governmental Units

## 14) Report to Treasurer's Office

- G.S. §143-64.17G & G.S. §143-64.17H
- Governmental Units must report the contract, the terms of the contract and implemented measures to the Treasurer's Office and SEO after entering into a contract

## 15) Performance Verification

- G.S. §143-64.17M(b)
- Post implementation of all ECMs verified annually by a third party Qualified Reviewer

## 16) Program Reporting

- G.S. §143-64.17G & G.S. §143-64.17H
- Governmental Units report annually following the implementation of the contract the status and savings realized to the Treasurer's Office and SEO
- LGC reports biennially on local governments expected savings with assistance from SCO and SEO evaluating whether savings have been realized
- SEO compiles the information for all GESCs each fiscal year in a report to the LGC, the Joint Legislative Oversight Committee on Agriculture & Natural & Economic Resources, and Fiscal Research Division

## **Appendix B**

General Statute Chapter 143, Article 3B,  
*Conservation of Energy, Water, and  
Other Utilities in Government Facilities.*

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## Article 3B.

## Conservation of Energy, Water, and Other Utilities in Government Facilities.

## Part 1. Energy Policy and Life-Cycle Cost Analysis.

**§ 143-64.10. Findings; policy.**

(a) The General Assembly finds all of the following:

- (1) That the State shall take a leadership role in aggressively undertaking the conservation of energy, water, and other utilities in North Carolina.
- (2) That State facilities and facilities of State institutions of higher learning have a significant impact on the State's consumption of energy, water, and other utilities.
- (3) That practices to conserve energy, water, and other utilities that are adopted for the design, construction, operation, maintenance, and renovation of these facilities and for the purchase, operation, and maintenance of equipment for these facilities will have a beneficial effect on the State's overall supply of energy, water, and other utilities.
- (4) That the cost of the energy, water, and other utilities consumed by these facilities and the equipment for these facilities over the life of the facilities shall be considered, in addition to the initial cost.
- (5) That the cost of energy, water, and other utilities is significant and facility designs shall take into consideration the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of the facility, of the energy, water, and other utilities consumed, and of operation and maintenance of the facility as it affects the consumption of energy, water, or other utilities.
- (6) That State government shall undertake a program to reduce the use of energy, water, and other utilities in State facilities and facilities of the State institutions of higher learning and equipment in those facilities in order to provide its citizens with an example of energy-use, water-use, and utility-use efficiency.

(b) It is the policy of the State of North Carolina to ensure that practices to conserve energy, water, and other utilities are employed in the design, construction, operation, maintenance, and renovation of State facilities and facilities of the State institutions of higher learning and in the purchase, operation, and maintenance of equipment for these facilities. (1975, c. 434, s. 1; 1993, c. 334, s. 2; 2001-415, s. 1; 2006-190, s. 8; 2007-546, s. 3.1(b).)

**§ 143-64.11. Definitions.**

For purposes of this Article:

- (1) "Economic life" means the projected or anticipated useful life of a facility.
- (2) "Energy-consumption analysis" means the evaluation of all energy-consuming systems, including systems that consume water or other utilities, and components of these systems by demand and type of energy or other utility use, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.
- (2a) "Energy Office" means the State Energy Office of the Department of Environmental Quality.

- (2b) "Energy-consuming system" includes but is not limited to any of the following equipment or measures:
  - a. Equipment used to heat, cool, or ventilate the facility;
  - b. Equipment used to heat water in the facility;
  - c. Lighting systems;
  - d. On-site equipment used to generate electricity for the facility;
  - e. On-site equipment that uses the sun, wind, oil, natural gas, liquid propane gas, coal, or electricity as a power source; and
  - f. Energy conservation measures, as defined in G.S. 143-64.17, in the facility design and construction that decrease the energy, water, or other utility requirements of the facility.
- (3) "Facility" means a building or a group of buildings served by a central distribution system for energy, water, or other utility or components of a central distribution system.
- (4) "Initial cost" means the required cost necessary to construct or renovate a facility.
- (5) "Life-cycle cost analysis" means an analytical technique that considers certain costs of owning, using, and operating a facility over its economic life, including but not limited to:
  - a. Initial costs;
  - b. System repair and replacement costs;
  - c. Maintenance costs;
  - d. Operating costs, including energy costs; and
  - e. Salvage value.
- (6) Repealed by Session Laws 1993, c. 334, s. 3, effective July 13, 1993.
- (7) "State agency" means the State of North Carolina or any board, bureau, commission, department, institution, or agency of the State.
- (8) "State-assisted facility" means a facility constructed or renovated in whole or in part with State funds or with funds guaranteed or insured by a State agency.
- (9) "State facility" means a facility constructed or renovated, by a State agency.
- (10) "State institution of higher learning" means any constituent institution of The University of North Carolina. (1975, c. 434, s. 2; 1989, c. 23, s. 1; 1993, c. 334, s. 3; 2001-415, s. 2; 2006-190, ss. 9, 10, 11; 2007-546, s. 3.1(c); 2009-446, s. 1(f); 2013-360, s. 15.22(o); 2015-241, s. 14.30(u).)

**§ 143-64.12. Authority and duties of the Department; State agencies and State institutions of higher learning.**

(a) The Department of Environmental Quality through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use, and that addresses any findings or recommendations resulting from the energy audit required by subsection (b1) of this section. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and

State institution of higher learning shall update its management plan biennially and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office a biennial written report of utility consumption and costs. Management plans submitted biennially by State institutions of higher learning shall include all of the following:

- (1) Estimates of all costs associated with implementing energy conservation measures, including pre-installation and post-installation costs.
- (2) The cost of analyzing the projected energy savings.
- (3) Design costs, engineering costs, pre-installation costs, post-installation costs, debt service, and any costs for converting to an alternative energy source.
- (4) An analysis that identifies projected annual energy savings and estimated payback periods.

(a1) State agencies and State institutions of higher learning shall carry out the construction and renovation of facilities in such a manner as to further the policy set forth under this section and to ensure the use of life-cycle cost analyses and practices to conserve energy, water, and other utilities.

(b) The Department of Administration shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities of State buildings and State institutions of higher learning buildings to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15.

(b1) The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility of a State agency or a State institution of higher learning and that require no significant expenditure of funds. Every State agency or State institution of higher learning shall implement these recommendations. Where energy management equipment is proposed for any facility of a State agency or of a State institution of higher learning, the maximum interchangeability and compatibility of equipment components shall be required. As part of the Facilities Condition and Assessment Program under this section, the Department of Administration, in consultation with the State Energy Office, shall develop an energy audit and a procedure for conducting energy audits. Every five years the Department shall conduct an energy audit for each State agency or State institution of higher learning, and the energy audits conducted shall serve as a preliminary energy survey. The State Energy Office shall be responsible for system-level detailed surveys.

(b2) The Department of Administration shall submit a report of the energy audit required by subsection (b1) of this section to the affected State agency or State institution of higher learning and to the State Energy Office. The State Energy Office shall review each audit and, in consultation with the affected State agency or State institution of higher learning, incorporate the audit findings and recommendations into the management plan required by subsection (a) of this section.

(c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

(h) When conducting a facilities condition and assessment under this section, the Department of Administration shall identify and recommend to the State Energy Office any facility

of a State agency or State institution of higher learning as suitable for building commissioning to reduce energy consumption within the facility or as suitable for installing an energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this Article.

(i) Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt architectural and engineering standards to implement this section.

(j) The State Energy Office shall submit a report by December 1 of every odd-numbered year to the Joint Legislative Energy Policy Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division describing the comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning required by subsection (a) of this section. The report shall also contain the following:

- (1) A comprehensive overview of how State agencies and State institutions of higher learning are managing energy, water, and other utility use and achieving efficiency gains.
- (2) Any new measures that could be taken by State agencies and State institutions of higher learning to achieve greater efficiency gains, including any changes in general law that might be needed.
- (3) A summary of the State agency and State institutions of higher learning management plans required by subsection (a) of this section and the energy audits required by subsection (b1) of this section.
- (4) A list of the State agencies and State institutions of higher learning that did and did not submit management plans required by subsection (a) of this section and a list of the State agencies and State institutions of higher learning that received an energy audit.
- (5) Any recommendations on how management plans can be better managed and implemented. (1975, c. 434, s. 3; 1993, c. 334, s. 4; 2000-140, s. 76(f); 2001-415, s. 3; 2006-190, s. 12; 2007-546, s. 3.1(a); 2008-198, s. 11.1; 2009-446, s. 1(e); 2010-31, s. 14.3; 2010-196, s. 2; 2013-360, s. 15.22(p); 2014-120, s. 55; 2015-241, s. 14.30(u); 2017-57, s. 14.1(f).)

**§ 143-64.13: Repealed by Session Laws 1993, c. 334, s. 5.**

**§ 143-64.14: Recodified as § 143-64.16 by Session Laws 1993, c. 334, s. 7.**

**§ 143-64.15. Life-cycle cost analysis.**

(a) A life-cycle cost analysis shall be commenced at the schematic design phase of the construction or renovation project, shall be updated or amended as needed at the design development phase, and shall be updated or amended again as needed at the construction document phase. A life-cycle cost analysis shall include, but not be limited to, all of the following elements:

- (1) The coordination, orientation, and positioning of the facility on its physical site.
- (2) The amount and type of fenestration and the potential for daylighting employed in the facility.
- (3) Thermal characteristics of materials and the amount of insulation incorporated into the facility design.
- (4) The variable occupancy and operating conditions of the facility, including illumination levels.

- (5) Architectural features that affect the consumption of energy, water, and other utilities.

(b) The life-cycle cost analysis performed for any State facility shall, in addition to the requirements set forth in subsection (a) of this section, include, but not be limited to, all of the following:

- (1) An energy-consumption analysis of the facility's energy-consuming systems in accordance with the provisions of subsection (g) of this section.
- (2) The initial estimated cost of each energy-consuming system being compared and evaluated.
- (3) The estimated annual operating cost of all utility requirements.
- (4) The estimated annual cost of maintaining each energy-consuming system.
- (5) The average estimated replacement cost for each system expressed in annual terms for the economic life of the facility.

(c) Each entity shall conduct a life-cycle cost analysis pursuant to this section for the construction or the renovation of any State facility or State-assisted facility of 20,000 or more gross square feet. For the replacement of heating, ventilation, and air-conditioning equipment in any State facility or State-assisted facility of 20,000 or more gross square feet, the entity shall conduct a life-cycle cost analysis of the replacement equipment pursuant to this section when the replacement is financed under a guaranteed energy savings contract or financed using repair and renovation funds.

(d) The life-cycle cost analysis shall be certified by a registered professional engineer or bear the seal of a North Carolina registered architect, or both. The engineer or architect shall be particularly qualified by training and experience for the type of work involved, but shall not be employed directly or indirectly by a fuel provider, utility company, or group supported by fuel providers or utility funds. Plans and specifications for facilities involving public funds shall be designed in conformance with the provisions of G.S. 133-1.1.

