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Short Title: Alt. Method/Disposal of State Surplus R.P.

(Public)

Sponsors:

Referred to:

May 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COMMISSION ON STATE PROPERTY TO
DISPOSE OF SURPLUS STATE-OWNED REAL PROPERTY, TO MAKE
CONFORMING CHANGES TO STATUTES RELATED TO THE DISPOSAL OF
STATE-OWNED LAND, AND TO APPROPRIATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 78 of Chapter 143 of the General Statutes,
G.S. 143-735 through G.S. 143-737, is recodified as Article 19 of Chapter 146,
G.S. 146-85 through G.S. 146-87.

SECTION 2. Article 19 of Chapter 146 of the General Statutes, as
recodified in Section 1 of this act, reads as rewritten:

"Article 19.

"Commission on State Property.

"§ 146-85. Definitions.

As used in this Article, the following terms shall apply:

- (1) "Commission" means the Commission on State Property created under this Article.
- (2) "Department" means the Department of Administration.
- (3) "Surplus State-owned real property" means real property title to which is vested in the State in fee simple that is unused or underused.

"§ 146-86. Commission established; purpose; membership.

(a) There is created the Commission on State Property. The Commission shall be located administratively within the Department of Administration but shall carry out its statutory powers and duties independently of the Department of Administration.

(a1) The purpose of the Commission is to identify and dispose of ~~State-owned surplus State-owned~~ real property that is ~~(i) both surplus and~~ suitable for sale on the private market or ~~(ii) suitable for sale and leaseback and to make recommendations concerning the disposition of the property market.~~ The Commission shall consult with

1 real estate salespersons and salespersons, real estate brokers, real estate appraisers, and
2 other knowledgeable persons in determining its recommendations.

3 (b) The Commission shall consist of 16 members appointed as follows:

4 (1) Eight members shall be appointed by the General Assembly upon the
5 recommendation of the Speaker of the House of Representatives,
6 including one of whom shall be designated as cochair.

7 (2) Eight members appointed by the General Assembly upon the
8 recommendation of the President Pro Tempore of the Senate, including
9 one member who shall be designated as cochair.

10 The members appointed to the Commission shall be chosen from among individuals
11 who have the ability and commitment to promote and fulfill the purposes of the
12 Commission, including individuals who have expertise in the fields of real estate,
13 property development, and other related fields. The appointing authorities shall each
14 consider appointing at least one real estate salesperson or broker and one real estate
15 appraiser to the Commission.

16 No member of the Commission may be a member of the Senate or of the House of
17 Representatives. ~~No member or a person of the member's immediate family or business~~
18 ~~with which the member is associated shall be involved in or benefit from any sale of~~
19 ~~State-owned property under this Article.~~

20 (c) The terms of four of the initial members appointed pursuant to subdivision
21 (b)(1) of this section and four of the initial members appointed pursuant to subdivision
22 (b)(2) of this section shall be for one year. The terms of the remainder of the initial
23 members shall be for two years. Subsequent terms of all members shall be for two
24 years.

25 Initial terms shall commence on August 15, 2004.

26 (d) The Commission shall meet at least once a quarter and may meet at other
27 times upon the call of the cochairs. A majority of the members of the Commission shall
28 constitute a quorum for the transaction of business. The affirmative vote of a majority of
29 the members present at meetings of the Commission shall be necessary for action to be
30 taken by the Commission.

31 (e) The Commission cochairs may establish subcommittees for the purpose of
32 making special studies pursuant to its duties and may appoint non-Commission
33 members to serve on each subcommittee as resource persons. Resource persons shall be
34 voting members of the subcommittee and shall receive subsistence and travel expenses
35 in accordance with G.S. 138-5 and G.S. 138-6.

36 (f) ~~The Notwithstanding G.S. 146-67, the~~ Commission shall hire its professional
37 and clerical staff.

