

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2004-179
HOUSE BILL 1264**

AN ACT (1) TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND HIGHER EDUCATION NEEDS AND FOR JUVENILE DETENTION; (2) TO REQUIRE THE TOBACCO TRUST FUND AND THE HEALTH AND WELLNESS TRUST FUND TO PROVIDE THE DEBT SERVICE FOR THIS INDEBTEDNESS; (3) TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND CLEAN WATER CONSERVATION AND TO USE FUNDS CURRENTLY DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS; (4) TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE STATE; (5) TO MAKE CLARIFYING CHANGES; (6) TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE; (7) TO DIRECT THE UNIVERSITY OF NORTH CAROLINA AND THE STATE BOARD OF COMMUNITY COLLEGES TO CONDUCT A STUDY OF UNIVERSITY AND COMMUNITY COLLEGE PROGRAMMING AND CAPITAL NEEDS; AND (8) TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

PART 1. HEALTH, EDUCATION, AND YOUTH FACILITIES

SECTION 1. This part may be cited as the State Capital Facilities Act of 2004.

SECTION 1.1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of the following projects. The table below provides the maximum principal amounts. The first column is the aggregate maximum principal amount. The second column is the maximum portion of this amount that can be issued or incurred before July 1, 2005. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

Aggregate Maximum	Maximum before 7/1/05	Project
\$180,000,000	\$110,000,000	Acquiring, constructing, and equipping a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.
60,000,000	30,000,000	Acquiring, constructing, and equipping the North Carolina Cardiovascular Diseases Institute at East Carolina University.

35,000,000	25,000,000	Acquiring, constructing, and equipping a Bioinformatics Center at the University of North Carolina at Charlotte.
28,000,000	25,000,000	Acquiring, constructing, and equipping a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the facility.
35,000,000	25,000,000	Acquiring, constructing, and equipping a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for a Center of Excellence of Teaching and Nursing at Fayetteville State University.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for facilities for development of the joint Millennial Campus of North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.
10,000,000	10,000,000	Land acquisition, site preparation, and engineering, architectural, and other consulting services for an Optometry School facility at the University of North Carolina at Pembroke.
10,000,000	10,000,000	To Western Carolina University for land acquisition, site preparation, and engineering, architectural, and other consulting services for Western Carolina University and the Mountain Area Health Education Consortium for the North Carolina Center for Health and Aging to be operated as a consortium among Western Carolina University, the University of North Carolina at Asheville, and the Mountain Area Health Education Consortium.
10,000,000	10,000,000	Property acquisition in Piedmont-Triad Research Park for Winston-Salem State University programming related to biotechnology education and research; and land acquisition, site preparation, and engineering, architectural, and other consulting services for a Center for Design Innovation to be operated jointly by Winston-Salem State University and the North Carolina School of the Arts.

TOTAL:

\$388,000,000 \$265,000,000

SECTION 1.2. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the maximum aggregate principal amount of thirty-five million dollars (\$35,000,000) to finance the costs of constructing

up to five youth development centers totaling up to 224 beds to be operated by the Department of Juvenile Justice and Delinquency Prevention and to be located as determined by that Department. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of constructing the projects described by this section. Of the special indebtedness authorized by this section, no more than thirteen million dollars (\$13,000,000) may be issued or incurred before July 1, 2005.

SECTION 1.3. G.S. 147-86.30 reads as rewritten:

"§ 147-86.30. Health and Wellness Trust Fund established.

(a) Fund Established. – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer ~~to that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

~~(c) Creation of Fund Reserve. – The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of House Bill 1264, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal years beginning before July 1, 2007, the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%).

~~(d) Use of Nonreserved Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

- (1) To address the health needs of vulnerable and underserved populations in North Carolina.
- (2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.
- (3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars (\$1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 1.4. G.S. 143-719 reads as rewritten:

"§ 143-719. Tobacco Trust Fund; creation; ~~investment; investment; priority use.~~

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~ for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by the State Capital Facilities Act of 2004, Part 1 of House Bill 1264, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) the applicable percentage of the Fund's receipts for the current fiscal year. For fiscal years beginning before July 1, 2007, the applicable percentage is thirty percent (30%). For fiscal years beginning on or after July 1, 2007, the applicable percentage is sixty-five percent (65%)."

SECTION 1.5. Sections 1.3 and 1.4 of this part are effective on and after July 1, 2004. The remainder of this part is effective when it becomes law.