(e) In order to protect the integrity of historic buildings, no provision of this Article shall be interpreted to require the implementation of measures to conserve energy, water, or other utility use that conflict with respect to any property eligible for, nominated to, or entered on the National Register of Historic Places, pursuant to the National Historic Preservation Act of 1966, P.L. 89-665; any historic building located within an historic district as provided in Chapters 160A or 153A of the General Statutes; any historic building listed, owned, or under the jurisdiction of an historic properties commission as provided in Chapter 160A or 153A; nor any historic property owned by the State or assisted by the State.

(f) Each State agency shall use the life-cycle cost analysis over the economic life of the facility in selecting the optimum system or combination of systems to be incorporated into the design of the facility.

(g) The energy-consumption analysis of the operation of energy-consuming systems utilities in a facility shall include, but not be limited to, all of the following:

- (1) The comparison of two or more system alternatives.
- (2) The simulation or engineering evaluation of each system over the entire range of operation of the facility for a year's operating period.
- (3) The engineering evaluation of the consumption of energy, water, and other utilities of component equipment in each system considering the operation of such components at other than full or rated outputs. (1993, c. 334, s. 6; 2001-415, ss. 4, 5; 2006-190, s. 13; 2007-546, s. 4.1.)

**§ 143-64.15A. Certification of life-cycle cost analysis.**

Each State agency and each State institution of higher learning performing a life-cycle cost analysis for the purpose of constructing or renovating any facility shall, prior to selecting a design option or advertising for bids for construction, submit the life-cycle cost analysis to the Department for certification at the schematic design phase and again when it is updated or amended as needed in accordance with G.S. 143-64.15. The Department shall review the material submitted by the State agency or State institution of higher learning, reserve the right to require an agency or institution to complete additional analysis to comply with certification, perform any additional analysis, as necessary, to comply with G.S. 143-341(11), and require that all construction or renovation conducted by the State agency or State institution of higher learning comply with the certification issued by the Department. (2001-415, s. 6; 2007-546, s. 4.2.)

**§ 143-64.16. Application of Part.**

The provisions of this Part shall not apply to municipalities or counties, nor to any agency or department of any municipality or county; provided, however, this Part shall apply to any board of a community college. Community college is defined in G.S. 115D-2(2). (1975, c. 434, s. 5; 1989, c. 23, s. 2; 1993, c. 334, s. 7; 1993 (Reg. Sess., 1994), c. 775, s. 2.)

**Part 2. Energy Saving Measures for Governmental Units.****§ 143-64.17. Definitions.**

As used in this Part:

- (1) "Energy conservation measure" means a facility or meter alteration, training, or services related to the operation of the facility or meter, when the alteration, training, or services provide anticipated energy savings or capture lost revenue. Energy conservation measure includes any of the following:
  - a. Insulation of the building structure and systems within the building.
  - b. Storm windows or doors, caulking, weatherstripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated window or door systems, additional glazing, reductions in glass area, or other window or door system modifications that reduce energy consumption.
  - c. Automatic energy control systems.
  - d. Heating, ventilating, or air-conditioning system modifications or replacements.
  - e. Replacement or modification of lighting fixtures to increase the energy efficiency of a lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code or is required by the light system after the proposed modifications are made.
  - f. Energy recovery systems.
  - g. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings.
  - h. Repealed by Session Laws 2006-190, s. 2, effective August 3, 2006, and applicable to contracts entered into or renewed on or after that date.

- i. Faucets with automatic or metered shut-off valves, leak detection equipment, water meters, water recycling equipment, and wastewater recovery systems.
  - j. Other energy conservation measures that conserve energy, water, or other utilities.
- (2) "Energy savings" means a measured reduction in fuel costs, energy costs, water costs, stormwater fees, other utility costs, or operating costs, including environmental discharge fees, water and sewer maintenance fees, and increased meter accuracy, created from the implementation of one or more energy conservation measures when compared with an established baseline of previous costs, including captured lost revenues, developed by the governmental unit.
- (2a) "Governmental unit" means either a local governmental unit or a State governmental unit.
- (3) "Guaranteed energy savings contract" means a contract for the evaluation, recommendation, or implementation of energy conservation measures, including the design and installation of equipment or the repair or replacement of existing equipment or meters, in which all payments, except obligations on termination of the contract before its expiration, are to be made over time, and in which energy savings are guaranteed to exceed costs.
- (4) "Local governmental unit" means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.
- (5) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures who has been prequalified by the State Energy Office according to the prequalification criteria established by that Office.
- (5a) "Qualified reviewer" means an architect or engineer who is (i) licensed in this State and (ii) experienced in the design, implementation, and installation of energy efficiency measures.
- (6) "Request for proposals" means a negotiated procurement initiated by a governmental unit by way of a published notice that includes the following:
  - a. The name and address of the governmental unit.
  - b. The name, address, title, and telephone number of a contact person in the governmental unit.
  - c. Notice indicating that the governmental unit is requesting qualified providers to propose energy conservation measures through a guaranteed energy savings contract.
  - d. The date, time, and place where proposals must be received.
  - e. The evaluation criteria for assessing the proposals.
  - f. A statement reserving the right of the governmental unit to reject any or all the proposals.
  - g. Any other stipulations and clarifications the governmental unit may require.
- (7) "State governmental unit" means the State or a department, an agency, a board, or a commission of the State, including the Board of Governors of The

University of North Carolina and its constituent institutions. (1993 (Reg. Sess., 1994), c. 775, s. 3; 1995, c. 295, s. 1; 1999-235, ss. 1, 2; 2002-161, s. 2; 2006-190, s. 2; 2013-396, s. 1.)

**§ 143-64.17A. Solicitation of guaranteed energy savings contracts.**

(a) RFP Issuance. – Before entering into a guaranteed energy savings contract, a governmental unit shall issue a request for proposals. Notice of the request shall be published at least 15 days in advance of the time specified for opening of the proposals in at least one newspaper of general circulation in the geographic area for which the local governmental unit is responsible or, in the case of a State governmental unit, in which the facility or facilities are located. No guaranteed energy savings contract shall be awarded by any governmental unit unless at least two proposals have been received from qualified providers. Provided that if after the publication of the notice of the request for proposals, fewer than two proposals have been received from qualified providers, or fewer than two qualified providers attend the mandatory prebid meeting, the governmental unit may then open the proposals and select a qualified provider even if only one proposal is received.

(a1) Before issuing a request for proposals under this section that would involve a financing agreement as allowed under G.S. 160A-20, a local school administrative unit or a community college must notify the Local Government Commission of its intent to do so 15 days in advance.

(b) Preliminary Proposal Evaluation. – The governmental unit shall evaluate a sealed proposal from any qualified provider. A qualified reviewer shall be required to evaluate the proposals and will provide the governmental unit with a letter report containing both qualitative and quantitative evaluation of the proposals. The report may include a recommendation for selection, but the governmental unit is not obligated to follow it.

(c) Receipt of Proposals for Unit of Local Government. – In the case of a local governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the governing body of the local governmental unit at a public opening at which the contents of the proposals shall be announced and recorded in the minutes of the governing body. Proposals shall be evaluated for the local governmental unit by a qualified reviewer on the basis of:

- (1) The information required in subsection (b) of this section; and
- (2) The criteria stated in the request for proposals.

The local governmental unit may require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the local governmental unit for the evaluation of the proposal by a qualified reviewer not employed as a member of the staff of the local governmental unit or the qualified provider.

(c1) Receipt of Proposals for Unit of State Government. – In the case of a State governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the State governmental unit at a public opening and the contents of the proposals shall be announced at this opening. Proposals shall be evaluated for the State governmental unit by a qualified reviewer who is either privately retained, employed with the Department of Administration, or employed as a member of the staff of the State governmental unit. The proposal shall be evaluated on the basis of the information and report required in subsection (b) of this section and the criteria stated in the request for proposals.

The State governmental unit shall require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the State



governmental unit for evaluation of the proposal by a qualified reviewer not employed as a member of the staff of the State governmental unit or the qualified provider. The Department of Administration may charge the State governmental unit a reasonable fee for the evaluation of the proposal if the Department's services are used for the evaluation and the cost paid by the State governmental unit to the Department of Administration shall be calculated in the cost of the proposal under this subsection.

(d) Criteria for Selection of Provider. – The governmental unit shall select the qualified provider that it determines to best meet the needs of the governmental unit by evaluating all of the following and following the procedures set forth in subsection (d1) of this section:

- (1), (2) Repealed by Session Laws 2013-396, s. 2, effective August 23, 2013.
- (3) Quality of the products and energy conservation measures proposed.
- (4) Repealed by Session Laws 2013-396, s. 2, effective August 23, 2013.
- (5) General reputation and performance capabilities of the qualified providers.
- (6) Substantial conformity with the specifications and other conditions set forth in the request for proposals.
- (7) Time specified in the proposals for the performance of the contract.
- (8) Any other factors the governmental unit deems necessary, which factors shall be made a matter of record.

(d1) Process for Selection of Provider. – The governmental unit shall select a short list of finalists on the basis of its rankings of the written proposals under the criteria set forth in subsection (d) of this section as well as references from past clients. The governmental unit shall have the highest ranked qualified provider prepare a cost-savings analysis for the proposed contract showing at a minimum a comparison of the total estimated project savings to the total estimated project costs for the proposed term. If the governmental unit and the qualified provider cannot negotiate acceptable terms, pricing, and savings estimates, the governmental unit may terminate the process and begin negotiations with the second highest ranked qualified provider. The State Energy Office shall review the selected qualified provider's proposal, cost-benefit analysis, and other relevant documents prior to the governmental unit announcing the award.

(e) Nothing in this section shall limit the authority of governmental units as set forth in Article 3D of this Chapter. (1993 (Reg. Sess., 1994), c. 775, s. 3; 2002-161, s. 3; 2013-396, s. 2; 2021-72, s. 5.1.)

#### **§ 143-64.17B. Guaranteed energy savings contracts.**

(a) A governmental unit may enter into a guaranteed energy savings contract with a qualified provider if all of the following apply:

- (1) The term of the contract does not exceed 20 years from the date of the installation and acceptance by the governmental unit of the energy conservation measures provided for under the contract.
- (2) The governmental unit finds that the energy savings resulting from the performance of the contract will equal or exceed the total cost of the contract.
- (3) The energy conservation measures to be installed under the contract are for an existing building or utility system, or utility consuming device or equipment when the utility cost is paid by the governmental unit.

(b) Before entering into a guaranteed energy savings contract, the governmental unit shall provide published notice of the time and place or of the meeting at which it proposes to award the

contract, the names of the parties to the proposed contract, and the contract's purpose. The notice must be published at least 15 days before the date of the proposed award or meeting.