38 ~~The Commission shall adopt rules for the administration of this Article,~~
39 ~~including rules regarding the participation of real estate salespersons and real estate~~
40 ~~brokers. The provisions of G.S. 14-234 apply to members of the Commission. In~~
41 ~~addition, the members of the Commission are subject to Executive Order No. One~~
42 ~~issued by the Governor on January 12, 2001, as amended by subsequent executive~~
43 ~~orders. The following rules of conduct shall also apply to members of the Commission:~~

44 (1) Conflicts of Interest.

- 1 a. A member shall not knowingly use his or her position in any
2 manner that will result in financial benefit, direct or indirect, to
3 the member, the member's family, or an individual with whom
4 or business, organization, or group with which the member is
5 associated. This provision shall not apply to financial and other
6 benefits (i) derived by a member that the member would enjoy
7 to an extent no greater than that which other citizens of the
8 State would or could enjoy, (ii) rightfully gained by a member
9 pursuant to the proper performance of the member's official
10 duties or State employment, or (iii) that are so remote, tenuous,
11 insignificant, or speculative that a reasonable person would
12 conclude under the circumstances that the member's ability to
13 protect the public interest and perform the member's official
14 duties would not be compromised.
- 15 b. A member shall not, directly or indirectly, knowingly ask,
16 accept, demand, exact, solicit, seek, assign, receive, or agree to
17 receive anything of value for the member, or for another person,
18 in return for being influenced in the discharge of member's
19 official responsibilities, other than that which is received by the
20 member from the State for acting in the member's official
21 capacity.
- 22 c. A member shall not solicit or receive personal financial gain,
23 other than that received by the member from the State for acting
24 in the member's official capacity, for advice or assistance given
25 in the course of carrying out the member's duties.
- 26 d. A member shall not use or disclose information gained in the
27 course of, or by reason of, the member's official responsibilities
28 in a way that would affect a personal financial interest of the
29 member, a member of the member's family, or a person with
30 whom or business, organization, or group with which the
31 member is associated. A member shall not improperly use or
32 disclose any information deemed confidential by State law and
33 therefore not a public record.
- 34 e. A member shall not cause the employment, appointment,
35 promotion, transfer, or advancement of a family member to a
36 State or local office or position that the member supervises or
37 manages. A member shall not participate in an action relating to
38 the disciplining of a member of the member's family.

39 (2) Appearances of Conflict.

- 40 a. A member shall make every effort to avoid even the appearance
41 of a conflict of interest. An appearance of conflict exists when a
42 reasonable person would conclude from the circumstances that
43 the member's ability to protect the public interest, or perform
44 public duties, is compromised by familial, personal, or financial

1 interests. An appearance of conflict could exist even in the
2 absence of a true conflict of interest.

3 b. A member shall take reasonable and appropriate steps, under
4 the particular circumstances and considering the type of
5 proceeding involved, to remove himself or herself, to the extent
6 necessary to protect the public interest and comply with this
7 subsection, from any proceeding in which the member's
8 impartiality might reasonably be questioned due to the
9 member's familial, personal, or financial relationship with a
10 participant in the proceeding. A "participant" includes (i) an
11 owner, shareholder, partner, employee, agent, officer, or
12 director of a business, organization, or group involved in the
13 proceeding, or (ii) an organization or group which has
14 petitioned for rulemaking or has some specific, unique, and
15 substantial interest in the proceeding. "Proceeding" includes
16 both quasi-judicial proceedings, including contested case
17 hearings, and quasi-legislative proceedings, including most
18 rulemaking. A "personal relationship" includes one in a
19 leadership or policy-making position, including officers or
20 directors in a business, organization, or group.

21 c. If a member is uncertain whether the relationship in question
22 justifies removing the member from the proceeding pursuant to
23 this subsection, then the member shall disclose the relationship
24 to the chair of the Commission and seek appropriate guidance.
25 The chair, in consultation with legal counsel if necessary, shall
26 then determine the extent to which, if any, the member will be
27 permitted to participate. If the affected member is the chair,
28 then the vice chair or such other substitute presiding officer
29 shall make the determination. A good-faith determination
30 under this subsection of the allowable degree of participation by
31 a member is presumptively valid.

