

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS15145-LCx-27A (2/11)

Short Title: State Capital Facilities Financing. (Public)

Sponsors: Senator Kerr.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO ACQUIRE TWO PRIVATE PRISONS, FOR SITE WORK FOR A HOSPITAL AT CENTRAL PRISON, FOR A STATE BUREAU OF INVESTIGATION LABORATORY ADDITION FOR RAPE KIT DNA TESTING AND OTHER FORENSIC PURPOSES, AND FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, AND THE PRESERVATION OF NATURAL HERITAGE.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1.1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"§ 142-80. Short title.

This Article may be cited as the State Capital Facilities Finance Act.

"§ 142-81. Findings and purpose.

The General Assembly finds as follows:

- (1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.
- (2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.
- (3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of

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

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

7 "**§ 142-82. Definitions.**

8 The following definitions apply in this Article:

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

- 1 b. The cost of engineering, architectural, and other consulting
2 services.
- 3 c. The cost of providing personnel to ensure effective
4 management of capital facilities.
- 5 d. Finance charges, reserves for debt service, and other types of
6 reserves required pursuant to the terms of any special
7 indebtedness or related documents, interest before and during
8 construction or acquisition of a capital facility and, if
9 considered advisable by the State Treasurer, for a period not
10 exceeding two years after the estimated date of completion of
11 construction or acquisition.
- 12 e. Administrative expenses and charges.
- 13 f. The cost of bond insurance, investment contracts, credit
14 enhancement facilities and liquidity facilities, interest rate swap
15 agreements or other derivative products, financial and legal
16 consultants, and related costs of the incurrence or issuance of
17 special indebtedness.
- 18 g. The cost of reimbursing the State, a State agency, or a special
19 corporation for any payments made for any cost described in
20 this subdivision.
- 21 h. Any other costs and expenses necessary or incidental to the
22 purposes of this Article.

23 (7) Credit facility. – An agreement that:

- 24 a. Is entered into by the State with a bank, savings and loan
25 association, or other banking institution, an insurance company,
26 reinsurance company, surety company or other insurance
27 institution, a corporation, investment banking firm or other
28 investment institution, or any financial institution or other
29 similar provider of a credit facility, which provider may be
30 located within or without the United States of America; and
- 31 b. Provides for prompt payment of all or any part of the principal
32 or purchase price (whether at maturity, presentment or tender
33 for purchase, redemption, or acceleration), redemption
34 premium, if any, and interest with respect to any special
35 indebtedness payable on demand or tender by the owner in
36 consideration of the State agreeing to repay the provider of the
37 credit facility in accordance with the terms and provisions of
38 the agreement.

39 (8) Department of Administration. – The North Carolina Department of
40 Administration created by Article 36 of Chapter 143 of the General
41 Statutes, or if the Department is abolished or otherwise divested of its
42 functions under this Article, the public body succeeding it in its
43 principal functions or upon which are conferred by law the rights,
44 powers, and duties given by this Article to the Department.

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

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

20 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

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

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

31 **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

32 (a) Notice and Certificate. – Whenever the State or a State agency intends to use
33 special indebtedness to finance capital facilities, it shall notify the Department of
34 Administration. If the Department of Administration intends for the State to use special
35 indebtedness to finance the capital facilities, it shall provide written notice to the
36 Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary
37 conference with the Department of Administration to consider the proposed financing.

38 After the filing of the notice and after any preliminary conference, the State
39 Treasurer shall consult with the Office of State Budget and Management as to the
40 revenues expected by that Office to be available to pay all sums to come due on the
41 special indebtedness during its term. If, after consulting with the Office of State Budget
42 and Management, the State Treasurer determines by written certificate that it may be
43 desirable to use special indebtedness to finance the capital facilities, the Department of
44 Administration shall request the Council of State to give its preliminary approval of the

1 use of special indebtedness to finance the capital facilities. The Department of
2 Administration must promptly file copies of the notice and certificate required by this
3 subsection with the Governor and the Council of State.

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

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

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

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

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

39 (e) Designation of Facilities. – If the Council of State authorized in general terms
40 the types or classifications of capital facilities to be financed, then the particular capital
41 facilities and the principal amount of special indebtedness to be incurred or issued for
42 each particular capital facility shall be determined by the Department of Administration
43 after considering any factors it considers relevant in order to determine that the

1 particular capital facility to be provided is desirable for the efficient operation of the
2 State and its agencies and is in the best interests of the State.