(c) A qualified provider entering into a guaranteed energy savings contract under this Part shall provide security to the governmental unit in the form acceptable to the Office of the State Treasurer and in an amount equal to one hundred percent (100%) of the guaranteed savings for the term of the guaranteed energy savings contract to assure the provider's faithful performance. Any bonds required by this subsection shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed energy savings contract are not as great as projected under the contract and all required shortfall payments to the governmental unit have not been made, the governmental unit may terminate the contract without incurring any additional obligation to the qualified provider.

(d) As used in this section, "total cost" shall include, but not be limited to, costs of construction, costs of financing, and costs of maintenance and training during the term of the contract less the application of the utility company, State, or federal incentives, grants, or rebates. "Total cost" does not include any obligations on termination of the contract before its expiration, provided that those obligations are disclosed when the contract is executed.

(e) A guaranteed energy savings contract may not require the governmental unit to purchase a maintenance contract or other maintenance agreement from the qualified provider who installs energy conservation measures under the contract if the unit of government takes appropriate action to budget for its own forces or another provider to maintain new systems installed and existing systems affected by the guaranteed energy savings contract.

(f) In the case of a State governmental unit, a qualified provider shall, when feasible, after the acceptance of the proposal of the qualified provider by the State governmental unit, conduct an investment grade audit. During this investment grade audit, the qualified provider shall perform in accordance with Part 1 of this Article a life cycle cost analysis of each energy conservation measure in the final proposal. If the results of the audit are not within ten percent (10%) of both the guaranteed savings contained in the proposal and the total proposal amount, either the State governmental unit or the qualified provider may terminate the project without incurring any additional obligation to the other party. However, if the State governmental unit terminates the project after the audit is conducted and the results of the audit are within ten percent (10%) of both the guaranteed savings contained in the proposal and the total proposal amount, the State governmental unit shall reimburse the qualified provider the reasonable cost incurred in conducting the audit, and the results of the audit shall become the property of the State governmental unit.

(g) A qualified provider shall provide an annual reconciliation statement based upon the results of the measurement and verification review. The statement shall disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual, not stipulated, energy and operational savings incurred during a given guarantee year. Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's Measurement and Verification Guidelines for Energy Savings Performance Contracting, the International Performance Measurement and Verification Protocol (IPMVP) maintained by the Efficiency Valuation Organization, or Guideline 14-2002 of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers. If due to existing data limitations or the nonconformance of specific project characteristics, none of the three methodologies listed in this subsection is sufficient for measuring guaranteed savings, the qualified provider shall develop an

alternate method that is compatible with one of the three methodologies and mutually agreeable to the governmental unit. The guarantee year shall consist of a 12-month term commencing from the time that the energy conservation measures become fully operational. A qualified provider shall pay the governmental unit or its assignee any shortfall in the guaranteed energy and operational savings after the total year savings have been determined. In the case of a governmental unit, a surplus in any one year shall not be carried forward or applied to a shortfall in any other year. (1993 (Reg. Sess., 1994), c. 775, s. 3; 1995, c. 295, s. 2; 1999-235, s. 3; 2002-161, s. 4; 2003-138, s. 1; 2006-190, s. 3; 2009-375, s. 2; 2013-396, s. 3; 2014-115, s. 56.7.)

**§ 143-64.17C:** Repealed by Session Laws 2002, ch. 161, s. 5, effective January 1, 2003, and applicable to contracts entered into on or after that date.

**§ 143-64.17D. Contract continuance.**

A guaranteed energy savings contract may extend beyond the fiscal year in which it becomes effective. Such a contract shall stipulate that it does not constitute a direct or indirect pledge of the taxing power or full faith and credit of any governmental unit. (1993 (Reg. Sess., 1994), c. 775, s. 3; 2002-161, s. 6.)

**§ 143-64.17E. Payments under contract.**

A local governmental unit may use any funds, whether operating or capital, that are not otherwise restricted by law for the payment of a guaranteed energy savings contract. State appropriations to any local governmental unit shall not be reduced as a result of energy savings occurring as a result of a guaranteed energy savings contract. (1993 (Reg. Sess., 1994), c. 775, s. 3.)

**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of Administration, in consultation with the Department of Environmental Quality, through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer. The rules adopted pursuant to this subsection shall not apply to energy conservation measures implemented pursuant to G.S. 143-64.17L.

(c) The Department of Administration, and the Department of Environmental Quality through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered. (2002-161, s. 7; 2003-138, s. 2; 2009-446, s. 1(d); 2011-145, s. 9.6D(d); 2013-360, s. 15.22(d); 2015-241, s. 14.30(u).)

**§ 143-64.17G. Report on guaranteed energy savings contracts entered into by local governmental units.**

A local governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the Local Government Commission and the State Energy

Office of the Department of Environmental Quality. The Commission shall compile the information and report it biennially to the Joint Commission on Governmental Operations. In compiling the information, the Local Government Commission shall include information on the energy savings expected to be realized from a contract and, with the assistance of the Office of State Construction and the State Energy Office, shall evaluate whether expected savings have in fact been realized. (1993 (Reg. Sess., 1994), c. 775, s. 9; 2006-190, s. 4; 2009-375, s. 3; 2013-360, s. 15.22(e); 2015-241, s. 14.30(u).)

**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract or implements an energy conservation measure pursuant to G.S. 143-64.17L must report either (i) the contract and the terms of the contract or (ii) the implementation of the measure to the State Energy Office of the Department of Environmental Quality within 30 days of the date the contract is entered into or the measure is implemented. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division, and the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract or implementation and shall evaluate whether expected savings have in fact been realized. (2002-161, s. 8; 2006-190, s. 5; 2009-446, s. 1(c); 2011-145, s. 9.6D(e); 2013-360, s. 15.22(f); 2015-241, s. 14.30(u); 2017-57, s. 14.1(g).)

**§ 143-64.17I. Installment and lease purchase contracts.**

A local governmental unit may provide for the acquisition, installation, or maintenance of energy conservation measures acquired pursuant to this Part by installment or lease purchase contracts in accordance with and subject to the provisions of G.S. 160A-20 and G.S. 160A-19, as applicable. (2002-161, s. 8.)

**§ 143-64.17J. Financing by State governmental units.**

State governmental units may finance the acquisition, installation, or maintenance of energy conservation measures acquired pursuant to this Part in the manner and to the extent set forth in Article 8 of Chapter 142 of the General Statutes or as otherwise authorized by law. (2002-161, s. 8.)

**§ 143-64.17K. Inspection and compliance certification for State governmental units.**

The provisions of G.S. 143-341(3) shall not apply to any energy conservation measure for State governmental units provided pursuant to this Part, except as specifically set forth in this section. Except as otherwise exempt under G.S. 116-31.11, the following shall apply to all energy conservation measures provided to State governmental units pursuant to this Part:

- (1) The provisions of G.S. 133-1.1.
- (2) Inspection and certification by:
  - a. The applicable local building inspector under Article 11 of Chapter 160D of the General Statutes; or

- b. At the election of the State governmental unit, the Department of Administration under G.S. 143-341(3)d.

The cost of compliance with this section may be included in the cost of the project in accordance with G.S. 143-64.17A(c1) and may be included in the cost financed under Article 8 of Chapter 142 of the General Statutes. (2002-161, s. 8; 2022-62, s. 27.)

**§ 143-64.17L. Board of Governors may authorize energy conservation measures at constituent institutions.**

(a) Authority. – Notwithstanding the provisions of this Part to the contrary, the Board of Governors of The University of North Carolina may authorize any constituent institution listed in subsection (e) of this section to implement an energy conservation measure without entering into a guaranteed energy savings contract if both of the following conditions are met:

- (1) The Board of Governors finds that the energy savings resulting from the implementation of the energy conservation measure shall, according to the energy savings analysis received pursuant to G.S. 143-64.17M(a), equal or exceed the total cost of implementing the measure. If the proposed implementation will be financed with debt, then the energy savings analysis must project sufficient energy savings to pay the debt service on any bonds to be issued. As used in this subdivision, the term "total cost" shall have the same meaning as it does in G.S. 143-64.17B(d).
- (2) The energy conservation measure is for an existing building or utility system.

(b) Scope of Authority. – In implementing an energy conservation measure pursuant to subsection (a) of this section, the Board of Governors may undertake or authorize any constituent institution listed in subsection (e) of this section to undertake any action that (i) could be required of a qualified provider under a guaranteed energy savings contract or (ii) is otherwise permissible under this Part.

(c) Projects Consisting of Multiple Energy Conservation Measures. – The Board of Governors may authorize the implementation of multiple energy conservation measures simultaneously as part of a single project. When doing so, the findings required by subsection (a) of this section may be made with respect to the project as a whole and need not be made with respect to individual energy conservation measures. Similarly, the analyses required by G.S. 143-64.17M may be conducted for the project as a whole instead of for individual energy conservation measures.

(d) Continuing Applicability of Part to Contracts. – If the Board of Governors or a constituent institution implements an energy conservation measure through a guaranteed energy savings contract, that contract shall accord in all respects with the requirements of this Part.

(e) The Board of Governors may authorize North Carolina State University and the University of North Carolina at Charlotte to implement an energy conservation measure without entering into a guaranteed energy savings contract pursuant to this section. (2011-145, s. 9.6D(a); 2013-396, s. 4(a).)

**§ 143-64.17M. Energy savings analysis required prior to implementation; post-implementation analyses required.**

(a) Energy Savings Analysis Required Prior to Implementation. – Prior to implementing an energy conservation measure pursuant to G.S. 143-64.17L, an energy savings analysis shall be performed to validate the economic assumptions that purportedly support the implementation of

the measure. This analysis shall be performed by a third party selected by the constituent institution and shall include an energy consumption analysis to develop a baseline of previous costs of all utilities' energy consumption for the institution on the assumption that the energy conservation measure was not undertaken. The completed analysis shall be submitted to The University of North Carolina System Office and to the State Energy Office.

(b) Post-Implementation Analyses Required. – A constituent institution that implements an energy conservation measure pursuant to G.S. 143-64.17L shall retain a third party to perform an annual measurement and verification of energy savings resulting from the energy conservation measure as compared to the baseline of previous costs set forth in the energy savings analysis required by subsection (a) of this section. The third party shall annually provide a reconciliation statement based upon the results of a preagreed upon measurement, monitoring, and verification protocol which shall disclose any shortfall or surplus between the estimated energy usage and operational savings set forth in the energy savings analysis required by subsection (a) of this section and actual, not stipulated, energy usage and operational savings incurred during a given year.

If a reconciliation statement reveals a shortfall in energy savings for a particular year, the constituent institution shall be responsible for and shall pay the shortfall. However, the institution shall not be held responsible for losses due to natural disasters or other emergencies. Any surplus shall be retained by the institution and may be used in the same manner as any other energy savings. (2011-145, s. 9.6D(b); 2018-12, s. 17.)

