

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 845*

Short Title: Psychiatric Hospital Bonds. (Public)

Sponsors: Senators Gulley; and Lucas.

Referred to: Finance.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF
3 CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF
4 SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW
5 PSYCHIATRIC HOSPITAL IN BUTNER, AND TO AUTHORIZE THE
6 ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION
7 OF THE NEW PSYCHIATRIC HOSPITAL.

8 The General Assembly of North Carolina enacts:

9 **PART 1. STATE CAPITAL FACILITIES FINANCE**

10 **SECTION 1.** Chapter 142 of the General Statutes is amended by adding a
11 new Article to read:

12 "Article 9.

13 "State Capital Facilities Finance Act.

14 **"§ 142-80. Short title.**

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

16 **"§ 142-81. Findings and purpose.**

17 The General Assembly finds as follows:

- 18 (1) There is a continuing need for capital facilities for the State, many of
19 which will continue to be provided on a "pay-as-you-go" basis by
20 direct appropriations.
- 21 (2) The State will also continue to provide capital facilities through the
22 issuance of general obligation bonds.
- 23 (3) There is a need, however, for the use of alternative financing methods,
24 such as authorized in this Article, to facilitate the providing of capital
25 facilities when circumstances and conditions warrant the providing of
26 capital facilities through financing methods in addition to direct
27 appropriations and the issuance of general obligation bonds.
- 28 (4) The use of these alternative financing methods as authorized in this
29 Article will provide financing flexibility to the State and permit the

1 State to take advantage of changing financial and economic
2 environments.

3 "**§ 142-82. Definitions.**

4 The following definitions apply in this Article:

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

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

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

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

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

41 (9) Financing contract. – A contract entered into pursuant to this Article to
42 finance capital facilities and constituting a lease-purchase contract,
43 installment purchase contract, or other similar type of installment

1 financing contract. The term does not include, however, a contract that
2 meets any one of the following conditions:

3 a. It constitutes an operating lease under generally accepted
4 accounting principles.

5 b. It provides for the payment under the contract over its full term,
6 including periods that may be added to the original term
7 through the exercise of options to renew or extend, of an
8 aggregate principal amount of not in excess of five thousand
9 dollars (\$5,000) or any greater amount that may be established
10 by the Council of State, if the Council of State determines (i)
11 the aggregate amount to be paid under these contracts will not
12 have a significant impact on the State budgetary process or the
13 economy of the State and (ii) the change will lessen the
14 administrative burden on the State.

15 c. It is executed and provides for the making of all payments
16 under the contract, including payment to be made during any
17 period that may be added to the original term through the
18 exercise of options to renew or extend, in the same fiscal year.

19 (10) Financing contract indebtedness. – Indebtedness incurred pursuant to a
20 financing contract, including certificates of participation indebtedness.

21 (11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal
22 biennium.

23 (12) Fiscal year. – The fiscal year of the State beginning on July 1 of one
24 calendar year and ending on June 30 of the next calendar year.

25 (13) Limited obligation bond. – A limited obligation bond issued pursuant
26 to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

27 (14) Par formula. – A provision or formula adopted by the State to provide
28 for the adjustment, from time to time, of the interest rate or rates borne
29 or provided for by any special indebtedness, including any of the
30 following:

31 a. A provision providing for an adjustment so that the purchase
32 price of special indebtedness in the open market would be as
33 close to par as possible.

34 b. A provision providing for an adjustment based upon a
35 percentage or percentages of a prime rate or base rate, which
36 percentages may vary or be applied for different periods of
37 time.

38 c. Any provision that the State Treasurer determines is consistent
39 with this Article and will not materially and adversely affect the
40 financial position of the State and the marketing of special
41 indebtedness at a reasonable interest cost to the State.

42 (15) Person. – An individual, a firm, a partnership, an association, a
43 corporation, a limited liability company, or any other organization or
44 group acting as a unit.

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

17 **"§ 142-83. Authorization of special indebtedness; General Assembly approval.**

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

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

28 **"§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

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

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

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

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

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

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

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

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

43 (f) Type of Debt and Security. – In the absence of a determination by the
44 Council of State, the State Treasurer, after consultation with the Department of

1 Administration, shall determine the specific security offered and whether the special
2 indebtedness to be issued or incurred shall be financing contract indebtedness,
3 certificates of participation indebtedness, bonded indebtedness, or some combination of
4 these.