32 **§ 146-87. Duties-Powers and duties of the Commission.**

33 (a) The Commission on State Property shall:shall have the authority to:

34 (1) Adopt rules for the administration of this Article, including rules
35 regarding the participation of real estate salespersons and real estate
36 brokers as well as issues related to dual agency and buyer's agents, a
37 process for determining when State-owned real property is surplus, a
38 process for submitting proposals to the Department of Administration
39 as required in G.S. 146-88(a), and a mechanism for consulting with the
40 State agencies regarding properties that have been identified as surplus
41 and suitable for sale.

42 (2) Enter into contracts for services that are necessary to implement its
43 responsibility for disposing of surplus State-owned real property. The

1 services may include appraisals, building inspections, environmental
2 assessments, property surveying, and listing contracts.

3 ~~(1)(3)~~ Adopt guidelines to ensure the participation of real estate salespersons
4 and real estate brokers in its work and to encourage real estate
5 salespersons and real estate brokers to examine the State's real
6 property inventory to ascertain which and to provide information to the
7 Commission regarding which properties are either surplus may
8 constitute surplus State-owned real property and are that is suitable for
9 sale or are suitable for sale and leaseback sale.

10 ~~(2)(4)~~ Notify each North Carolina licensed real estate salesperson and real
11 estate broker in the State that the Commission will consider
12 recommendations from real estate salespersons and brokers on State on
13 surplus State-owned real property that is suitable for sale or sale and
14 leaseback sale.

15 ~~(3)(5)~~ Consider recommendations from real estate salespersons and brokers
16 and the general public. Notwithstanding any other provision of this
17 Article, no real estate salesperson or broker may recommend more
18 than five properties.

19 ~~(4)(6)~~ Develop and make recommendations to the Department of
20 Administration, the Governor, and the Joint Legislative Commission
21 on Governmental Operations on State surplus State-owned real
22 property that is (i) both surplus and suitable for sale or (ii) suitable for
23 sale and leaseback and report its recommendations to the Department
24 of Administration, the Governor, and the Joint Legislative
25 Commission on Governmental Operations sale.

26 ~~(7)~~ Employ legal counsel and clerical and technical assistance and fix the
27 compensation therefor and incur other necessary expenses in the
28 performance of its duties and as may be necessary to carry out the
29 powers herein conferred.

30 (b) All State agencies shall provide any and all information requested by the
31 Commission that is related to the actual or potential use of the real property by the
32 agency in order that the Commission has accurate, complete, and timely information
33 with which to develop the recommendations authorized under this section.

34 **"§ 146-88. Recommendations to Department; disposition of property.**

35 (a) Within three business days' receipt of a specific proposal for certain identified
36 State-owned real property, the Commission shall notify the Department of
37 Administration regarding the proposal. The Department of Administration shall
38 determine whether, as of the date of the Commission's first meeting regarding that
39 property, the Department had already been engaged in disposing of the same property.
40 If the Department determines that is it already engaged in disposing of the same
41 property that is the subject of the Commission's proposal, the Department shall inform
42 the Commission within three days' receipt of the Commission's notification, and the
43 Commission shall not pursue the transaction. If the Department is not already engaged
44 in disposing of the same property that is the subject of the Commission's proposal, the

1 ~~Department shall consider the recommendations of the Commission on State Property~~
2 ~~Commission's proposal and shall provide an advisory respond to them response to the~~
3 ~~Commission within 6030 days of after receiving them the proposal. In its advisory~~
4 ~~response, the Department shall either concur with the recommendations~~
5 ~~recommendation, or set out the reasons it does not concur with them the~~
6 ~~recommendation.~~

7 As used in this subsection, the phrase "already engaged in disposing of the same
8 property" means that the Department of Administration has actively undertaken a
9 review of the specific State property that is the subject of the Commission's proposal,
10 has contacted or begun negotiations with the State agency to which the property is
11 allocated, and has begun negotiations with sales agents or brokers.