**§§ 143-64.17N through 143-64.19:** Reserved for future codification purposes.

## **Appendix C**

North Carolina Administrative Code,  
Title 01, Subchapter 41B,  
*Guaranteed Energy Savings Contracts*

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**SUBCHAPTER 41B – GUARANTEED ENERGY SAVINGS CONTRACTS****SECTION .0100 – GENERAL PROVISIONS****01 NCAC 41B .0101 RESPONSIBILITY**

*History Note:* Authority G.S. 143-64.17A(c1); 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004.

**01 NCAC 41B .0102 SCOPE**

This Subchapter shall apply to State governmental units engaging in guaranteed energy savings contracts.

*History Note:* Authority G.S. 143-64.17F; 143-64.17H; 143-64.17A (c1);  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

**01 NCAC 41B .0103 RULE MAKING AUTHORITY**

*History Note:* Authority G.S. 143-64.17A(c1); 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004.

**01 NCAC 41B .0104 DEFINITIONS**

For the purposes of this Chapter, the following definitions apply:

- (1) Terms used herein that are defined in G.S. 143-64.17 shall have the same definitions as in G.S. 143-64.17.
- (2) "Agency." A North Carolina State governmental unit that is soliciting, through a Request for Proposals (RFP), to enter into a guaranteed energy savings contract.
- (3) "Annual reconciliation statement." A report disclosing shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual energy and operational savings incurred during each 12 month term commencing from the time that the energy conservation measures became fully operational.
- (4) "Contract." A guaranteed energy savings contract.
- (5) "Offer." The response to an RFP means the same as "bid" or "proposal."
- (6) "Investment grade audit" or "investment grade analysis." A cost-benefit analysis of energy efficiency investments including a review of potential cost savings through operation and maintenance changes.
- (7) "Life-cycle cost analysis." A method for estimating the total cost of an energy-using component or building over its useful life, including cost factors such as purchase price, or construction, renovation, or leasing costs, energy use, maintenance, interest, and inflation.
- (8) "Measurement and verification review." An examination of energy measures installed under each contract, using methodology to measure the operation of energy-using systems before and after change, to verify the performance and savings of the installed equipment.
- (9) "Qualified provider." A person, business, or organization experienced in the design, implementation, and installation of energy conservation measures and determined by the administering and contracting agencies to have the capability in all respects to fully perform the contract requirements.

*History Note:* Authority G.S. 143-64.17F; 143-64.17H; 143-64.17A(c1);  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

**SECTION .0200 – RESERVED FOR FUTURE CODIFICATION**

**SECTION .0300 – SOLICITATIONS****01 NCAC 41B .0301 NORTH CAROLINA PRODUCTS**

A preference for North Carolina products and services provided by North Carolina residents pursuant to G.S. 143-59 shall apply to Guaranteed Energy Savings Contracts.

*History Note: Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expires April 27, 2004;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 41B .0302 SOLICITATION DOCUMENTS**

- (a) Agencies shall solicit for guaranteed energy savings contracts through a Request for Proposal (RFP).
- (b) Agencies may use the RFP template available from the State Energy Office at MSC 1340, Raleigh, NC 27699-1340.
- (c) Solicitation documents shall include a Treasurer's estimated cost of financing.
- (d) Solicitation documents may allow for qualified provider or third party financing.
- (e) Solicitation documents may include a copy of the Facilities Condition Assessment Program (FCAP) report covering part or all of the facilities subject to the solicitation.
- (f) Solicitation documents shall state the evaluation criteria specified by G.S. 143-64.17A (b) and (d) as well as those in this Chapter. The documents shall also state the criteria weighting defined by the agency for each particular project. Weighting may change from one RFP to another RFP from an agency based upon the particular needs of that agency.
- (g) Solicitation documents shall stipulate that employee or time savings cannot be included in the offer unless a position is eliminated as a result of contract implementation.
- (h) Solicitation documents shall stipulate that the qualified provider is responsible for all costs incurred in preparing the initial proposal.
- (i) Solicitation documents shall stipulate that the contractor cannot include costs or allowances for contingencies in the contract.
- (j) Solicitation documents may include a three-year history of usage and billing for all utilities for the facilities subject to the proposal.

*History Note: Authority G.S. 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 41B .0303 TREASURER'S COST ESTIMATE OF FINANCING**

Agencies shall obtain an estimate of financing cost from the Director of Debt Management, Office of the Treasurer. This estimate shall not be binding upon the State and is subject to change by the Office of the Treasurer. The Office of the Treasurer may reject any potential contract if the actual cost of financing has exceeded the estimated cost of financing when the contract is submitted to the Office of the Treasurer for approval.

*History Note: Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

**01 NCAC 41B .0304 GENERAL FUND PREFERENCE**

- (a) The agency shall give preference to projects where the energy costs are paid through General Fund appropriations as compared to receipts, or federal funds, or other sources. This preference shall be stipulated in the solicitation documents.

(b) Solicitation documents shall include, when feasible, a breakdown of the source of funds for energy costs and shall direct the vendors to break down savings by source of funds if the aforementioned information is included in the solicitation document.

(c) The Council of State may give preference to projects where the energy costs are paid through General Fund appropriations as compared to receipts, or federal funds, or other sources.

*History Note:* Authority G.S. 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0305 PROHIBITION ON FEDERAL FUNDS**

The agency shall not solicit proposals for projects that include payment from federal funds unless the agency has obtained, and includes in both the solicitation and contract, documentation from the Federal Government or the Office of State Controller stating that the use of federal funds for payment of the contract is authorized.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0306 ADVERTISEMENT REQUIREMENTS**

In addition to advertising requirements stated in G.S. 143-64.17A(a), agencies shall send a copy to the State Energy Office at MSC 1340, Raleigh, NC 27699 and shall include in the notification instructions on how to obtain the complete solicitation.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expires April 27, 2004;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0307 CONFERENCES/SITE VISITS**

Agencies may conduct vendor conferences and site visits before the Request for Proposals closing date.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expires April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **SECTION .0400 - PRECERTIFICATION OF PROVIDERS**

#### **01 NCAC 41B .0401 INFORMATION REQUIRED FOR PRECERTIFICATION**

Organizations may establish capability to provide services under performance contracts with state agencies by providing the following information to the State Energy Office:

- (1) past experience with energy performance contracting with a minimum of three years operation and completed installation of a minimum of three projects;
- (2) performance contracting experience and resumes of individuals expected to work on North Carolina projects including a minimum of one professional engineer licensed in North Carolina;
- (3) summary information, with client contact information, on all performance contracting projects in North Carolina during the previous five years listing only completed projects with at least one year in repayment;

- (4) summary information, with client contact information, on all performance contracts with any state government agencies in the United States with a maximum of five projects for each of the previous five years;
- (5) summary information, with client contact information, on any performance contracting projects which resulted in the company paying energy costs to clients;
- (6) summary of the history and operation of the business and organization, including volume, bonding capacity and type of clients; and
- (7) financial statements of the performance contracting organization and (if applicable) parent company for the previous two years.

*History Note:* Authority G.S. 143-64.17F;  
 Temporary Adoption Eff. August 1, 2003;  
 Temporary Adoption Expires April 27, 2004;  
 Eff. August 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0402 PRECERTIFICATION EVALUATION**

Organizations shall present information required for precertification to the State Energy Office with a request for consideration for inclusion as a precertified entity. The State Energy Office shall offer a precertification period for providers at three-year intervals.

*History Note:* Authority G.S. 143-64.17F;  
 Temporary Adoption Eff. August 1, 2003;  
 Temporary Adoption Expires April 27, 2004;  
 Eff. August 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0403 CONTESTING PRECERTIFICATION**

(a) If the State Energy Office denies an organization's request for precertification, a written appeal from the organization may be provided by the organization within 60 days after date of notification of the denial. A letter appealing the decision may be filed with:

Director, State Energy Office  
 North Carolina Department of Administration  
 1830A Tillery Place MSC 1340  
 Raleigh, North Carolina 27699-1340

(b) In the event that an organization wishes to contest the case further, contested case hearings are available as provided in G.S. 150B, and petitions for contested case hearings shall be filed in accordance with the provisions of that Chapter.

*History Note:* Authority G.S. 143-64.17F;  
 Temporary Adoption Eff. August 1, 2003;  
 Temporary Adoption Expired April 27, 2004;  
 Eff. July 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0404 PUBLISHED LIST OF PRECERTIFIED ENTITIES**

Organizations precertified by the State Energy Office to provide services under performance contracts may be included on a list available on the Website of the State Energy Office at <http://www.energync.net>.

*History Note:* Authority G.S. 143-64.17F;  
 Temporary Adoption Eff. August 1, 2003;  
 Temporary Adoption Expired April 27, 2004;  
 Eff. July 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0405 PRECERTIFIED ENTITY RESTRICTION**

Only precertified organizations may enter into a performance contract with a state governmental agency.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

## **SECTION .0500 - EVALUATION, SELECTION, AND AWARD**

### **01 NCAC 41B .0501 LATE OFFERS, MODIFICATIONS, OR WITHDRAWALS**

No late offer, late modification, or late withdrawal shall be considered unless received before contract award, and the offer, modification, or withdrawal would have been timely but for the action or inaction of agency personnel. The offeror shall have his offer delivered on time, regardless of the mode of delivery used, including the U.S. Postal Service or any other delivery services available.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **01 NCAC 41B .0502 EXTENSION OF ACCEPTANCE TIME**

Companies may be requested to extend the time offered for the acceptance of offers.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expires April 27, 2004;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **01 NCAC 41B .0503 ERROR/CLARIFICATION**

When an offer contains an obvious error or otherwise where an error is suspected, the circumstances may be investigated and then may be considered and acted upon. Any action taken shall not prejudice the rights of the public or other offering companies. Where offers are submitted substantially in accordance with the request for response document but are not entirely clear as to intent or to some particular fact or where there are other ambiguities, clarification may be sought and accepted provided that, in doing so, no change is permitted in prices.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **01 NCAC 41B .0504 BASIS FOR REJECTION**

In soliciting offers, any and all offers received may be rejected. Bases for rejection shall include, but are not limited to, the offer being deemed unsatisfactory as to the quantity, quality, delivery, price or service offered; the offer not complying with conditions in the RFP or with the intent of the proposed contract; lack of competitiveness by reason of collusion; error(s) in specifications or indication that revision(s) would be to the state's advantage; cancellation of or changes in the intended project or other determination that the proposed requirement is no longer needed; limitation or lack of available funds; circumstances which prevent determination of the lowest responsible or most advantageous offer; or any determination that rejection would be to the best interest of the state.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;

*Temporary Adoption Expires April 27, 2004;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 41B .0505 PUBLIC RECORD**

Action in rejecting offers shall be made a matter of record.

*History Note: Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 41B .0506 RECIPROCAL PREFERENCE**

(a) 01 NCAC 05B .1522(a), (b), (c), (d), and (g) shall apply to this Subchapter.