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

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

18 **"§ 142-85. Security; other requirements.**

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

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

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

30 (3) If the special indebtedness is to finance renovations or improvements
31 to existing facilities or the installation of fixtures in existing facilities,
32 a lien on or security interest in one or more, all, or any part of the
33 facilities.

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

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

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

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

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

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

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

31 (2) The disposition and application of the revenues of the State, including
32 taxes.

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

35 (4) The disposition of any charges and collection of any revenues and
36 administrative charges.

37 (5) The terms and conditions of the issuance of additional special
38 indebtedness.

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

40 (h) State Property Law Exception. – Chapter 146 of the General Statutes does not
41 apply to any transfer of the State's interest in property authorized by this Article,
42 whether to a deed of trust trustee or other secured party as security for special
43 indebtedness, or to a purchaser of property in connection with a foreclosure or similar

1 conveyance of property to realize upon the security for special indebtedness following
2 the State's default on its obligations under the special indebtedness.

3 **"§ 142-86. Financing contract indebtedness.**

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

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

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

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

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

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

29 **"§ 142-87. Additional requirements for certificates of participation indebtedness.**

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

36 (b) Procedure. – The special corporation, if used, shall request the approval of the
37 State Treasurer in writing and shall furnish any information and documentation relating
38 to the delivery and sale of the certificates of participation requested by the State
39 Treasurer. In determining whether to approve the financing in the documentation, the
40 State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the
41 effect of the proposed financing upon any scheduled or proposed sale of debt
42 obligations by the State or a unit of local government in the State.

43 (c) Terms; Interest. – Certificates of participation may be sold by the State
44 Treasurer in the manner, either at public or private sale, and for any price or prices that

1 the State Treasurer determines to be in the best interest of the State and to effect the
2 purposes of this Article, except that the terms of the sale must also be approved by the
3 special corporation. Interest payable with respect to certificates of participation shall
4 accrue at the rate or rates determined by the State Treasurer with the approval of the
5 special corporation.

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

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

14 **"§ 142-88. Bonded indebtedness.**

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

20 **"§ 142-89. Issuance of limited obligation bonds and notes.**

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

31 (b) Signatures; Form and Denomination; Registration. – Bonds or notes may be
32 issued in certificated or uncertificated form. If issued in certificated form, bonds or
33 notes shall be signed on behalf of the State by the Governor or shall bear the Governor's
34 facsimile signature, shall be signed by the State Treasurer or shall bear the State
35 Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of
36 the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures
37 of the Governor and the State Treasurer, the bonds or notes shall also bear a manual
38 signature which may be that of a bond registrar, trustee, paying agent, or designated
39 assistant of the State Treasurer. If any officer whose signature or facsimile signature
40 appears on bonds or notes issued under this Article ceases to be that officer before the
41 delivery of the bonds or notes, the signature or facsimile signature shall nevertheless
42 have the same validity for all purposes as if the officer had remained in office until
43 delivery of the bonds or notes. Bonds or notes issued under this Article may bear the
44 facsimile signatures of persons, who at the actual time of the execution of the bonds or

1 notes were the proper officers to sign any bond or note although at the date of the bond
2 or note those persons may not have been officers.

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

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

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

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

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

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

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

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

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

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

41 Funds derived from the sale of limited obligation bonds or notes may be used in the
42 payment of any bond anticipation notes issued under this Article. Funds provided by the
43 General Assembly for the payment of interest on or principal of bonds shall be used in

1 paying the interest on or principal of any notes and any renewals thereof, the proceeds
2 of which have been used in paying interest on or principal of the bonds.

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

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

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

1 execution, or delivery, in accordance with the provisions of this Article and of the trust.
2 The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to
3 the extent and in the manner prescribed in the trust, be subordinated and junior in
4 standing, with respect to the payment of principal and interest and to the security of the
5 payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any
6 bank or trust company that may act as depository of the proceeds of bonds or notes,
7 revenues, or any other money under this Article to furnish any indemnifying bonds or to
8 pledge any securities that may be required by the State Treasurer. The trust may set out
9 the rights and remedies of the owners of any bonds or notes and of any trustee, and may
10 restrict the individual rights of action by the owners. In addition to the foregoing, the
11 trust may contain any other provisions the State Treasurer considers appropriate for the
12 security of the owners of any bonds or notes. Expenses incurred in carrying out the
13 provisions of the trust may be treated as a part of the cost of any capital facility or as an
14 administrative charge and may be paid from the proceeds of the bonds or notes or from
15 any other available funds.