12 ~~(b) If the Department concurs that the property shall be sold or sold and leased~~
13 ~~back, the process for proceeding with the sale or sale and leaseback shall be the same as~~
14 ~~for other sales of State property.~~

15 ~~(c) If the Department does not concur, the~~ After receipt and consideration of the
16 Department's response under subsection (a) of this section, the Commission shall
17 determine whether to proceed with the transaction. If the Commission determines that
18 the transaction is in the best interest of the State, it shall undertake to dispose of the
19 property, subject to the provisions of this Article. In determining the best interest of the
20 State, the Commission shall consider at least the following factors: (i) current and future
21 needs of state agencies; (ii) environmental factors, including conservation; (iii)
22 preservation of any historic structures on the property; (iv) land uses adjoining the
23 property; and (v) fair market value of the property. recommend the sale of the property
24 ~~or the sale and leaseback of the property to the Governor and the Council of State. If the~~
25 ~~Governor and the Council of State approve the sale, the Department of Administration~~
26 ~~shall complete the transaction. If an agreement of sale is reached, the proposed~~
27 ~~transaction shall then be submitted to the Governor and Council of State for their~~
28 ~~approval or disapproval. Every conveyance in fee of land made under this Article shall~~
29 ~~be made and executed according to the requirements of G.S. 146-74 through~~
30 ~~G.S. 146-78. If the proposed disposition is a sale of surplus State-owned real property~~
31 ~~with an appraised value of at least twenty-five thousand dollars (\$25,000), the sale shall~~
32 ~~not be made until after the Commission consults with the Joint Legislative Commission~~
33 ~~on Governmental Operations.~~

34 ~~(d) In the instance of a proposed~~ If the Commission undertakes to sale or salesell
35 ~~and leaseback that is undertaken pursuant to this section, the Department the property,~~
36 the Commission shall enter into an exclusive a contract with the real estate salesperson
37 ~~or broker who recommended the sale or leaseback of the property sale of the property.~~
38 The contract shall specify that the real estate broker has been retained to obtain an offer
39 that is acceptable to the Department Commission to sell or sell and leaseback the
40 property. In the event the property was recommended by more than one real estate
41 salesperson or broker, the Commission shall allocate the marketing responsibilities of
42 the salespersons or brokers recommending the property and determine the allocation of
43 the brokerage fees.

1 (e) A contract with any real estate salesperson or broker under this Article shall
2 not exceed six months in duration and shall include the conditions for receipt of
3 brokerage fees ~~set forth in G.S. 143-737~~ as provided in G.S. 146-89. After the
4 expiration of the ~~exclusive~~ contract, the Commission shall sell the property ~~shall be~~
5 ~~sold or sold and leased back in the same manner as other real property of the State under~~
6 Article 7 of this Chapter.

7 (f) Notwithstanding any other provision of this Article, no real estate salesperson
8 or real estate broker may recommend more than five properties.

9 **"§ 146-89. Brokerage fees.**

10 Notwithstanding any other provision of ~~Chapter 146 of the General Statutes, this~~
11 ~~Chapter, a real estate salesperson or broker responsible for making a recommendation~~
12 ~~for the sale or leaseback of State property that has been adopted by the Commission and~~
13 ~~recommended to the Department pursuant to G.S. 143-736 approved by the Council of~~
14 State shall be entitled to brokerage fees only if all of the following conditions are met:

- 15 (1) The real estate salesperson or broker is licensed by the North Carolina
16 Real Estate Commission.
- 17 (2) The transaction ~~eloses~~ closes pursuant to a written contract negotiated
18 by the real estate broker.
- 19 (3) The brokerage fees do not exceed those customary in the industry and
20 are consistent with rules adopted by the Commission.

21 **"§ 146-90. Distribution of proceeds.**

22 (a) The net proceeds from any disposition of real property made by the
23 Commission under this Article, or by the Department as the result of a recommendation
24 by the Commission under this Article, shall be made as follows:

- 25 (1) According to the provisions of any trust or other instrument of title
26 whereby title to such real property was heretofore acquired or is
27 hereafter acquired.
- 28 (2) As provided by any other act of the General Assembly.
- 29 (3) As provided in G.S. 146-30(d).
- 30 (4) The net proceeds shall be deposited with the State Treasurer.