(b) If the use of the reciprocal preference changes which bidder is the low bidder, the agency may waive the use of the reciprocal preference, after consultation with the Council of State, and after taking into consideration such factors as, competition, price, product origination, and available resources.

*History Note: Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 41B .0507 PROPOSAL EVALUATION**

(a) Evaluation criteria shall include those specified by G.S. 143-64.17A(b) and (d).

(b) Evaluation criteria for the proposal shall also include the following:

- (1) Life cycle cost analysis as defined in G.S. 143-64.15.
- (2) Certification by a registered engineer that the measurement and verification protocol presented in the proposal is capable of measuring actual or projected savings.
- (3) A process of annual third party measurement and verification of savings in accordance with the pre-defined and certified protocol found in 01 NCAC 41B .0510. The cost of this process shall be included in the total cost of the contract.
- (4) The total cost based on Office of Treasurer cost of financing estimate and cost based on Qualified Provider or third party financing in the response.

*History Note: Authority G.S. 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 41B .0508 PRE-AWARD REPORTS**

Before the award of a guaranteed energy savings contract, the qualified provider shall provide a report, as part of its proposal, which shall be available for public inspection, summarizing estimates of all costs of installation, maintenance, repairs and debt service and estimates of the amounts by which energy or operating costs will be reduced.

*History Note: Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

#### **01 NCAC 41B .0509 TABULATIONS AND ABSTRACTS**

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004.

#### **01 NCAC 41B .0510 MEASUREMENT AND VERIFICATION**

Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's "Measurement and Verification Guideline for Energy Savings Performance Contracting," the "International Performance Measurement and Verification Protocol," or "ASHRAE 14-2002." If due to existing data limitations or the nonconformance of specific project characteristics, none of the measurement and verification methodologies listed above is sufficient for measuring guaranteed savings, the qualified provider shall develop an alternate method that is compatible with one of the three and mutually agreeable with the agency.

*History Note:* Authority G.S. 143-64.17F; 143-64.17H;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0511 CONTRACT EXECUTION**

Contract execution by the successful companies shall occur upon contract award and before the agency sends the documents to the Office of State Budget and Management. Contracts shall stipulate that the execution is contingent upon approval and financing. Upon execution, the agency shall forward the documents to the Capital Improvement Section of the Office of State Budget and Management with a copy to the Director of the State Energy Office.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

### **SECTION .0600 – RESERVED FOR FUTURE CODIFICATION**

#### **SECTION .0700 – APPROVAL**

#### **01 NCAC 41B .0701 OFFICE OF STATE BUDGET AND MANAGEMENT CERTIFICATION**

The Office of State Budget and Management (OSBM) shall certify, within 10 business days of receipt, expected availability of resources and set up appropriate reserve accounts or other accounting procedures to transfer funds from the agency to the Office of the Treasurer for payment. Upon certification, the OSBM shall forward the documentation to the Office of the Treasurer's Director of Debt Management.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;  
Eff. July 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

#### **01 NCAC 41B .0702 OFFICE OF THE TREASURER APPROVAL**

The Office of the Treasurer shall, within 10 business days of receipt, review the documentation and select the desired financing option. Upon review and selection, the Treasurer shall forward the documentation to the Secretary of the Department of Administration.

*History Note:* Authority G.S. 143-64.17F;  
Temporary Adoption Eff. August 1, 2003;  
Temporary Adoption Expired April 27, 2004;

*Eff. July 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

## **SECTION .0800 – RESERVED FOR FUTURE CODIFICATION**

### **SECTION .0900 - POST-APPROVAL PROCEDURES**

#### **01 NCAC 41B .0901 ANNUAL REPORTS AND INSPECTIONS**

(a) The State Energy Office may inspect any and all documentation and facilities it deems appropriate at the agency to determine the effectiveness of the guaranteed energy savings contract and to provide information to the Council of State and the General Assembly on the effectiveness of the contract.

(b) Agencies failing to provide documentation to the State Energy Office as requested, shall be reported to the Council of State and shall be prohibited from engaging in further energy savings contracts until the deficient documentation is provided to the State Energy Office.

(c) Requested information, by definition, includes timely submission of the "Annual Report of Savings Report" available from the State Energy Office at 1340 MSC, Raleigh, NC 27699-1340.

*History Note: Authority G.S. 143-64.17F; 143-64.17H;*

*Temporary Adoption Eff. August 1, 2003;*

*Temporary Adoption Expired April 27, 2004;*

*Eff. July 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*



## **Appendix D**

General Statute Chapter 142, Article 8,  
*State Energy Conservation Finance Act*

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## Article 8.

## State Energy Conservation Finance Act.

**§ 142-60. Short title.**

This Article is the State Energy Conservation Finance Act. (2002-161, s. 9.)

**§ 142-61. Definitions.**

The following definitions apply in this Article:

- (1) Certificates of participation. – Certificates or other instruments delivered by a special corporation as provided in this Article evidencing the assignment of proportionate and undivided interests in the rights to receive payments to be made by the State pursuant to one or more financing contracts.
- (2) Cost. – The term includes:
  - a. The cost of construction, modification, rehabilitation, renovation, improvement, acquisition, or installation in connection with an energy conservation measure.
  - b. The cost of engineering, architectural, and other consulting services as may be required, including the cost of performing the technical analysis in accordance with G.S. 143-64.17A and inspection and certification in accordance with G.S. 143-64.17K.
  - c. Finance charges, reserves for debt service and other types of reserves required pursuant to a financing contract or any other related documentation, and interest prior to and during construction, and, if deemed advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction.
  - d. Administrative expenses and charges.
  - e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the financing contract to the extent and as determined by the State Treasurer.
  - f. The cost of reimbursing the State for payments made for any costs described in this subdivision.
  - g. Any other costs and expenses necessary or incidental to implementing the purposes of this Article.
- (3) Credit facility. – An agreement that:
  - a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and
  - b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of

the credit facility in accordance with the terms and provisions of the agreement.

- (4) Energy conservation measure. – Defined in G.S. 143-64.17.
- (5) Energy conservation property. – Buildings, equipment, or other property with respect to which an energy conservation measure is undertaken.
- (6) Financing contract. – An installment financing contract entered into pursuant to the provisions of this Article to finance the cost of an energy conservation measure.
- (7) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
- (8) Special corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
- (9) State governmental unit. – Defined in G.S. 143-64.17.
- (10) State Treasurer. – The incumbent Treasurer, from time to time, of the State. (2002-161, s. 9.)

**§ 142-62:** Reserved for future codification purposes.

**§ 142-63. Authorization of financing contract.**

Subject to the terms and conditions set forth in this Article, (i) a State governmental unit that is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article, (ii) a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B, or (iii) the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate outstanding amount payable by the State under financing contracts entered pursuant to this Article shall not exceed five hundred million dollars (\$500,000,000) at any one time. (2002-161, s. 9; 2006-190, s. 6; 2009-375, s. 1; 2011-145, s. 9.6D(f); 2013-396, s. 4(b).)

**§ 142-64. Procedure for incurrence or issuance of financing contract.**

(a) When a State governmental unit (i) is implementing an energy conservation measure pursuant to G.S. 143-64.17L and financing it pursuant to this Article or (ii) has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures.

(b) A financing contract may be entered into pursuant to this Article only after all of the following conditions are met:

- (1) The Office of State Budget and Management has certified that resources are expected to be available to the State to pay the payments to fall due under the financing contract as they become due and payable.
- (2) The Council of State has approved the execution and delivery of the financing contract by resolution that sets forth all of the following:
  - a. The not-to-exceed term or final maturity of the financing contract, which shall be no later than 20 years from the date of acceptance of the project.
  - b. The not-to-exceed interest rate or rates (or the equivalent thereof), which may be fixed or vary over a period of time, with respect to the financing contract.
  - c. The appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it.
- (3) The State Treasurer has approved the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement or any credit facility.

The resolution of the Council of State shall include any other matters the Council of State considers appropriate.

(c) In determining whether to approve a financing contract under subdivision (b)(3) of this section, the State Treasurer may consider the factors the State Treasurer considers relevant in order to find and determine all of the following:

- (1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the energy conservation measure.
- (2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract are not excessive.
- (3) The financing contract can be entered into on terms desirable to the State.
- (4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency.

(d) The Office of State Budget and Management is authorized to certify that funds are expected to be available to the State to make the payments due under a financing contract entered into under the provisions of this section as the payments become due and payable. In so certifying, the Office of State Budget and Management may take into account expected decreases in appropriations to the State governmental unit that will offset payments expected to be made under the financing contract. (2002-161, s. 9; 2006-190, s. 7; 2011-145, s. 9.6D(g).)

#### **§ 142-65. Security; other requirements.**

(a) In order to secure the performance by the State of its obligations under a financing contract or any other related documentation, the State may grant a lien on, or security interest in, all or any part of the energy conservation property or the land upon which the energy conservation property is or will be located.

(b) No deficiency judgment may be rendered against the State or any State governmental unit in any action for breach of any obligation contained in a financing contract or any other related documentation, and the taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract or any other related documentation.

In the event that the General Assembly does not appropriate funds sufficient to make payments required under a financing contract or any other related documentation, the net proceeds received from the sale, lease, or other disposition of the property subject to the lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are hereby appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under the financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

(c) Neither a financing contract nor any other related documentation shall contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any State property that is the subject of an energy conservation measure.

(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the financing contract.

(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing funds under the financing contract that are reasonable and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under a financing contract may be applied, and the duties of the State with respect to the property subject to the lien or security interest created pursuant to subsection (a) of this section, including, without limitation, provisions relating to insuring and maintaining any property and the custody, safeguarding, investment, and application of moneys.

(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the payments due under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this Article. (2002-161, s. 9.)

#### **§ 142-66. Payment provisions.**

The payment of amounts payable by the State under a financing contract and any other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this Article and no financing contract or any other related documentation shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation. (2002-161, s. 9.)

#### **§ 142-67. Certificates of participation.**

(a) If the State Treasurer determines that the State would realize debt service savings under one or more financing contracts if certificates of participation are issued with respect to the rights to receive payments under the financing contract, then the State Treasurer is authorized to take actions, with the consent of the Council of State, that will effectuate the delivery of certificates of participation for that purpose.

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

(c) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer. (2002-161, s. 9.)

**§ 142-68. Tax exemption.**

Any financing contract entered pursuant to this Article, and any certificates of participation relating to it, shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting income taxes on the gain from the transfer of the financing contract or certificates of participation; and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income. (2002-161, s. 9; 2015-264, s. 16(g).)

**§ 142-69. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with entering into financing contracts and issuing certificates of participation pursuant to this Article. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any financing contracts or certificates of participation under this Article as the State Treasurer considers appropriate. (2002-161, s. 9.)

**§ 142-70. Investment eligibility.**

Financing contracts entered into pursuant to this Article, and any certificates of participation relating to them, are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Financing contracts entered pursuant to this Article, and any certificates of participation relating to them, are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or any political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law. (2002-161, s. 9.)