16 **"§ 142-90. Variable rate demand bonds and notes and financing contract**
17 **indebtedness.**

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

- 20 (1) It is payable from time to time on demand or tender for purchase by
21 the owner thereof, if a credit facility supports the special indebtedness,
22 unless the State Treasurer specifically determines that a credit facility
23 is not required upon a determination by the State Treasurer that the
24 absence of a credit facility will not materially and adversely affect the
25 financial position of the State or the marketing of the bonds or notes or
26 financing contract indebtedness at a reasonable interest cost to the
27 State.
- 28 (2) It is additionally supported by a credit facility.
- 29 (3) It is subject to redemption or mandatory tender for purchase prior to
30 maturity.
- 31 (4) It bears interest at a rate or rates that may be fixed or may vary over
32 any period of time, as may be provided in the proceedings providing
33 for the issuance or incurrence of the special indebtedness, including
34 any variations that may be permitted pursuant to a par formula.
- 35 (5) It is the subject of a remarketing agreement under which an attempt is
36 made to remarket special indebtedness to new purchasers before its
37 presentment for payment to the provider of the credit facility or to the
38 State.

39 (b) If the aggregate principal amount payable by the State under a credit facility
40 is in excess of the aggregate principal amount of special indebtedness secured by the
41 credit facility, whether as a result of the inclusion in the credit facility of a provision for
42 the payment of interest for a limited period of time or the payment of a redemption
43 premium or for any other reason, then the amount of authorized but unissued bonds or
44 notes and financing contract indebtedness during the term of the credit facility shall not

1 be less than the amount of the excess, unless the payment of the excess is otherwise
2 provided for by agreement of the State executed by the State Treasurer.

3 **"§ 142-91. Other agreements.**

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

12 **"§ 142-92. Tax exemption.**

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

19 **"§ 142-93. Investment eligibility.**

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

31 **"§ 142-94. Procurement of capital facilities.**

32 The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General
33 Statutes and any other laws or rules of the State that relate to the acquisition and
34 construction of State property apply to the financing of capital facilities through the use
35 of special indebtedness pursuant to this Article. This section does not apply to the
36 construction and lease-purchase, including leases with an option to purchase at the end
37 of the lease term for a nominal sum, of State office buildings pursuant to proposals
38 submitted before the effective date of this Article in response to requests for proposals,
39 to the extent any of those proposals, as they may be supplemented or amended, are
40 approved by the Department of Administration and any of these leases or lease-purchase
41 agreements are approved by the Council of State in accordance with G.S.
42 143-341(4)d2."

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

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

17 **PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION**

18 **SECTION 2.1.** Construction of Psychiatric Hospital. – In accordance with
19 G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of
20 financing contract indebtedness in a maximum principal amount of one hundred ten
21 million dollars (\$110,000,000), which amount shall be reduced by the amount of any
22 special obligation bonds issued to finance the project under the Special Obligation
23 Hospital Bonds Act of 2003, to finance the cost of the project described in this Part,
24 subject to the limitations described in this Part. The financing contract indebtedness
25 shall not be incurred prior to July 1, 2004.

26 **SECTION 2.2.** The Project. – The project shall consist of the acquisition,
27 construction, and equipping of an approximately 450,000 square foot, 432-bed new
28 psychiatric hospital to be located in Butner.

29 **SECTION 2.3.** Authorization of Financing Contracts. – The State, with the
30 prior approval of the State Treasurer and Council of State, as provided in Article 9 of
31 Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and
32 deliver one or more financing contracts in order to provide funds to the State to be used,
33 together with other available funds, to pay the cost of the project, provided that the
34 aggregate principal amount shall not exceed one hundred ten million dollars
35 (\$110,000,000), which amount shall be reduced by the amount of any special obligation
36 bonds issued to finance the project under the Special Obligation Hospital Bonds Act of
37 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more
38 reports satisfactory to the Treasurer evidencing the savings expected to be realized from
39 the closure of existing psychiatric hospitals that are to be replaced by the project and the
40 feasibility of the financing of the project.

41 **PART 3. SPECIAL OBLIGATION HOSPITAL BONDS**

42 **SECTION 3.1.** Title. – This Part shall be known and may be cited as the
43 "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act"
44 mean this Part.