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

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

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

22 **"§ 142-85. Security; other requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **"§ 142-87. Additional requirements for certificates of participation indebtedness.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **"§ 142-91. Other agreements.**

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

15 **"§ 142-92. Tax exemption.**

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

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

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

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

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

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

3 **SECTION 1.2.** G.S. 143-341(4) is amended by adding a new sub-subdivision
4 to read:

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

21 **PART 2. CORRECTIONAL FACILITIES ACQUISITION**

22 **SECTION 2.1.** Acquisition of Correctional Facilities. – In accordance with
23 G.S. 142-83, as enacted by this act, this Part authorizes the issuance or incurrence of
24 financing contract indebtedness to be used to acquire two correctional facilities located
25 in Pamlico County and Avery County that the State currently leases.

26 **SECTION 2.2.** Pamlico County Correctional Facility. – The State is
27 authorized to acquire the correctional facility located in Pamlico County that the State
28 currently leases from U.S. Corrections Corporation pursuant to the purchase option
29 provision in the lease. Title to these facilities shall be held in the name of the State. The
30 cost of acquiring the Pamlico County correctional facility shall be financed as provided
31 in Article 9 of Chapter 142 of the General Statutes.

32 **SECTION 2.3.** Mountain View Correctional Facility. – The State is
33 authorized to acquire the Mountain View Correctional Facility located in Avery County
34 that the State currently leases from Correctional Properties Trust pursuant to the
35 purchase option provision in the lease. Title to these facilities shall be held in the name
36 of the State. The cost of acquiring the Mountain View Correctional Facility shall be
37 financed as provided in Article 9 of Chapter 142 of the General Statutes.

38 **SECTION 2.4.** Authorization of Financing Contracts. – The State, with the
39 prior approval of the State Treasurer and Council of State as provided in Article 9 of
40 Chapter 142 of the General Statutes, is authorized to execute and deliver one or more
41 financing contracts in order to provide funds to the State to be used, together with any
42 other available funds, to pay the cost of acquiring either or both of the Pamlico County
43 correctional facility and the Mountain View Correctional Facility described in this Part.
44 Notwithstanding the provisions of G.S. 142-83, no maximum principal amount is

1 required to be stated in this Part authorizing the issuance or incurrence of financing
2 contract indebtedness for these purposes.

3 **PART 3. SITE WORK FOR PRISON HOSPITAL**

4 **SECTION 3.1.** Authorization of Financing Contracts. – In accordance with
5 G.S. 142-83, as enacted by this act, this Part authorizes the issuance or incurrence of up
6 to fifteen million dollars (\$15,000,000) of financing contract indebtedness to be used for
7 infrastructure and site work for a new acute care medical and mental health hospital
8 with approximately 320 beds to be located at Central Prison in Raleigh and to be
9 operated by the Department of Correction. The State, with the prior approval of the
10 State Treasurer and Council of State as provided in Article 9 of Chapter 142 of the
11 General Statutes, is authorized to execute and deliver one or more financing contracts in
12 a maximum principal amount of fifteen million dollars (\$15,000,000) in order to
13 provide funds to the State to be used, together with any other available funds, to pay the
14 cost of the infrastructure and site work.

15 **SECTION 3.2.** Construction Manager at Risk. – The Department of
16 Correction may enter into a construction manager at risk contract as provided in G.S.
17 143-128.1 for the infrastructure and site work authorized in this Part. It is the intent of
18 the General Assembly to later authorize financing or funding of the remaining phases of
19 the construction of the hospital described in this Part. In issuing a request for
20 qualifications, the Department may request and evaluate qualifications in the context of
21 the intent of the General Assembly to later authorize financing for the remaining phases
22 of the project and in the context of any benefit from having the entire project managed
23 by a single construction manager. The Department shall not contract for construction
24 management of any phase of the project for which the General Assembly has not
25 authorized funding or financing.

26 **PART 4. RAPE KIT TESTING LAB**

27 **SECTION 4.1.** In accordance with G.S. 142-83, as enacted by this act, this
28 Part authorizes the issuance or incurrence of up to three million six hundred thousand
29 dollars (\$3,600,000) of financing contract indebtedness to be used for the addition of a
30 wing to the State Bureau of Investigation's crime laboratory that will provide laboratory
31 facilities for rape kit testing and other forensic purposes. The State, with the prior
32 approval of the State Treasurer and Council of State as provided in Article 9 of Chapter
33 142 of the General Statutes, is authorized to execute and deliver one or more financing
34 contracts in a maximum principal amount of three million six hundred thousand dollars
35 (\$3,600,000) in order to provide funds to the State to be used, together with any other
36 available funds, to pay the cost of the project.

37 **PART 5. PARKS RENOVATION AND ACQUISITION**

38 **SECTION 5.1.** Authorization. – In accordance with G.S. 142-83, as enacted
39 by this act, this Part authorizes the issuance or incurrence of financing contract
40 indebtedness in the maximum amount provided in this Part to be used to finance the
41 cost of parks projects. As used in this Part, the term "parks projects" means capital
42 projects for the State Parks System, repairs and renovations of park facilities, and land
43 acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). The State, with
44 the prior approval of the State Treasurer and Council of State as provided in Article 9 of

1 Chapter 142 of the General Statutes, is authorized to execute and deliver one or more
2 financing contracts in the maximum principal amount provided in this Part in order to
3 provide funds to the State to be used, together with any other available funds, to pay the
4 cost of these projects.