**§ 142-71:** Reserved for future codification purposes.

**§ 142-72:** Reserved for future codification purposes.

§ 142-73: Reserved for future codification purposes.

§ 142-74: Reserved for future codification purposes.

§ 142-75: Reserved for future codification purposes.

§ 142-76: Reserved for future codification purposes.

§ 142-77: Reserved for future codification purposes.

§ 142-78: Reserved for future codification purposes.

§ 142-79: Reserved for future codification purposes.



## **Appendix E**

General Statute Chapter 116-30.3,  
*Energy conservation savings.*

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1    **§ 116-30.3B. Energy conservation savings.**

2           (a) In addition to the funds carried forward under G.S. 116-30.3, the General Fund current  
3           operations appropriations credit balance remaining at the end of each fiscal year for utilities of a  
4           constituent institution that is energy savings realized from implementing an energy conservation  
5           measure shall be carried forward by the institution to the next fiscal year. Sixty percent (60%) of  
6           the energy savings realized shall be utilized for energy conservation measures by that institution.  
7           The use of funds under this section shall be limited to onetime capital and operating expenditures  
8           that will not impose additional financial obligations on the State. The Director of the Budget, under  
9           the authority set forth in G.S. 143C-6-2, shall establish the General Fund current operations credit  
10          balance remaining in each budget code of each institution.

11          (b) It is the intent of the General Assembly that appropriations to the Board of Governors on behalf  
12          of a constituent institution not be reduced as a result of the institution's realization of energy  
13          savings. Instead, the General Assembly intends that the amount of appropriations be determined as  
14          if no energy savings had been realized. The Director of the Budget shall not decrease the  
15          recommended base budget requirements for utilities for constituent institutions by the amount of  
16          energy savings realized from implementing energy conservation measures, including savings  
17          achieved through a guaranteed energy savings contract.

18          (c) Constituent institutions shall submit ~~annual~~ biennial\* reports on the use of funds authorized  
19          pursuant to this section as required under G.S. 143-64.12.

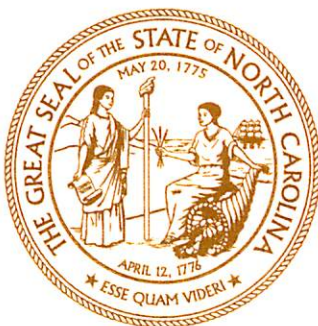
20          (d) As used in this section, "energy savings," "guaranteed energy savings contract," and "energy  
21          conservation measure" have the same meaning as in G.S. 143-64.17. (2010-196, s. 1; 2011-145, s.  
22          9.6D(c); 2014-100, s. 6.4(e).)

<p>*Session Law 2023-121 Section 5.(b) has changed annual to biennial.</p>
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## **Appendix F**

Executive Order Number 80,  
*North Carolina's Commitment to Address  
Climate Change and Transition to a Clean  
Energy Economy*

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# State of North Carolina

**ROY COOPER**  
GOVERNOR

October 29, 2018

## EXECUTIVE ORDER NO. 80

### NORTH CAROLINA'S COMMITMENT TO ADDRESS CLIMATE CHANGE AND TRANSITION TO A CLEAN ENERGY ECONOMY

**WHEREAS**, North Carolina residents deserve to be better educated, healthier, and more financially secure so that they may live purposeful and abundant lives; and

**WHEREAS**, N.C. Const. art. XIV, § 5 requires the conservation, protection, and preservation of state lands and waters in public trust; and

**WHEREAS**, North Carolina is well positioned to take advantage of its technology and research and development sectors, along with its skilled workforce, to promote clean energy technology solutions and a modernized electric grid; and

**WHEREAS**, public-private partnerships in North Carolina foster market innovations and develop clean energy technology solutions that grow the state's economy; and

**WHEREAS**, the effects of more frequent and intense hurricanes, flooding, extreme temperatures, droughts, saltwater intrusion, and beach erosion have already impacted and will continue to impact North Carolina's economy; and

**WHEREAS**, climate-related environmental disruptions pose significant health risks to North Carolinians, including waterborne disease outbreaks, compromised drinking water, increases in disease-spreading organisms, and exposure to air pollution, among other issues; and

**WHEREAS**, to maintain economic growth and development and to provide responsible environmental stewardship, we must build resilient communities and develop strategies to mitigate and prepare for climate-related impacts in North Carolina.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

1. The State of North Carolina will support the 2015 Paris Agreement goals and honor the state's commitments to the United States Climate Alliance.

The State of North Carolina will strive to accomplish the following by 2025:

- a. Reduce statewide greenhouse gas emissions to 40% below 2005 levels;
- b. Increase the number of registered, zero-emission vehicles ("ZEVs"; individually, "ZEV") to at least 80,000;
- c. Reduce energy consumption per square foot in state-owned buildings by at least 40% from fiscal year 2002-2003 levels.

2. Cabinet agencies shall evaluate the impacts of climate change on their programs and operations and integrate climate change mitigation and adaptation practices into their programs and operations. Council of State members, higher education institutions, local governments, private businesses, and other North Carolina entities are encouraged to address climate change and provide input on climate change mitigation and adaptation measures developed through the implementation of this Executive Order. Consistent with applicable law, cabinet agencies shall actively support such actions.
3. The Secretary or designee of each cabinet agency and a representative from the Governor's Office shall serve on the North Carolina Climate Change Interagency Council ("Council"), which is hereby established. The Secretary of the North Carolina Department of Environmental Quality, or the Secretary's designee, shall serve as the Council Chair. The North Carolina Department of Environmental Quality shall lead the Council by providing strategic direction, scheduling and planning Council meetings, determining the prioritization of activities, facilitating stakeholder engagement, and assisting in the implementation of pathways to achieve the goals provided in Section 1 of this Executive Order.

The duties of the Council shall include the following:

- a. Recommend new and updated goals and actions to meaningfully address climate change;
  - b. Develop, implement, and evaluate programs and activities that support statewide climate mitigation and adaptation practices;
  - c. Establish workgroups, as appropriate, to assist the Council in its duties;
  - d. Consider stakeholder input when developing recommendations, programs, and other actions and activities;
  - e. Schedule, monitor, and provide input on the preparation and development of the plans and assessments required by this Executive Order;
  - f. Review and submit to the Governor the plans and assessments required by this Executive Order.
4. The North Carolina Department of Environmental Quality ("DEQ") shall develop a North Carolina Clean Energy Plan ("Clean Energy Plan") that fosters and encourages the utilization of clean energy resources, including energy efficiency, solar, wind, energy storage, and other innovative technologies in the public and private sectors, and the integration of those resources to facilitate the development of a modern and resilient electric grid. DEQ shall collaborate with businesses, industries, power providers, technology developers, North Carolina residents, local governments, and other interested stakeholders to increase the utilization of clean energy technologies, energy efficiency measures, and clean transportation solutions. DEQ shall complete the Clean Energy Plan for the Council to submit to the Governor by October 1, 2019.
5. The North Carolina Department of Transportation ("DOT"), in coordination with DEQ, shall develop a North Carolina ZEV Plan ("ZEV Plan") designed to increase the number of registered ZEVs in the state to at least 80,000 by 2025. The ZEV Plan shall help establish interstate and intrastate ZEV corridors, coordinate and increase the installation of ZEV infrastructure, and incorporate, where appropriate, additional best practices for increasing ZEV adoption. DOT shall complete the ZEV Plan for the Council to submit to the Governor by October 1, 2019.
6. The North Carolina Department of Commerce ("DOC") and other cabinet agencies shall take actions supporting the expansion of clean energy businesses and service providers, clean technology investment, and companies with a commitment to procuring renewable energy. In addition, DOC shall develop clean energy and clean transportation workforce assessments for the Council to submit to the Governor by October 1, 2019. These assessments shall evaluate the current and projected workforce demands in North Carolina's clean energy and clean transportation sectors, assess the skills and education required for employment in those sectors, and recommend actions to help North Carolinians develop such skills and education.
7. Cabinet agencies shall prioritize ZEVs in the purchase or lease of new vehicles and shall use ZEVs for agency business travel when feasible. When ZEV use is not feasible, cabinet agencies shall prioritize cost-effective, low-emission alternatives. To support implementation of this directive, the North Carolina Department of Administration ("DOA") shall develop a North


Carolina Motor Fleet ZEV Plan (“Motor Fleet ZEV Plan”) that identifies the types of trips for which a ZEV is feasible, recommends infrastructure necessary to support ZEV use, develops procurement options and strategies to increase the purchase and utilization of ZEVs, and addresses other key topics. DOA shall complete the Motor Fleet ZEV Plan and provide an accounting of each agency’s ZEVs and miles driven by vehicle type for the Council to submit to the Governor by October 1, 2019, and annually thereafter.

8. Building on the energy, water, and utility use conservation measures taken pursuant to N.C. Gen. Stat. § 143-64.12(a), DEQ shall update and amend, where applicable, a Comprehensive Energy, Water, and Utility Use Conservation Program (“Comprehensive Program”) by February 1, 2019, and biennially beginning December 1, 2019, to further reduce energy consumption per gross square foot in state buildings consistent with Section 1 of this Executive Order. The Comprehensive Program shall include best practices for state government building energy efficiency, training for agency staff, cost estimation methodologies, financing options, and reporting requirements for cabinet agencies. DEQ and cabinet agencies shall encourage and assist, as requested, higher education institutions, K-12 schools, and local governments in reducing energy consumption. To achieve the required energy consumption reductions:
  - a. By January 15, 2019, each cabinet agency shall designate an Agency Energy Manager, who shall serve as the agency point of contact.
  - b. Each cabinet agency shall develop and submit an Agency Utility Management Plan to DEQ by March 1, 2019, and biennially thereafter, and implement strategies to support the energy consumption reduction goal set forth in Section 1 of this Executive Order. DEQ shall assess the adequacy of these plans and their compliance with this Executive Order.
  - c. By September 1, 2019, and annually thereafter, each cabinet agency shall submit to DEQ an Agency Utility Report detailing its utility consumption, utility costs, and progress in reducing energy consumption.
  - d. DEQ shall develop an annual report that describes the Comprehensive Program and summarizes each cabinet agency’s utility consumption, utility costs, and achieved reductions in energy consumption. DEQ shall complete this report for publication on its website and for the Council to submit to the Governor by February 1, 2019, and annually thereafter beginning December 1, 2019.
9. Cabinet agencies shall integrate climate adaptation and resiliency planning into their policies, programs, and operations (i) to support communities and sectors of the economy that are vulnerable to the effects of climate change and (ii) to enhance the agencies’ ability to protect human life and health, property, natural and built infrastructure, cultural resources, and other public and private assets of value to North Carolinians.
  - a. DEQ, with the support of cabinet agencies and informed by stakeholder engagement, shall prepare a North Carolina Climate Risk Assessment and Resiliency Plan for the Council to submit to the Governor by March 1, 2020.
  - b. The Council shall support communities that are interested in assessing risks and vulnerabilities to natural and built infrastructure and in developing community-level adaptation and resiliency plans.
10. DEQ shall prepare and manage a publicly accessible Web-based portal detailing the Council’s actions and the steps taken to address climate-related impacts in North Carolina. Cabinet agencies shall submit data, information, and status reports as specified by the Council to be published on the portal. In addition, DEQ shall develop, publish on the portal, and periodically update an inventory of the state’s greenhouse gas emissions that, among other things, tracks emissions trends statewide by sector and identifies opportunities for additional emissions reductions.
11. By October 15, 2019, and annually thereafter, the Council shall provide to the Governor a status report on the implementation of this Executive Order.
12. This Executive Order is consistent with and does not otherwise abrogate existing state law.