PART 2. PARKS RENOVATION AND ACQUISITION

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of parks projects. As used in this part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this

section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.2. Identification of Parks Projects. – The specific parks projects for which the special indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15, but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.
- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 2.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 3 and 4 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 2.4. G.S. 113-44.15 reads as rewritten:

"§ 113-44.15. Parks and Recreation Trust Fund.

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land ~~acquisition~~ acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this ~~subsection~~section, the North Carolina Parks and Recreation Authority shall ~~consider~~ make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 3. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 3.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of natural heritage projects. As used in this part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and (2). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the special indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9, but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.
- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 3.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 2 and 4 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 3.4. G.S. 113-77.9 reads as rewritten:

"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.

(a) **Proposals.** – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

- (1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.
- (2) Any rare or endangered species on or near the land.
- (3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.
- (4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.

- (5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.
- (6) Other sources of funds that may be available to assist in acquiring the land.
- (7) The State department or division that will be responsible for managing the land.
- (8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.
- (9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire~~ for the following purposes:

- (1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes.~~ purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (2) To acquire land ~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~ public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) Subject to the limitations of subsection (b2) of this section, to acquire land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest

payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 3.5. G.S. 113-77.7 is amended by adding a new subsection to read:

"(d) Monies in the Fund are appropriated annually and may be used for the purposes provided in G.S. 113-77.9."

PART 4. CLEAN WATER CONSERVATION

SECTION 4.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of clean water projects. As used in this part, the term "clean water project" means a capital project for one or more purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 4.2. Identification of Clean Water Projects. – The specific clean water projects for which the special indebtedness may be used are to be identified by the Clean Water Management Trust Fund Board of Trustees as provided in G.S. 113A-256(j), but are limited to the following projects:

- (1) Acquisition by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development.

- (2) Acquisition of up to 6,000 acres to expand an existing State park, provide gamelands to help protect North Carolina rivers, and provide two new State parks along North Carolina rivers; and capital improvements to an existing State park as part of its expansion.

SECTION 4.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the total amount provided in the first column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the first column below may be issued for each purpose. Of the special indebtedness authorized by this part, no more than the applicable maximum principal amount listed in the second column below may be issued for each purpose before July 1, 2005. The total maximum principal amount of special indebtedness that may be issued under this part before July 1, 2005, is the total amount indicated in the second column below minus the amount of special indebtedness issued or incurred under parts 2 and 3 of this act.

Maximum Amount	Maximum before 7/1/05	Purpose
\$20,000,000	\$12,000,000	Land near military bases.
25,000,000	20,000,000	Parks and gamelands.
TOTAL:		
\$45,000,000	\$32,000,000	

SECTION 4.4. G.S. 113A-253(c) reads as rewritten:

"(c) Fund Purposes. – Moneys from the Fund are appropriated annually and may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational ~~uses-uses~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water ~~supplies-supplies~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water ~~quality-quality~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (4) To restore previously degraded lands to reestablish their ability to protect water ~~quality-quality~~ and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.
- (5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is

not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

- (6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.
- (7) To improve stormwater controls and management practices.
- (8) To facilitate planning that targets reductions in surface water pollution.
- (9) To fund operating expenses of the Board of Trustees and its staff."

SECTION 4.5. G.S. 113A-256 is amended by adding a new subsection to read:

"(j) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 5. DEBT AFFORDABILITY ADVISORY COMMITTEE

SECTION 5.1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"§ 142-100. Purpose.

The purpose of this Article is to provide tools for sound debt management by providing an annual debt affordability study to establish guidelines for maintaining prudent debt levels and by establishing a system for prioritizing State capital needs when the needs exceed the State's capacity for new debt.

"§ 142-101. Debt Affordability Advisory Committee.

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and four appointed members, as follows:

- (1) The State Treasurer.
- (2) The Secretary of Revenue.
- (3) The State Budget Officer.
- (4) The State Auditor.
- (5) The State Controller.
- (6) Two members of the public appointed by the President Pro Tempore of the Senate.
- (7) Two members of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State Treasurer shall provide space for the Committee to meet. The Department shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(e) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by February 1 of each year."

SECTION 5.2. From funds appropriated to the Department of State Treasurer for the 2004-2005 fiscal year, the State Treasurer shall allocate the amounts necessary to implement the provisions of this part.