5 **SECTION 5.2.** Identification of Parks Projects. – The specific parks projects
6 for which the financing contract indebtedness may be used are to be identified by the
7 North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15.

8 **SECTION 5.3.** Maximum Amount. – The maximum principal amount of
9 financing contract indebtedness that may be issued pursuant to this Part is the maximum
10 amount for which the aggregate annual principal and interest payments to be made in
11 any year on the financing contracts will not exceed the annual amount identified in G.S.
12 113-44.15. If the annual amount is increased, the maximum principal amount increases
13 accordingly.

14 **SECTION 5.4.** G.S. 113-44.15 reads as rewritten:

15 **"§ 113-44.15. Parks and Recreation Trust Fund.**

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

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

- 25 (1) Sixty-five percent (65%) for the State Parks System for capital
26 projects, repairs and renovations of park facilities, and land
27 ~~acquisition~~acquisition, and to retire debt incurred for these purposes
28 under Article 9 of Chapter 142 of the General Statutes.
- 29 (2) Thirty percent (30%) to provide matching funds to local governmental
30 units or public authorities as defined in G.S. 159-7 on a
31 dollar-for-dollar basis for local park and recreation purposes. The
32 appraised value of land that is donated to a local government unit or
33 public authority may be applied to the matching requirement of this
34 subdivision. These funds shall be allocated by the North Carolina
35 Parks and Recreation Authority based on criteria patterned after the
36 Open Project Selection Process established for the Land and Water
37 Conservation Fund administered by the National Park Service of the
38 United States Department of the Interior.
- 39 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access
40 Program.

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

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

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

14 (d) Debt. – The Authority may allocate a portion of the annual appropriation
15 identified in subsection (b)(1) of this section to reimburse the General Fund for debt
16 service on contract indebtedness to be incurred under Article 9 of Chapter 142 of the
17 General Statutes for the purposes provided in subdivision (b)(1) of this section. In order
18 to allocate funds for debt service reimbursement, the Authority must identify to the
19 State Treasurer the specific parks projects for which it would like contract indebtedness
20 to be incurred and the annual amount it intends to make available, and request the State
21 Treasurer to incur the indebtedness. After financing contract indebtedness has been
22 incurred for a parks project requested by the Authority, the Authority must credit to the
23 General Fund each year the lesser of the annual amount it identified in the request or the
24 actual aggregate principal and interest payments to be made in that year on the financing
25 contract indebtedness, as identified by the State Treasurer."

26 **PART 6. PARKS, RECREATION, AND PRESERVATION OF NATURAL** 27 **HERITAGE**

28 **SECTION 6.1.** Authorization. – In accordance with G.S. 142-83, as enacted
29 by this act, this Part authorizes the issuance or incurrence of financing contract
30 indebtedness in the maximum amount provided in this Part to be used to finance the
31 cost of natural heritage projects. As used in this Part, the term "natural heritage projects"
32 means acquiring land for parks, recreation, and the preservation of natural heritage,
33 pursuant to G.S. 113-77.9(b)(1) and (2). The State, with the prior approval of the State
34 Treasurer and Council of State as provided in Article 9 of Chapter 142 of the General
35 Statutes, is authorized to execute and deliver one or more financing contracts in the
36 maximum principal amount provided in this Part in order to provide funds to the State
37 to be used, together with any other available funds, to pay the cost of these projects.

38 **SECTION 6.2.** Identification of Natural Heritage Projects. – The specific
39 natural heritage projects for which the financing contract indebtedness may be used are
40 to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S.
41 113-77.9.

42 **SECTION 6.3.** Maximum Amount. – The maximum principal amount of
43 financing contract indebtedness that may be issued pursuant to this Part is the maximum
44 amount for which the aggregate annual principal and interest payments to be made in

1 any year on the financing contracts will not exceed the annual amount identified in G.S.
2 113-77.9. If the annual amount is increased, the maximum principal amount increases
3 accordingly.