1 **SECTION 3.2.** Definitions. – The following definitions apply in this act:

- 2 (1) Bonds. – Special obligation bonds issued by the State pursuant to this
3 act.
4 (2) Cost. – Any of the following, without limiting or restricting any proper
5 definition of this term in financing the cost of the project as authorized
6 by this act:
7 a. The cost of acquiring, constructing, and equipping the project,
8 including the acquisition of rights-of-way, easements,
9 equipment, furnishings, land, and other interests in real or
10 personal property acquired or used in connection with the
11 project.
12 b. The cost of engineering, architectural, and other consulting
13 services in connection with the project as may be required.
14 c. Finance charges, reserves for debt service, and other types of
15 reserves required pursuant to the terms of the trust agreement or
16 resolution or related documents, interest before and during
17 construction or acquisition of the project and, if considered
18 advisable by the State Treasurer, for a period not exceeding two
19 years after the estimated date of completion of construction or
20 acquisition.
21 d. Administrative expenses and charges.
22 e. The cost of bond insurance, investment contracts, credit and
23 liquidity facilities, interest rate swap agreements or other
24 derivative products, financial and legal consultants, and related
25 costs of the incurrence or issuance of the bonds.
26 f. The cost of reimbursing the State for any payments made for
27 any cost described above.
28 g. Any other costs and expenses necessary or incidental to the
29 purposes of this act.
30 (3) Credit facility. – An agreement that:
31 a. Is entered into by the State with a bank, savings and loan
32 association, or other banking institution, an insurance company,
33 reinsurance company, surety company or other insurance
34 institution, a corporation, investment banking firm or other
35 investment institution, or any financial institution or other
36 similar provider of a credit facility, which provider may be
37 located within or without the United States of America; and
38 b. Provides for prompt payment of all or any part of the principal
39 or purchase price (whether at maturity, presentment or tender
40 for purchase, redemption, or acceleration), redemption
41 premium, if any, and interest with respect to the bonds payable
42 on demand or tender by the owner in consideration of the State
43 agreeing to repay the provider of the credit facility in
44 accordance with the terms and provisions of the agreement.

- 1 (4) Fiscal year. – The fiscal year of the State beginning on July 1 of one
2 calendar year and ending on June 30 of the next calendar year.
- 3 (5) Par formula. – A provision or formula adopted by the State to provide
4 for the adjustment, from time to time, of the interest rate or rates borne
5 or provided for by any bonds including any of the following:
- 6 a. A provision providing for an adjustment so that the purchase
7 price of the bonds in the open market would be as close to par
8 as possible.
- 9 b. A provision providing for an adjustment based upon a
10 percentage or percentages of a prime rate or base rate, which
11 percentages may vary or be applied for different periods of
12 time.
- 13 c. Any provision that the State Treasurer determines is consistent
14 with this act and will not materially and adversely affect the
15 financial position of the State and the marketing of the bonds at
16 a reasonable interest cost to the State.
- 17 (6) Pledged revenues. – Pledged revenues consist of any or all of the
18 following:
- 19 a. The Medicaid and Medicare reimbursements received by the
20 State and allocated for depreciation expense of the project, plus
21 the Medicaid and Medicare reimbursements received by the
22 State and allocated for interest on the debt used to finance the
23 project.
- 24 b. The funds deposited with the Department of State Treasurer as
25 nontax revenue associated with Disproportionate Share
26 Payments from State institutions for mental disease that are
27 collected pursuant to Title XIX of the Social Security Act, 42
28 U.S.C. 1396r-4, as amended.
- 29 c. The revenues generated by the project.
- 30 (7) Project. – The acquisition, construction, and equipping of an
31 approximately 400,000 square foot, 432-bed new psychiatric hospital
32 to be located in Butner.
- 33 (8) State. – The State of North Carolina, including any State agency.
- 34 (9) State agency. – Any State agency, institution, board, commission,
35 bureau, council, department, division, officer, or employee of the
36 State. The term does not include counties, municipal corporations,
37 political subdivisions, local boards of education, or other local public
38 bodies.
- 39 (10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to
40 time, of the State.
- 41 (11) Trust agreement. – Any trust agreement or similar instrument or
42 agreement authorizing and securing bonds issued under this act.