31 (b) For the purposes of this Article, the term "net proceeds" means the gross
32 amount received from the sale of State-owned real property, less the following amounts:

- 33 (1) Five percent (5%) to be transferred to the Surplus State-Owned Real
34 Property Special Fund. If the Fund has a current fund balance of five
35 hundred thousand dollars (\$500,000), this subdivision shall not apply.
36 A smaller percentage of the net proceeds shall be transferred if the
37 transfer of the full amount authorized under this subdivision would
38 result in the Fund exceeding the authorized maximum fund balance.
- 39 (2) Any brokerage fee as provided in G.S. 146-89.
- 40 (3) Ten percent (10%) to be retained by the State agency as provided in
41 subsection (c) of this section, unless G.S. 146-30(d) applies. If
42 G.S. 146-30(d) applies to the State agency, this subdivision shall not
43 apply.

1 (c) Notwithstanding the other provisions of this section, no amounts shall be
2 deducted under subdivision (b)(1) of this section from the gross proceeds of any sale of
3 State-owned lands that are designated as part of any of the following:

- 4 (1) The Centennial Campus as defined by G.S. 116-198.33(4).
- 5 (2) The Horace Williams Campus as defined by G.S. 116-198.33(4a).
- 6 (3) A Millennial Campus as defined by G.S. 116-198.33(4b).

7 All net proceeds of those dispositions are governed by G.S. 116-36.5.

8 (d) Unless otherwise provided for in G.S. 146-30(d), an agency or department
9 that managed or controlled surplus State-owned real property that is sold under this
10 Article shall receive the proceeds from subdivision (b)(3) of this section. Upon an
11 appropriation by the General Assembly, the proceeds may be used only for:

- 12 (1) Improvements to other facilities controlled or operated by the agency
13 or department, including improvements made necessary because of
14 space displaced as a result of the sale.
- 15 (2) Facility repairs and renovations.
- 16 (3) Information technology and equipment for that department or agency.

17 **"§ 146-91. Creation of Surplus State-Owned Real Property Special Fund.**

18 There is created the Surplus State-Owned Real Property Special Fund located in the
19 Office of the State Treasurer. The Fund balance shall not revert, but at no time shall the
20 Fund balance exceed three hundred thousand dollars (\$300,000). The Commission shall
21 use moneys in the Fund for its operations, including expenses incurred as a result of the
22 sale of surplus State-owned real property under this Article.

23 **"§ 146-92. Reporting.**

24 The Commission shall report quarterly to the Joint Legislative Commission on
25 Governmental Operations on its activities, including an accounting of all property sales,
26 uses of the funds deposited into the Surplus State-Owned Real Property Special Fund,
27 and the status of the Fund."

28 **SECTION 3.** G.S. 146-27 reads as rewritten:

29 **"§ 146-27. The role of the Department of Administration and Commission on State**
30 **Property in sales, leases, and rentals.**

31 (a) ~~General.~~ Except as provided in Article 19 of this Chapter, every sale,
32 lease, rental, or gift of land owned by the State or by any State agency shall be made by
33 the Department of Administration and approved by the Governor and Council of State.
34 A lease or rental of land owned by the State may not exceed a period of 99 years. The
35 Department of Administration may initiate proceedings for sales, leases, rentals, and
36 gifts of land owned by the State or by any State agency.

37 (b) ~~Large Disposition.~~ If a proposed disposition is a sale or gift of land with an
38 appraised value of at least twenty-five thousand dollars (\$25,000), the sale or gift shall
39 not be made until after consultation with the Joint Legislative Commission on
40 Governmental Operations. Operations, regardless of whether the transaction will be
41 undertaken by the Department of Administration or the Commission on State Property."