4 **SECTION 6.4.** G.S. 113-77.9 reads as rewritten:

5 **"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust**
6 **Fund.**

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

- 14 (1) The value of the land for recreation, forestry, fish and wildlife habitat,
15 and wilderness purposes, and its consistency with the plan developed
16 pursuant to the State Parks Act, the State's comprehensive plan for
17 outdoor recreation, parks, natural areas development, and wildlife
18 management goals and objectives.
- 19 (2) Any rare or endangered species on or near the land.
- 20 (3) Whether the land contains a relatively undisturbed and outstanding
21 example of a native North Carolina ecological community that is now
22 uncommon.
- 23 (4) Whether the land contains a major river or tributary, watershed,
24 wetland, significant littoral, estuarine, or aquatic site, or important
25 geologic feature.
- 26 (5) The extent to which the land represents a type of landscape, natural
27 feature, or natural area that is not currently in the State's inventory of
28 parks and natural areas.
- 29 (6) Other sources of funds that may be available to assist in acquiring the
30 land.
- 31 (7) The State department or division that will be responsible for managing
32 the land.
- 33 (8) What assurances exist that the land will not be used for purposes other
34 than those for which it is being acquired.
- 35 (9) Whether the site or structure is of such historical significance as to be
36 essential to the development of a balanced State program of historic
37 properties.

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

- 40 (1) To acquire land ~~Land~~ that represents the ecological diversity of North
41 Carolina, including natural features such as riverine, montane, coastal,
42 and geologic systems and other natural areas to ensure their
43 preservation and conservation for recreational, scientific, educational,

1 cultural, and aesthetic ~~purposes.~~purposes, and to retire debt incurred
2 for this purpose under Article 9 of Chapter 142 of the General Statutes.

3 (2) To acquire land~~Land~~ as additions to the system of parks, State trails,
4 aesthetic forests, fish and wildlife management areas, wild and scenic
5 rivers, and natural areas for the beneficial use and enjoyment of the
6 ~~public.~~public, and to retire debt incurred for this purpose under Article
7 9 of Chapter 142 of the General Statutes.

8 (3) Subject to the limitations of subsection (b2) of this section, land that
9 contributes to the development of a balanced State program of historic
10 properties.

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

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

26 (b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S.
27 105-228.30, the Trustees may authorize expenditure of a portion to reimburse the
28 General Fund for debt service on contract indebtedness to be incurred under Article 9 of
29 Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and
30 (2) of this section. In order to authorize expenditure of funds for debt service
31 reimbursement, the Trustees must identify to the State Treasurer and the Department of
32 Administration the specific natural heritage projects for which they would like contract
33 indebtedness to be incurred and the annual amount they intend to make available, and
34 request the State Treasurer to incur the indebtedness. After financing contract
35 indebtedness has been incurred for a natural heritage project requested by the Trustees,
36 the Trustees must direct the State Treasurer to credit to the General Fund each year the
37 lesser of the annual amount they identified in the request or the actual aggregate
38 principal and interest payments to be made in that year on the financing contract
39 indebtedness, as identified by the State Treasurer.

40 (c) Other Purposes. – The Trustees may authorize expenditures from the Fund to
41 pay for the inventory of natural areas conducted under the Natural Heritage Program
42 established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the
43 General Statutes. The Trustees may also authorize expenditures from the Fund to pay

1 for conservation and protection planning and for informational programs for owners of
2 natural areas, as defined in G.S. 113A-164.3.

3 (d) Acquisition. – The Department of Administration may, pursuant to G.S.
4 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for
5 acquisition pursuant to this Article. Title to any land acquired pursuant to this Article
6 shall be vested in the State. A State agency with management responsibility for land
7 acquired pursuant to this Article may enter into a management agreement or lease with a
8 county, city, town, or private nonprofit organization qualified under G.S. 105-151.12
9 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code
10 to aid in managing the land. A management agreement or lease shall be executed by the
11 Department of Administration pursuant to G.S. 143-341.

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

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

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

31 **PART 7. GENERAL PROVISIONS**

32 **SECTION 7.1.** Interpretation of Act. (a) Additional Method. – This act
33 provides an additional and alternative method for the doing of the things authorized by
34 this act and shall be regarded as supplemental and additional to powers conferred by
35 other laws. Except where expressly provided, this act shall not be regarded as in
36 derogation of any powers now existing. The authority granted in this act is in addition to
37 other laws now or hereinafter enacted authorizing the State to issue or incur
38 indebtedness.

39 **SECTION 7.1.(b)** Statutory References. – References in this act to specific
40 sections or Chapters of the General Statutes are intended to be references to those
41 sections or Chapters as they may be amended from time to time by the General
42 Assembly.

1 **SECTION 7.1.(c)** Liberal Construction. – This act, being necessary for the
2 health and welfare of the people of the State, shall be liberally construed to effect its
3 purposes.

4 **SECTION 7.1.(d)** Severability. – If any provision of this act or its
5 application to any person or circumstance is held invalid, that invalidity does not affect
6 other provisions or applications of the act that can be given effect without the invalid
7 provision or application, and to this end the provisions of this act are severable.

8 **SECTION 7.2.** Effective Date. – This act is effective when it becomes law.