13. This Order is effective October 29, 2018 and shall remain in effect until rescinded or superseded by another applicable Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this the 29<sup>th</sup> day of October, in the year of our Lord two thousand eighteen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Rodney S. Maddox  
Chief Deputy Secretary of State



## **Appendix G**

Executive Order Number 246, *North Carolina's  
Transformation to a Clean, Equitable Economy,  
Energy conservation savings.*

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# State of North Carolina

**ROY COOPER**  
GOVERNOR

January 7, 2022

**EXECUTIVE ORDER NO. 246**

## **NORTH CAROLINA'S TRANSFORMATION TO A CLEAN, EQUITABLE ECONOMY**

**WHEREAS**, N.C. Const. Art. XIV, § 5 establishes that it is the policy of the State to conserve and protect its lands and waters for the benefit of all its people, that it is a proper function of the State to control and limit the pollution of our air and water, and that in every other appropriate way the State should preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, open lands, and places of beauty; and

**WHEREAS**, the Intergovernmental Panel on Climate Change's Sixth Assessment Report confirms the scientific consensus that the global climate is warming and that this trend is unequivocally caused by an increase in greenhouse gas ("GHG") emissions resulting from human activity, leading to observed GHG levels and climate impacts that are unprecedented over many centuries to millions of years; and

**WHEREAS**, climate change is a global crisis causing devastating disruptions worldwide in the form of more frequent, severe and costly natural disasters; loss of biodiversity and environmental degradation; food and water insecurity; violent conflict; and more; and

**WHEREAS**, the 2020 North Carolina Climate Science Report found that adverse impacts of climate change in North Carolina threaten human health, the State's economy, and our quality of life, through more intense storms and flooding, dangerously high temperatures, droughts, rising sea levels and beach erosion, and harms to ecosystems and wildlife; and

**WHEREAS**, the State of North Carolina supports the 2015 Paris Agreement's goal of limiting global average temperature rise to 1.5 degrees Celsius; and

**WHEREAS**, the United States' Nationally Determined Contribution ("NDC") under the Paris Agreement is to reduce GHG emissions economywide by 50 to 52 percent below 2005 levels by 2030, and member states of the U.S. Climate Alliance, including North Carolina, have committed to achieving net-zero GHG emissions no later than 2050 and 50 to 52 percent emission reductions by 2030 in support of the U.S. NDC; and

**WHEREAS**, all North Carolinians, irrespective of economic status, cultural heritage, race, religion, or zip code, have the right to enjoy a sustainable environment with clean air, clean water, and clean soil and that is free from environmental injustice; and

**WHEREAS**, climate change disproportionately impacts people of color, low-income communities, and indigenous communities, and responsible solutions to climate change must equitably reduce GHG emissions, increase community resilience, advance sustainable economic recovery and infrastructure investment efforts, promote public health and health equity, and ensure fair treatment and meaningful engagement in decision-making and implementation; and

**WHEREAS**, meaningful, fair, and equitable public engagement in state agency decision-making is necessary to avoid and remedy harmful impacts on communities most severely and frequently impacted by economic and environmental health disparities; and

**WHEREAS**, the cumulative impacts of multiple sources of exposure to environmental stressors in communities and the roles of multiple decision-making entities in addressing the causes that compromise environmental health and quality of life in these communities requires an interagency response; and

**WHEREAS**, climate change is one of the most significant threats to public health, public health impacts largely depend upon living conditions and pre-existing health conditions, and health equity requires that all people have a fair and just opportunity to attain their full health potential; and

**WHEREAS**, Executive Order No. 80, 33 N.C. Reg. 1103-1106 (December 3, 2018) issued on October 29, 2018, "North Carolina's Commitment to Address Climate Change and Transition to a Clean Energy Economy" set North Carolina on a path to a 40 percent reduction in statewide GHG emissions, increases in zero-emission vehicle ("ZEV") adoption, more efficient state buildings, and statewide resilience to climate change impacts through the development and implementation of the N.C. Clean Energy Plan, N.C. ZEV Plan, N.C. Motor Fleet ZEV Plan, N.C. Clean Energy and Clean Transportation Workforce Assessment, and the N.C. Climate Risk Assessment and Resiliency Plan; and

**WHEREAS**, the bipartisan legislation Energy Solutions for North Carolina (Session Law 2021-165) requires the State's investor owned electric utilities to achieve a 70 percent reduction in GHG emissions from 2005 levels by 2030 and carbon neutrality by 2050, Executive Order No. 218 establishes the offshore wind development goals of 2.8 gigawatts ("GW") by 2030 and 8.0 GW by 2040, and North Carolina must decarbonize all sectors of the economy to avoid the worst impacts of climate change; and

**WHEREAS**, reducing GHG emissions and increasing resilience to climate change strengthens and diversifies North Carolina's economy through job growth, consumer savings, technology development, increased economic activity, improved public health, and reduced climate change impacts; and

**WHEREAS**, decarbonizing the transportation sector offers opportunities for economic growth and consumer savings through development and commercialization of new technologies; increased customer adoption of ZEVs beyond current market projections; increased availability and cost-competitiveness of ZEVs, transit, rail, and other transportation options; increased worker productivity; reductions in vehicles miles traveled; and other developments; and

**WHEREAS**, all levels and branches of government, businesses, and residents must take significant action to achieve the goals outlined in this Executive Order and Executive Order No. 80 to decarbonize all sectors of the economy and avoid the worst impacts of climate change, while taking full advantage of the economic benefits associated with transitioning to a clean, equitable economy; and

**WHEREAS**, N.C. Const. Art. III, § 1 provides that the executive power of the State shall be vested in the Governor; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 147-12(a)(1) it is the Governor's duty to supervise the official conduct of all executive and ministerial officers; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 143B-4, the Governor is responsible for formulating and administering the policies of the executive branch of the State government.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. North Carolina Goals**

The State of North Carolina will strive to accomplish the following:

- a. Reduce statewide GHG emissions to at least 50 percent below 2005 levels by 2030 and achieve net-zero emissions as soon as possible, no later than 2050; and
- b. Increase the total number of registered, ZEVs to at least 1,250,000 by 2030 and increase the sale of ZEVs so that 50 percent of in-state sales of new vehicles are zero-emission by 2030.

These goals are in addition to those specified in Executive Order No. 80.



## **Section 2. Environmental Justice and Equity**

The Governor's Office and Cabinet agencies shall incorporate environmental justice and equity considerations and benefits in the implementation of this Executive Order, Executive Order No. 80 and Executive Order No. 218 "Advancing North Carolina's Economic and Clean Energy Future with Offshore Wind." Executive Order Nos. 80 and 218 are hereby amended to effectuate this directive. Council of State members, state boards and commissions, higher education institutions, local governments, private businesses, and other North Carolina entities are encouraged to incorporate environmental justice and equity considerations and benefits into their work. Consistent with applicable law, Cabinet agencies shall actively support such actions.

## **Section 3. North Carolina Greenhouse Gas Inventory**

The North Carolina Department of Environmental Quality ("DEQ") shall release an updated North Carolina Greenhouse Gas Inventory by January 31, 2022, and biennially thereafter. The inventory shall calculate GHG emissions statewide and by sector and project future emissions based upon existing policies and trends.

## **Section 4. North Carolina Deep Decarbonization Pathways Analysis**

The Policy Office in the North Carolina Governor's Office, in partnership with Cabinet agencies and interested stakeholders, shall conduct a North Carolina Deep Decarbonization Pathways Analysis ("Pathways Analysis") that evaluates potential emission-reduction pathways for achieving net-zero GHG emissions across North Carolina's economy by 2050 and interim targets. The Pathways Analysis shall be completed for the N.C. Climate Change Interagency Council ("Climate Council") to submit to the Governor within twelve (12) months of this Executive Order to inform next steps for reducing statewide emissions consistent with Section 1 of this Executive Order, Section 1 of Executive Order No. 80, and other goals as appropriate.

## **Section 5. North Carolina Clean Transportation Plan**

The North Carolina Department of Transportation ("DOT"), in partnership with DEQ, the North Carolina Department of Commerce, and other relevant agencies, shall develop a North Carolina Clean Transportation Plan for the Climate Council to submit to the Governor within fifteen (15) months of this Executive Order. The Clean Transportation Plan shall recommend actionable strategies, with an emphasis on near-term action, for decarbonizing the transportation sector consistent with Section 1 of this Executive Order, Section 1 of Executive Order No. 80, and other goals as appropriate. Recommended strategies shall address increased availability, sales, and usage of ZEVs to levels beyond current market projections; reductions in vehicle miles traveled; investment in clean transportation infrastructure; equitable access to clean mobility options; increased availability of non-vehicle transportation modes; a transition to zero- and low-emission fuels; and other relevant topics. The Clean Transportation Plan shall include a focus on transitioning Medium- and Heavy-Duty Vehicles to ZEVs, informed by North Carolina's participation in the Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Memorandum of Understanding. DOT and other state agencies shall collaborate with transportation experts, municipalities and other local governments, planning organizations, auto manufacturers, automobile dealers, utilities, relevant businesses, North Carolina residents, underserved communities, and other interested stakeholders in developing and implementing the Clean Transportation Plan.

## **Section 6. Social Cost of Greenhouse Gas Emissions**

The federal Interagency Working Group on the Social Cost of Greenhouse Gases ("IWG") plans to publish an update of its social cost of greenhouse gas emissions ("SC-GHG") estimates by January 2022. Within ninety (90) days of the publication of the IWG's updated SC-GHG estimates, the Governor's Office shall begin releasing guidelines for including and considering these estimates in specifically identified Cabinet agency decisions and actions, which the agencies shall follow within the timeframe provided by the guidelines and consistent with applicable law.

Within sixty (60) days of any future IWG updates, the Governor's Office shall revise its SC-GHG guidelines to account for the IWG's latest SC-GHG estimates. Wherever feasible, agencies are encouraged to incorporate the IWG's SC-GHG estimates into agency decision-making processes that impact GHG emissions, even if guidance has not yet been issued for that decision-making context.