42 **SECTION 4.** G.S. 146-28 reads as rewritten:

43 **"§ 146-28. Agency must file application with ~~Department;~~ Department or**
44 **Commission; ~~Department or Commission~~ must investigate.**

1 (a) Any State agency desiring to sell, lease, or rent any land owned by the State
2 or by any State agency shall file with the Department of Administration or the
3 Commission on State Property an application setting forth the facts relating to the
4 proposed transaction, and shall furnish the Department or the Commission with such
5 any additional information as the Department or the Commission may request relating
6 thereto request regarding the application. Nothing in this section shall be construed to
7 expand the authority of the Commission provided in Article 19 of this Chapter.

8 (b) Upon receipt of ~~such the~~ application, ~~the Department of Administration the~~
9 Department and the Commission shall proceed as follows:

10 (1) If the application is initially received by the Commission, the
11 Commission shall promptly notify the Department in writing. Upon
12 receipt of the notification, the Department shall review its current files
13 to determine whether it has already undertaken to investigate whether
14 the property that is the subject of the application is surplus
15 State-owned real property. If the Department determines that it has
16 already undertaken to determine whether the property that is the
17 subject of the application is surplus State-owned real property, the
18 Department shall promptly inform the Commission. Upon receipt of
19 the notification from the Department, the Commission shall direct the
20 agency that submitted the application to forward the application to the
21 Department.

22 (2) If the application is initially received by the Department, the
23 Department shall promptly notify the Commission in writing. Upon
24 receipt of the notification, the Commission shall review its current files
25 to determine whether it has already undertaken to investigate whether
26 the property that is the subject of the application is surplus
27 State-owned real property. If the Commission determines that it has
28 already undertaken to determine whether the property that is the
29 subject of the application is surplus State-owned real property, the
30 Commission shall promptly inform the Department. Upon receipt of
31 the notification from the Commission, the Department shall direct the
32 agency that submitted the application to forward the application to the
33 Commission.

34 (c) Subject to the requirements of subsection (b) of this section, the entity that
35 receives the application shall promptly investigate all aspects of the proposed
36 transaction, including particularly present and future State need for the land proposed to
37 be conveyed, leased, or rented."

38 **SECTION 5.** G.S. 146-29 reads as rewritten:

39 "**§ 146-29. Procedure for sale, lease, or rental.**

40 (a) If, after investigation, the Department of Administration determines that it is
41 in the best interest of the State that land be sold, leased, or rented, the Department shall
42 proceed with its sale, lease, or rental, as the case may be, in accordance with rules
43 adopted by the Governor and approved by the Council of State. The Department shall

1 adopt rules for notifying the Commission on State Property when the Department is
2 investigating the sale of State land.

3 (b) If the Commission determines that the State-owned real property is surplus
4 and suitable for sale, the Commission shall proceed as provided in Article 19 of this
5 Chapter.

6 (c) If an agreement of sale, lease, or rental is reached, the proposed transaction
7 shall then be submitted to the Governor and Council of State for their approval or
8 disapproval. Every conveyance in fee of land owned by the State or by any State agency
9 shall be made and executed in the manner prescribed in G.S. 146-74 through 146-78."

10 **SECTION 6.** G.S. 146-30 reads as rewritten:

11 **"§ 146-30. Application of net proceeds.**

12 (a) The net proceeds of any disposition made ~~in accordance with~~ under this
13 Subchapter shall be handled ~~in accordance with~~ according to the following priority:

14 (1) First, in accordance with the provisions of any trust or other
15 instrument of title whereby title to such real property was heretofore
16 acquired or is hereafter ~~acquired; second, acquired.~~

17 (2) as ~~As~~ provided by any other act of the General Assembly; ~~third,~~
18 Assembly.

19 (3) the ~~The~~ net proceeds shall be deposited with the State Treasurer.

20 (a1) Provided, however, nothing herein ~~Subsection (a) of this section~~ shall not be
21 construed as prohibiting to prohibit the disposition of any State lands by exchange for
22 other ~~lands, but if~~ lands. If the appraised value in fee simple of any property involved in
23 the exchange is at least twenty-five thousand dollars (\$25,000), then ~~such the~~ exchange
24 may not be made without consultation with the Joint Legislative Commission on
25 Governmental Operations.