43 **SECTION 3.3.** Authorization. – The State Treasurer may, by and with the
44 consent of the Council of State, issue and sell special obligation bonds of the State to

1 pay the cost of the project, in a total principal amount not to exceed one hundred ten
2 million dollars (\$110,000,000), which maximum principal amount shall be reduced by
3 the amount of any special indebtedness incurred for the project under Article 9 of
4 Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on
5 the bonds shall be payable solely from the pledged revenues in accordance with the
6 terms of the resolution or trust agreement authorizing and securing the bonds. The State
7 Treasurer may, in the State Treasurer's sole discretion, require one or more reports
8 satisfactory to the State Treasurer evidencing the savings expected to be realized from
9 the closure of existing psychiatric hospitals that are to be replaced by the project and the
10 feasibility of the financing of the project.

11 **SECTION 3.4.** Terms and Conditions. – The bonds may be issued, from
12 time to time, in one or more series, but in no event before July 1, 2004. The bonds shall
13 be dated, and may be made redeemable before maturity at the option of the State at any
14 price or prices and upon any terms and conditions, as may be determined by the State
15 Treasurer at the time of the sale of the bonds. The bonds also may be made payable,
16 from time to time, on demand or tender for purchase by the owner upon any terms and
17 conditions as may be determined by the State Treasurer. The bonds shall bear interest at
18 any rate or rates (whether fixed or variable, or any combination thereof, and including,
19 without limitation, any variations as may be permitted pursuant to a par formula) as may
20 be determined by the State Treasurer. Bonds shall mature at any time or times not
21 exceeding 40 years from their date or dates, as may be determined by the Council of
22 State, subject to the limitations provided in this act. The Council of State shall
23 determine the form and manner of execution of the bond, and shall fix the
24 denominations and the places of payment of principal and interest, which may be any
25 bank or trust company within or without the State. If an officer whose signature or
26 facsimile of whose signature appears on any bond ceases to be that officer before the
27 delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as
28 if the officer had remained in office until the delivery. The Council of State may also
29 provide for the authentication of the bonds by a trustee or fiscal agent. The Council of
30 State may also provide for any other terms, conditions, or matters not inconsistent with
31 the provisions of this act.

32 Bonds may be sold in any manner, either at public or private sale, and for any
33 price as the State Treasurer determines to be for the best interests of the State and to
34 effectuate best the purposes of this act, as long as the sale has been approved by the
35 Council of State. The State Treasurer may authorize, execute, obtain, or otherwise
36 provide for bond insurance, investment agreements, credit and liquidity facilities,
37 interest rate swap agreements and other derivative products, and any other related
38 instruments as the State Treasurer determines are desirable in connection with the
39 issuance of bonds under this act. The State Treasurer is authorized to employ and
40 designate any financial consultants, underwriters, and bond attorneys to be associated
41 with any bond issue under this act. The proceeds of any bonds shall be used solely for
42 the purposes for which they are issued and shall be disbursed in any manner and under
43 any restrictions the Council of State may provide in the resolution authorizing the
44 issuance of, or any trust agreement securing, the bonds.

1 Except as otherwise expressly provided in this act, bonds may be issued
2 under this act without obtaining the consent of any department, division, commission,
3 board, body, bureau, or agency of the State, and without any other proceedings or the
4 happening of any conditions or things other than those proceedings, conditions, or
5 things that are specifically required by this act and the provisions of the resolution
6 authorizing the issuance of, or any trust agreement securing, the bonds.

7 **SECTION 3.5.** Trust Agreement or Resolution. – Any bonds issued under
8 the provisions of this act may be secured by a trust agreement by and between the State
9 and a corporate trustee, which may be any trust company or bank having the powers of
10 a trust company within or without the State. The resolution or trust agreement
11 authorizing and securing the bonds shall, subject to the limitations set forth in this act,
12 specify the pledged revenues and shall pledge or assign the pledged revenues to pay the
13 principal of, premium, if any, or interest on the bonds in the manner provided by this
14 act. The resolution or trust agreement may contain any provisions for protecting and
15 enforcing the rights and remedies of the holders of any bonds as may be reasonable and
16 proper and not in violation of law, including covenants setting forth the duties of the
17 State in relation to the purposes to which bond proceeds may be applied, the disposition
18 or pledging of the pledged revenues, the terms and conditions for the issuance of
19 additional bonds, and the custody, safeguarding, and application of all moneys.