Non-Cabinet agencies, the North Carolina Utilities Commission and other boards and commissions, universities, local governments, businesses, and other entities in North Carolina are

encouraged to incorporate the SC-GHG into their decision-making processes. Consistent with applicable law, Cabinet agencies shall actively support such actions.

#### **Section 7. Environmental Justice Lead**

Each Cabinet agency shall identify an environmental justice and equity lead ("EJ Lead"). Duties of each EJ Lead include the following:

- Serve as the agency point person for environmental justice efforts,
- Inform development and implementation of the agency public participation plan described in Section 8 of this Executive Order,
- Work with EJ Leads in other agencies to share and coordinate related activities, best practices, and relevant data,
- Identify, describe, and post on a readily available page of the agency's website agency decisions that significantly impact or may significantly impact underserved communities,
- Increase awareness among agency leadership and staff of the history and current impacts of environmental, economic, and racial injustice,
- Take additional actions as appropriate to further the directives of this Executive Order.

#### **Section 8. Agency Public Participation Plans**

Each Cabinet agency, supported by the Governor's Office, shall develop an agency public participation plan informed by stakeholder input. The plan shall include best practices for community engagement, meaningful dialogue, and efficient mechanisms to receive and incorporate public input into agency decision-making. Agency public participation plans shall aim to improve communication, foster relationships, and enhance transparency in decision-making with all members of the public, including underserved communities and populations with limited English proficiency. Each Cabinet agency shall publish its agency public participation plan on its website by June 1, 2022, and update it annually thereafter.

Council of State members, higher education institutions, local governments, private businesses, and other North Carolina entities are encouraged to develop and follow their own public participation plans.

#### **Section 9. Community Input on Environmental Justice**

The North Carolina Governor's Office and Cabinet agency leadership, in consultation with the Andrea Harris Task Force and the DEQ Secretary's Environmental Justice and Equity Board, shall seek public input on additional executive action to advance environmental justice, equity, and affordability priorities of North Carolinians that live in, work in, or represent low- and moderate-income communities, indigenous communities, and communities of color. The State will engage a third party to facilitate conversations to identify and prioritize key issues, including cumulative impacts, and recommendations for future action within applicable law.

#### **Section 10. Distribution of State and Federal Funds**

Cabinet agencies shall invest applicable federal and state funding, consistent with applicable law, with an emphasis on achieving directives in this Executive Order and Executive Order Nos. 80 and 218, including but not limited to actions that reduce GHG emissions and air pollution, promote resiliency, invest in historically underserved communities, increase affordability for low- and moderate-income households, advance health equity, and create jobs and economic growth through a clean North Carolina economy. In addition, Cabinet agencies shall take reasonable steps, including working with the Office of Public Engagement and Inclusion, to alert North Carolina residents and businesses, particularly those in underserved communities, of state and federal grant opportunities for advancing these priorities.

#### **Section 11. Public Health and Health Equity**

The North Carolina Department of Health and Human Services, in partnership with other relevant Cabinet agencies, shall work to increase understanding and awareness of the health impacts of climate change through activities such as providing public updates on heat-related illness and other climate-related health impacts; sharing information about effects on children and disproportionate effects on underserved communities and people of color; and partnering with non-Cabinet agencies, public health agencies, community organizations, and research institutions.

## **Section 12. Workforce Diversity**

The Climate Council shall create a workgroup to identify strategies for increasing workforce diversity in industries and occupations that are critical to understanding and addressing climate change in North Carolina. The DEQ Secretary shall name the workgroup Chair and members to represent a diverse mix of viewpoints with expertise in relevant areas. The Climate Council shall report the workgroup's findings to the Governor and other interested parties within nine (9) months of this Executive Order.

## **Section 13. Clean Energy Youth Apprenticeship Program**

The Governor's Office, DEQ, and the Department of Commerce shall partner with the North Carolina Business Committee for Education, the North Carolina Community College System Office, the North Carolina Department of Public Instruction, the University of North Carolina System, Historically Black Colleges and Universities, and other stakeholders to establish clean energy youth apprenticeship programs that prepare graduates for fulfilling, well-paying careers in North Carolina's clean energy economy through work-based learning, aligned curriculum and credential attainment. The North Carolina Business Committee for Education, in partnership with state agencies and stakeholders, is encouraged to establish clean energy youth apprenticeship programs in at least five (5) additional learning sites, with an emphasis on educational institutions that serve underrepresented communities.

## **Section 14. Miscellaneous**

This Executive Order is consistent with and does not otherwise abrogate existing state law.

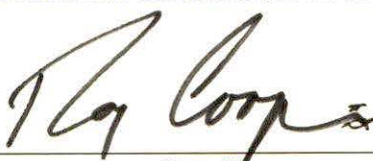
This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof.

If any provision of this Executive Order or its application to any person, agency, or entity is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order that can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

## **Section 15. Effective Date**

This Executive Order is effective immediately and shall remain in effect until rescinded or superseded by another applicable Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 7<sup>th</sup> day of January in the year of our Lord two thousand and twenty-two.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Elaine F. Marshall  
Secretary of State





## **Appendix H**

### **List of Qualified Providers in North Carolina**

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## NC Qualified Providers List, Updated 11/2025

#	ESCO	Contact Person	Title	Email	Address	City, State, Zip	Office	Mobile
1	Piedmont Service Group	Jay Tripp	Vice President - General Manager	jtripp@piedmontsg.com	1031 Nowell Road	Raleigh, NC 27607	919-645-5111	252-347-4695
2	CMTA	Bill Powell	Project Manager	bpowell@cmta.com	11213 Crestmont Drive	Raleigh, NC 27613	919-724-5439	919-724-5439
		Adam Devoss	Construction Manager	Adam.devoss@cmta.com	555 Fayetteville Street, St 200	Raleigh, NC 27601	703-712-3122	703-712-3122
		Clare Peters	Project Engineer	Clare.peters@cmta.com	555 Fayetteville Street, St 200	Raleigh, NC 27601	615-517-1939	615-517-1939
3	Schneider Electric	Alysa Watkins	Senior Account Executive	alysa.watkins@se.com	1630 Gores Landing Road SW	Ocean Isle Beach, NC 28469		919-612-2432
		Graham Lewis	Account Executive	graham.lewis@se.com	1101 Shiloh Glenn Dr	Morrisville, NC 27560		919-758-6093
		Ken Broach	East Region Director	ken.broach@se.com	1650 W. Crosby Road	Carrollton, TX 75006		972-489-6327
		Donna Byrd	Regional Client Coordinator	donna.byrd@se.com	4329 Cushendale Court	Leland, NC 28451		919-612-2654
4	Siemens	Gregg Eaton	Zone Sales Manager	gregg.eaton@siemens.com	8403 Benjamin Road	Tampa, FL 33634		813-261-8745
		Keith Byrom	Account Executive	keith.byrom@siemens.com	14 Stonewall Court	Irmo, SC 29063		803-960-2222
		Rick Rodriguez	EPS US Segment Head	rrodriguez@siemens.com	950 Deerfield Pkwy	Buffalo Grove, IL 60089		847-561-6271
		Tyler Nichols	Sales and Service Manager Head	tylernichols@siemens.com	400 Mosites Way	Pittsburgh, PA 15205		224-434-7115
5	Brady Trane	Raynor Smith	Vice President	raynor.smith@bradyservices.com	1460 Diggs Drive #A	Raleigh, NC 27603		919-745-0513
		Kevin Lynn	Vertical Market Leader	kevin.lynn@bradyservices.com	808 Aviation Parkway, Suite 1100	Morrisville, NC 27560		984-867-7653
		Chad Brown	Area Service Manager and M&V Leader	chad.brown@bradyservices.com	808 Aviation Parkway, Suite 1100	Morrisville, NC 27560		704 301-0038
6	Trane US	Natalie Paavola, MBA	Energy Services Account Executive	natalie.paavola@trane.com	4501 S. Tryon Street	Charlotte, NC 28217		704-962-9747
		Richard Viglione, PE, CEM	Regional Development Leader	richard.viglione@trane.com	4501 South Tryon Street	Charlotte, NC 28217		704-773-3597
		Ryan Burrage, MBA	Energy Services Sales Leader SE	ryan.burrage@trane.com	4501 South Tryon Street	Charlotte, NC 28217		601-978-0549
		Carl Wooten	Area General Manager	carl.wooten@trane.com	412 Rainforest Way	Greenville, SC 29607		864-436-8743
7	Johnson Controls Inc.	Jim Josephson	Senior Account Executive	james.a.josephson@jci.com	9844 Southern Pine Blvd.	Charlotte, NC 28273		704-907-8067
		Steve Zip	Area Sales Manager	steven.m.zip@jci.com	9844 Southern Pine Blvd.	Charlotte, NC 28273		704-223-8943
		Kim Smith	Senior Account Executive	kimberly.l.smith@jci.com	14 Woodcross Drive	Columbia, SC 29212		803-403-3719
		Lisa Brown	Executive Director, Development-Government	lisa.a.brown@jci.com	5757 N. Green Bay Ave	Milwaukee, WI 53209		201-207-0726
		Ricky McFarling	Principal Development Engineer	richard.e.mcfarling@jci.com	4189 Eagle Hill Drive	High Point, NC 27265		434-250-5052
		Mangesh Telrandhe	Director, Customer Experience	mangesh.telrandhe@jci.com	1350 Northmeadow Pkwy	Roswell, GA 30076		770-842-1569
		Richard Penner	Senior Account Executive	richard.penner@jci.com	9844 Southern Pine Blvd	Charlotte, NC 28273		980-457-7061
8	Ameresco	Mark Turner	Senior Vice President- Business Development	mturner@ameresco.com	111 Speen St Ste 410	Framingham, MA 01701	508-598-3151	585-236-6331
		Garrett Raper	Director Project Development	graper@ameresco.com	5550 77 Center Drive, Suite 380	Charlotte, NC 28217	704-916-3514	704-798-0943
		Kasie Pons	Manager – Proposals	kpons@ameresco.com	5550 77 Center Drive, Suite 380	Charlotte, NC 28217	843-264-7553	
		Shelley Cohen	Director – Clean Technology Business Development	scohen@ameresco.com	101 Constitution Avenue, NW, Suite 680 West	Washington, DC 20001	202-650-6251	202-422-4488
		Alex Ruby	Project Development Engineer	aruby@ameresco.com	5550 77 Center Drive, Suite 380	Charlotte, NC 28217		704-916-3679

*Please note: The State Energy Office has recently undergone a recent recertification process with ESCOs, as required every three years by 01 NCAC 41B .0402. This process resulted in the current Qualified Providers List with updated contact information. Please keep an eye on the State Energy Office website for the most up to date NC Qualified Provider List resulting from new certifications in 2025-26. New providers will be added once certification is complete: <https://www.deq.nc.gov/energy-climate/state-energy-office/utility-savings-initiative/guaranteed-energy-savings-performance-contracts>.*