26 (b) For the purposes of this Subchapter, the term "net proceeds" means the gross
27 amount received from the sale, lease, rental, or other disposition of any State lands, less

28 (1) Such expenses incurred incident to that sale, lease, rental, or other
29 disposition as may be allowed under rules and regulations adopted by
30 the Governor and approved by the Council of State; and

31 (2) Repealed by Session Laws 1993, c. 553, s. 52.2.

32 (3) A service charge to be paid into the State Land Fund.

33 (b1) Notwithstanding the other provisions of this section, no service charge into
34 the State Land Fund shall be deducted from or levied against the proceeds of any
35 disposition by lease, rental, or easement of State lands that are designated as part ~~of~~ of
36 any of the following:

37 (1) the ~~The~~ Centennial Campus as defined by ~~G.S. 116-198.33(4),~~
38 G.S. 116-198.33(4).

39 (2) that are ~~designated as part of the~~ The Horace Williams Campus as
40 defined by ~~G.S. 116-198.33(4a),~~ G.S. 116-198.33(4a).

41 (3) or that are ~~designated as part of a~~ A Millennial Campus as defined by
42 G.S. 116-198.33(4b).

43 All net proceeds of those dispositions are governed by G.S. 116-36.5.

1 (c) The amount or rate of ~~such~~ service charge under subdivision (b)(3) of this
2 section shall be fixed by rules and regulations adopted by the Governor and approved by
3 the Council of State, but as to any particular sale, lease, rental, or other disposition, it
4 shall not exceed ten percent (10%) of the gross amount received from such sale, lease,
5 rental, or other disposition.

6 (d) Notwithstanding any other provision of this Subchapter, the net proceeds
7 derived from any of the following transactions shall be distributed as follows:

8 (1) ~~the~~ The sale of land or products of land owned by or under the
9 supervision and control of the Wildlife Resources Commission, or
10 acquired or purchased with funds of that Commission, shall be paid
11 into the Wildlife Resources Fund.

12 (2) ~~Provided, however, the net proceeds derived from the~~ The sale of land
13 or timber from land owned by or under the supervision and control of
14 the Department of Agriculture and Consumer Services shall be
15 deposited with the State Treasurer in a capital improvement account to
16 the credit of the Department of Agriculture and Consumer Services, to
17 be used for such specific capital improvement projects or other
18 purposes as are provided by transfer of funds from those accounts in
19 the Capital Improvement Appropriations Act.

20 (3) ~~Provided further, the net proceeds derived from the~~ The sale of park
21 land owned by or under the supervision and control of the Department
22 of Environment and Natural Resources shall be deposited with the
23 State Treasurer in a capital improvement account to the credit of the
24 Department of Administration to be used for the purpose of park land
25 acquisition as provided by transfer of funds from those accounts in the
26 Capital Improvement Appropriations Act. In the Capital Improvement
27 Appropriations Act, line items for purchase of park and agricultural
28 lands will be established for use by the Departments of Administration
29 and Agriculture. The use of such funds for any specific capital
30 improvement project or land acquisition is subject to approval by the
31 Director of the Budget. No other use may be made of funds in these
32 line items without approval by the General Assembly except for
33 incidental expenses related to the project or land acquisition.
34 Additionally with the approval of the Director of the Budget, either
35 Department may request funds from the Contingency and Emergency
36 Fund when the necessity of prompt purchase of available land can be
37 demonstrated and funds in the capital improvement accounts are
38 insufficient.

39 (4) ~~Provided further, the net proceeds derived from the~~ The sale of any
40 portion of the land in or around the unincorporated area known as
41 Butner on or after July 1, 1980, shall be deposited with the State
42 Treasurer in a capital improvement account to the credit of the
43 Hospital to provide water and sewers and to bring those streets in the
44 unincorporated area known as Butner not on the State highway system

up to standards adequate for acceptance on the system, according to a plan adopted by the Department of Administration, and the Office of State Budget and Management, with the approval of the Board of County Commissioners of Granville County, to build industrial access roads to industries on the Butner lands, to construct new city streets on the Butner lands, extend water and sewer service on the Butner lands, and repair storm drains on the Butner lands.