20 Any resolution or trust agreement may restrict the individual right of action
21 by an individual owner of bonds. In addition to the foregoing, any resolution or trust
22 agreement may contain any other provisions as the Council of State considers
23 reasonable and proper for the security of the holders of any bonds. Expenses incurred by
24 the State in carrying out the provisions of the resolution or trust agreement may be paid
25 from the pledged revenues as provided for in the resolution or trust agreement.

26 **SECTION 3.6.** Pledge of Revenues; Limited Obligations. – The State is
27 authorized to pledge the pledged revenues to the payment of the principal of, premium,
28 if any, and interest on bonds issued under this act as they become due and payable, and
29 to create and maintain any reserves therefor, and to fulfill the terms of any agreements
30 made with the holders of bonds issued under this act. Notwithstanding the foregoing,
31 any pledged revenues not required to pay the principal of, premium, if any, and interest
32 on the bonds secured by the pledged revenues as they become due and payable, or to
33 create and maintain any reserves for them, or to fulfill the terms of any agreements
34 made with the holders of the bond issued under this act, shall be available to the State
35 for expenditure for any lawful purpose, subject to the terms and provisions of any
36 resolution or trust agreement authorizing and securing the bonds.

37 Any pledge of the pledged revenues made by the State under the provisions
38 of this act shall be set forth in the resolution or trust agreement authorizing the issuance
39 of the bonds. The pledge of these pledged revenues made by the State shall be valid and
40 binding from the time when the pledge is made. All pledged revenues so pledged and
41 thereafter received by the State are immediately subject to the lien of the pledge without
42 any physical delivery or further act, and the lien of the pledge is valid and binding as
43 against all parties having claims of any kind in tort, contract, or otherwise against the
44 State, irrespective of whether the parties have notice of the lien. The resolution or trust

1 agreement by which a pledge is created need not be filed or recorded except in the
2 records of the Council of State.

3 All bonds issued under this act shall be equally and ratably secured by a
4 pledge, charge, and lien upon the pledged revenues pledged to the payment of those
5 bonds, without priority by reason of number, or of dates of bonds, execution, or
6 delivery, in accordance with the provisions of this act and of the resolution or trust
7 agreement authorizing and securing the bonds; except that the State may provide in the
8 resolution or trust agreement that the bonds shall, to the extent and in the manner
9 prescribed in the resolution or trust agreement, be subordinated and junior in standing
10 with respect to the payment of principal of, premium, if any, and interest on any other
11 bonds.

12 All bonds issued under this act shall be special obligations of the State. The
13 principal of, premium, if any, and interest on the bonds shall not be payable from the
14 general funds of the State, nor shall they constitute a legal or equitable pledge, charge,
15 lien or encumbrance upon any of its property or upon any of its income, receipts, or
16 revenues, except the pledged revenues. Neither the credit nor the taxing power of the
17 State is pledged for the payment of the principal of, premium, if any, or interest on the
18 bonds, and no holder of bonds has the right to compel the exercise of the taxing power
19 by the State or the forfeiture of any of its property in connection with any default on the
20 bonds, except for the pledged revenues. Every bond issued under this act shall recite in
21 substance that the principal of, premium, if any, and interest on the bond is payable
22 solely from the pledged revenues and that the State is not obligated to pay the principal,
23 premium, or interest, except from these pledged revenues so pledged.

24 **SECTION 3.7.** Agreement of the State. – The State pledges to and agrees
25 with the holders of any bonds by the State pursuant to this act that as long as any of the
26 bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the
27 State at the time of issuance of the bonds to collect and apply the pledged revenues in
28 the manner provided in the resolution or trust agreement authorizing and securing the
29 bonds to pay the principal of, premium, if any, and interest on the bonds as they become
30 due and payable, and to create and maintain any reserves for payment, and to fulfill the
31 terms of any agreements made with the holders of the bonds. The State will not in any
32 way impair the rights and remedies of the holders of the bonds until the bonds and all
33 costs and expenses in connection with any action or proceedings by or on behalf of the
34 holders of the bonds, are fully paid, met, and discharged.