PART 6. UNIVERSITY SYSTEM AND COMMUNITY COLLEGE SYSTEM JOINT STUDY OF HIGHER EDUCATION STRATEGY

SECTION 6.1. To ensure that the State's citizens are academically prepared and equipped for current job opportunities and jobs of the future in North Carolina's growing knowledge economy, the Board of Governors of The University of North Carolina, in collaboration with the State Board of Community Colleges, shall, within 60 days after this act becomes law, contract with a private consulting firm that has experience in higher education to conduct a comprehensive study of the mission and educational program needs for the University System and the Community College System. The Board of Governors may enter into contracts with consultants for the purposes authorized in this section without complying with the provisions of Article 3C of Chapter 143 of the General Statutes. The study shall include all of the following:

- (1) An analysis of demographic, economic, and educational data regarding the needs for higher education programming in the State as a whole, as well as in all geographic and economic regions of the State.
- (2) An updated enrollment projection for each System and each institution that includes adult, noncredit, career, and degree program enrollments.
- (3) An analysis of current program offerings and majors in undergraduate, graduate, nondegree, and workforce training programs, offered by each institution.
- (4) Recommendations as to how the institutions might better serve current and emerging needs related to existing and new programs; opportunities for regional program delivery; enhanced effectiveness and quality that can be achieved via sharing of resources, and program partnerships and collaborations both within and between higher education systems; and opportunities for online program delivery and other distance technology delivery systems.
- (5) An analysis of and suggested updates to existing long-range capital plans of both the University and Community College Systems that will address land acquisition and facility needs to support the program recommendations identified in this study, taking into account opportunities for modernization of and new uses for existing facilities.
- (6) With regard to the University System, there shall be special emphasis on the development of signature programs for Historically Black Colleges and Universities and the University of North Carolina at Pembroke. In conducting the study, the consulting firm shall take into account that the General Assembly finds the Historically Black Colleges and Universities and the University of North Carolina at

Pembroke to be institutions with important historical traditions and equally important contemporary purposes and, as such, are valuable and indispensable assets of The University of North Carolina and the State. The General Assembly intends to encourage the continued growth and development of those constituent institutions and would resist any suggestion to eliminate the historical function and purpose of those institutions.

- (7) With regard to both the University System and the Community College System, there shall be an acknowledgement of the existence and importance of a strong liberal arts education foundation and, at the same time, an emphasis on existing and new programs specifically aimed at meeting business, industry, workforce, and career needs of North Carolina in the State's changing and growing knowledge-based economy, taking into account, as appropriate, State and regional economic strategies.

SECTION 6.2. These studies shall be designed to provide information and recommendations that will assist the General Assembly in setting priorities for funding to address the strategic higher education needs of the State. The Board of Governors, the State Board, and their consultant shall periodically report their findings to a higher education programming subcommittee of the Joint Legislative Education Oversight Committee. The two boards and their consultant shall report the preliminary results of the study to the General Assembly and to the Joint Legislative Education Oversight Committee by April 15, 2005, and shall file a final report and recommendations with the General Assembly and the Joint Legislative Education Oversight Committee no later than December 31, 2005.

SECTION 6.3. The Joint Legislative Education Oversight Committee may create a higher education programming subcommittee to monitor the study authorized in this part.

PART 7. INNOVATIVE STATE FINANCING STUDY

SECTION 7.1. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"§ 142-95. RECOP indebtedness.

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental

Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accreting and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 7.2. The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible public financing tools not previously considered in North Carolina. In light of the value of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 7.3 The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95, as enacted by this part. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

- (1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.
- (2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.
- (3) The availability of alternative financing opportunities and their relative costs to the State.
- (4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.
- (5) Factors that affect which circumstances might make RECOP financing more or less desirable.
- (6) The impact on the State's credit rating of various debt options in various situations.
- (7) Any other issues the State Treasurer considers relevant.

The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

PART 8. GENERAL PROVISIONS

SECTION 8.1. It is the intent of the General Assembly that the proceeds of special indebtedness issued under parts 2 through 4 of this act shall be applied for the purposes provided in those parts, including the acquisition by conservation easement, or otherwise, of land near military bases to prevent encroachment. This acquisition shall be a high priority because of its vital importance to the State of North Carolina.

SECTION 8.2. None of the proceeds of special indebtedness authorized by parts 2 through 4 of this act may be used to acquire any property by eminent domain.

SECTION 8.3. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 8.4. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2004.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:54 a.m. this 5th day of August, 2004