(5) The sale by the Department of Administration or by the Commission on State Property of any psychiatric hospital, intermediate care facility for the mentally retarded, or other facility providing mental health, developmental disabilities, and substance abuse services, and owned by or under the supervision of the Department of Health and Human Services, shall be paid into the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs. These proceeds shall be used only to provide additional funding for nonrecurring or capital expenditures for community-based projects."

SECTION 7. G.S. 143-341(4) reads as rewritten:

"§ 143-341. Powers and duties of Department.

The Department of Administration has the following powers and duties:

...

(4) Real Property Control:

...

e. ~~To~~ Except as provided in Article 19 of Chapter 146 of the General Statutes, to make all sales of real property (including marshlands or swamplands) owned by the State or by any State agency, with the approval of the Governor and Council of State in each instance. All conveyances in fee by the State shall be executed in accordance with the provisions of G.S. 146-74 through 146-78. Any conveyance of land made or contract to convey land entered into without the approval of the Governor and Council of State is voidable in the discretion of the Governor and Council of State. The proceeds of all sales of swamplands or marshlands shall be dealt with in the manner required by the Constitution and statutes.

...

m. To contract for or approve all contracts for all appraisals and surveys of real property for all State agencies; ~~provided, however, this provision~~ applies to agencies. This sub-subdivision shall not apply to appraisals and surveys obtained by the Commission on State Property under Article 19 of Chapter 146 of the General Statutes, or obtained in connection with the acquisition of highway rights-of-way, borrow pits, or other interests or estates

1 in land acquired for the same or similar purposes, or to the
2 disposition thereof, by the Board of Transportation.

3"

4 **SECTION 8.** Section 6.4(b) of S.L. 2004-124 reads as rewritten:

5 **"SECTION 6.4.(b)** Of the funds appropriated to the Department of Administration
6 for the 2004-2005 fiscal year, the Director of the Budget shall transfer two hundred
7 thousand dollars (\$200,000) to the Commission on State Property established in
8 subsection (a) of this section. Any funds not expended by June 30, 2005, shall not revert
9 and shall be transferred to the Surplus State-Owned Real Property Special Fund created
10 under G.S. 146-91. Notwithstanding the provisions of G.S. 146-30, the first two
11 hundred up to three hundred thousand dollars (\$200,000)(\$300,000) of the net proceeds
12 of dispositions of property by the Department of Administration that would otherwise
13 be deposited with the State Treasurer and credited to the General Fund shall be used to
14 offset the transfer of funds from the Department of Administration to the Commission
15 on State Property deposited into the Surplus State-Owned Real Property Special Fund.
16 The amount transferred shall be the amount necessary to bring the Fund up to the
17 maximum allowable fund balance as provided in G.S. 146-91, less any amounts that did
18 not revert and were transferred into the Fund as provided in this subsection."

19 **SECTION 9.** Section 6.8(a) of S.L. 2003-284 is repealed.

20 **SECTION 9.5.(a)** Chapter 39 of the General Statutes is amended by adding
21 the following new Article to read:

22 "Article 10.

23 "Real Property Tax Proration.

24 "**§ 39-60. Property tax proration on sale of real property.**

25 Unless otherwise provided by contract, property taxes on real property being sold
26 shall be prorated between the seller and buyer of the real property on a calendar-year
27 basis."

28 **SECTION 9.5.(b)** This section becomes effective October 1, 2005 and
29 applies to contracts entered into on or after the effective date.

30 **SECTION 10.** There is appropriated from the Surplus State-Owned Real
31 Property Special Fund to the Commission on State Property in the Department of
32 Administration the sum of three hundred thousand dollars (\$300,000) for the 2005-2006
33 fiscal year.

34 **SECTION 11.** Section 10 of this act becomes effective July 1, 2005. The
35 remainder of this act is effective June 30, 2005. Nothing in this act shall be construed to
36 modify the terms of office of the members serving on the Commission on State Property
37 at the time this section becomes law. The Commission shall have 210 days from the
38 enactment of this section to adopt temporary rules to implement this act.