35 **SECTION 3.8.** Trust Funds. – Notwithstanding any other provisions of law
36 to the contrary, all moneys received pursuant to the authority of this act, including
37 proceeds of the bonds and the pledged revenues, are trust funds to be held and applied
38 solely as provided in this act. The resolution authorizing the issuance of, or any trust
39 agreement securing any bonds issued under this act may provide that any of these
40 moneys may be temporarily invested pending their disbursement and shall provide that
41 any officer with whom, or any bank or trust company with which, the moneys are
42 deposited shall act as trustee of the moneys and shall hold and apply them for the
43 purposes of this act, subject to any limitations this act and the resolution or trust

1 agreement provide. These moneys may be invested in any investment authorized by law
2 for investment of trust funds held by the State Treasurer.

3 **SECTION 3.9.** Remedies. – Any holder of bonds issued under the
4 provisions of this act, and the trustee under any resolution or trust agreement
5 authorizing and securing the bonds, except to the extent the rights given in this act may
6 be restricted by the resolution or trust agreement, may, either at law or in equity, by suit,
7 action, mandamus, or other proceeding, protect and enforce any and all rights under the
8 laws of the State or granted under this act or under the resolution or trust agreement, or
9 under any other contract executed by the Council of State or the State Treasurer
10 pursuant to this act, and may enforce and compel the performance of all duties required
11 by this act or by the resolution or trust agreement to be performed by the State or by any
12 officer of the State.

13 **SECTION 3.10.** Investment Securities. – All bonds and interest coupons
14 appertaining to them issued under this act are investment securities within the meaning
15 of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or
16 not they are of the form and character as to be investment securities under that act,
17 subject only to the provisions of the bonds pertaining to registration.

18 **SECTION 3.11.** Bonds Eligible for Investment. – Bonds issued under the
19 provisions of this act are securities or obligations in which all of the following may
20 invest, including capital in their control or belonging to them: public officers, agencies,
21 and public bodies of the State and its political subdivisions; insurance companies, trust
22 companies, investment companies, banks, savings banks, savings and loan associations,
23 credit unions, pension or retirement funds, and other financial institutions engaged in
24 business in the State; and executors, administrators, trustees, and other fiduciaries.
25 Bonds issued under the provisions of this act are securities or obligations that may
26 properly and legally be deposited with and received by any officer or agency of the
27 State or political subdivision of the State for any purpose for which the deposit of
28 bonds, notes, or obligations of the State or any political subdivision is now or may later
29 be authorized by law.

30 **SECTION 3.12.** Refunding Bonds. – By and with the consent of the Council
31 of State, the State Treasurer is authorized to issue and sell refunding bonds for the
32 purpose of refunding any bonds issued under this act and then outstanding, including
33 payment of any redemption premium on them and any interest accrued or to accrue to
34 the date of redemption of the refunded bonds. Refunding bonds may be issued at any
35 time prior to the final maturity of the debt or obligation to be refunded. The principal of,
36 premium, if any, and interest on the refunding bonds shall be payable solely from funds
37 provided under this act for payment of bonds.

38 The proceeds from the sale of any refunding bonds shall be applied to the
39 immediate payment and retirement of the obligations being refunded or, if not required
40 for the immediate payment of the obligations being refunded, the proceeds shall be
41 deposited in trust to provide for the payment and retirement of the obligations being
42 refunded and to pay any expenses incurred in connection with the refunding. Money in
43 a trust fund may be invested in (i) direct obligations of the United States government,
44 (ii) obligations the principal of and interest on which are guaranteed by the United

1 States government, (iii) to the extent then permitted by law, obligations of any agency
2 or instrumentality of the United States government, or (iv) certificates of deposit issued
3 by a bank or trust company located in the State if the certificates are secured by a pledge
4 of the obligations described in (i), (ii), or (iii) above having an aggregate market value,
5 exclusive of accrued interest, equal at least to the principal amount of the certificates so
6 secured. This section does not limit the duration of any deposit in trust for the retirement
7 of obligations being refunded but that have not matured and are not presently
8 redeemable, or if presently redeemable, have not been called for redemption.

9 The issuance of refunding bonds, their maturities and other details, the rights
10 of their holders, and the rights, duties, and obligations of the State in respect of them
11 shall be governed by the provisions of this act that relate to the issuance of bonds,
12 insofar as those provisions are appropriate.

13 **SECTION 3.13.** Officers and Employees Not Liable. – No member of the
14 Council of State or officer or employee of the State shall be subject to any personal
15 liability or accountability by reason of the execution or issuance of any bonds under this
16 act.

17 **SECTION 3.14.** Tax exemption. – Any bonds issued by the State under the
18 provisions of this act shall at all times be free from taxation by the State or any political
19 subdivision or any of their agencies, excepting estate, inheritance, and gift taxes;
20 income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on
21 the bonds is not subject to taxation as income.

22 **PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL**

23 **SECTION 4.1.** The Secretary of Health and Human Services shall maintain
24 all existing educational and research programs in psychiatry and psychology conducted
25 by the University of North Carolina School of Medicine at Dorothea Dix Hospital,
26 unless the programs are otherwise modified by the University of North Carolina School
27 of Medicine. The University of North Carolina School of Medicine shall retain authority
28 over all educational and research programs in psychiatry and psychology conducted at
29 the new psychiatric hospital authorized under this act. The Secretary shall consult with
30 the University of North Carolina School of Medicine in programmatic, operational, and
31 facility planning of the new psychiatric hospital to ensure appropriate patient treatment
32 and continuation of educational and research programs conducted by the University of
33 North Carolina School of Medicine.

34 **SECTION 4.2.** Part 3 of Article 8 of Chapter 153A of the General Statutes is
35 amended by adding the following new section to read:

36 **"§ 153A-178. Disposition of county property for a State psychiatric hospital.**

37 When the Secretary of Health and Human Services selects a county for the location
38 of a new State psychiatric hospital as authorized by law, the county selected for the
39 location of the new State psychiatric hospital is authorized under the general law to
40 acquire real and personal property and convey it to the State under G.S. 160A-274 or
41 other applicable law for use as a psychiatric hospital. The county may acquire the
42 property by eminent domain, and the power under this section is supplementary to any
43 other power the county may have to take property by eminent domain."

1 **SECTION 4.3.** G.S. 143-15.3D is amended by adding the following new
2 subsection to read:

3 "(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State
4 appropriations realized from the closure of Dorothea Dix Hospital and John Umstead
5 Hospital that are in excess of the cost of operating and maintaining the new State
6 psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust
7 Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S.
8 143-18, recurring savings realized from the closure of Dorothea Dix Hospital and John
9 Umstead Hospital shall not revert to the General Fund but shall be retained by the
10 Department of Health and Human Services and used for the purposes of subsections
11 (b)(2) and (b)(3) of this section and for the repayment of debt service on financing
12 contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General
13 Statutes for the construction of a new State psychiatric hospital."

14 **SECTION 4.4.(a)** Dorothea Dix Hospital Property Study Commission. – If
15 the State-owned real property encompassing the Dorothea Dix Hospital campus is not
16 transferred to another State agency or agencies before the sale of any or all of the
17 property to a nongovernmental entity, options for this sale shall be considered by the
18 Dorothea Dix Hospital Property Study Commission. The Commission shall make
19 recommendations on the options for sale of the property to the Joint Legislative
20 Commission on Governmental Operations before any sale of any or all parts of the
21 property.

22 **SECTION 4.4.(b)** Creation and Membership. – The Dorothea Dix Hospital
23 Property Study Commission is created. The Commission shall consist of nine members,
24 four appointed by the President Pro Tempore of the Senate and four appointed by the
25 Speaker of the House of Representatives. The Secretary of Health and Human Services
26 shall serve as an ex officio member of the Commission.

27 **PART 5. GENERAL PROVISIONS**

28 **SECTION 5.1.** Interpretation of Act. (a) Additional Method. – This act
29 provides an additional and alternative method for the doing of the things authorized by
30 this act and shall be regarded as supplemental and additional to powers conferred by
31 other laws. Except where expressly provided, this act shall not be regarded as in
32 derogation of any powers now existing. The authority granted in this act is in addition to
33 other laws now or hereinafter enacted authorizing the State to issue or incur
34 indebtedness.

35 **SECTION 5.1.(b)** Statutory References. – References in this act to specific
36 sections or Chapters of the General Statutes are intended to be references to those
37 sections or Chapters as they may be amended from time to time by the General
38 Assembly.

39 **SECTION 5.1.(c)** Liberal Construction. – This act, being necessary for the
40 health and welfare of the people of the State, shall be liberally construed to effect its
41 purposes.

42 **SECTION 5.1.(d)** Severability. – If any provision of this act or its
43 application to any person or circumstance is held invalid, that invalidity does not affect

- 1 other provisions or applications of the act that can be given effect without the invalid
2 provision or application, and to this end the provisions of this act are severable.
3 **SECTION 5.2.** Effective Date. – This act is effective when it becomes law.