

SENATE, No. 1407

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senator CARDINALE

1 AN ACT concerning the New Jersey Health Care Facilities Financing  
2 Authority and the New Jersey Economic Development Authority,  
3 amending various parts of the statutory law, and supplementing  
4 Title 26 of the Revised Statutes.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. (New section) This act shall be known and may be cited as the  
10 "New Jersey Health Care Facilities Financing Consolidation Act of  
11 1996."

12  
13 2. (New section) The Legislature hereby finds and declares that:

14 a. A unified system to provide for capital financing and other  
15 financial needs of health care providers is an essential public service  
16 which promotes access to high quality health care for the State's  
17 population;

18 b. Currently, the jurisdiction over health care facility financing in  
19 the State is split between the New Jersey Health Care Facilities  
20 Financing Authority and the New Jersey Economic Development  
21 Authority which both issue bonds for capital project financing and  
22 provide other assistance to meet the financial needs of the State's  
23 health care providers including the construction, replacement,  
24 expansion and renovation of existing facilities and the financing and  
25 refinancing of existing obligations;

26 c. While the New Jersey Health Care Facilities Financing Authority  
27 provides assistance with construction and renovation projects, low-  
28 interest capital loans, refinancings and compliance monitoring to assist  
29 hospitals and other health care providers, the New Jersey Economic  
30 Development Authority provides financing for certain ancillary  
31 hospital facilities such as office parking garages and other "for profit"  
32 buildings and also assists with financing for nonprofit nursing homes,  
33 long-term care and assisted-living facilities;

34 d. It is in the public interest for the State to promote a more

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 coordinated, unified and comprehensive system of financing capital  
2 projects and providing other types of financial assistance for health  
3 care providers, especially in light of the rapid and complex changes  
4 affecting health care providers in the State and the need for these  
5 providers to adapt to a more competitive environment;

6 e. In furtherance of these findings and declarations, it is altogether  
7 fitting and proper for the State to consolidate the New Jersey Health  
8 Care Facilities Financing Authority with the New Jersey Economic  
9 Development Authority in order to promote a more integrated and  
10 coordinated approach to meeting the financial needs of the State's  
11 health care providers, and to reduce costs by combining the operations  
12 of these two authorities under a single "umbrella" authority.

13  
14 3. Section 2 of P.L.1972, c.29 (C.26:2I-2) is amended to read as  
15 follows:

16 2. Short title. This act shall be known and may be cited as the  
17 "New Jersey Health Care Facilities Financing [Authority] Law."  
18 (cf: P.L.1972, c.29, s.2)

19  
20 4. Section 3 of P.L.1972, c.29 (C.26:2I-3) is hereby amended to  
21 read as follows:

22 3. Terms defined. As used in this act, the following words and  
23 terms shall have the following meanings, unless the context indicates  
24 or requires another or different meaning or intent:

25 "Advisory board" means the Health Care Facilities Financing  
26 Advisory Board established pursuant to section 4 of P.L.1972, c.29  
27 (C.26:2I-4).

28 "Authority" means the New Jersey [Health Care Facilities  
29 Financing] Economic Development Authority created by [this act]  
30 section 4 of P.L.1974, c.80 (C.34:1B-4) or any board, body,  
31 commission, department or officer succeeding to the principal  
32 functions thereof or to whom the powers conferred upon the authority  
33 by this act shall be given by law.

34 "Bond" means bonds, notes or other evidences of indebtedness of  
35 the authority issued pursuant to this act.

36 "Commissioner" means the State Commissioner of [Health]  
37 Commerce and Economic Development.

38 "[Hospital] Health care facility" means a structure suitable to  
39 provide hospitals, hospital related housing facilities, doctors' office  
40 buildings or other health-care facilities for the prevention, diagnosis or  
41 treatment of human disease, pain, injury, disability, deformity or  
42 physical condition or mental illness and retardation, and for facilities  
43 incidental or appurtenant thereto including a health maintenance  
44 organization, public health center, ambulatory care facility, diagnostic  
45 center, treatment center, rehabilitation center, extended care facility,  
46 skilled nursing home, nursing home, intermediate care facility,

1 tuberculosis hospital, chronic disease hospital, maternity hospital,  
2 special hospital, mental hospital, outpatient clinic, dispensary, home  
3 health agency, boarding home or other home for sheltered care  
4 situated within the State and which is a nonprofit institution providing  
5 hospital or health care service to the public.

6 "Original authority" means and includes the New Jersey Health  
7 Care Facilities Financing Authority created by P.L.1972, c.29  
8 (C.26:2I-1 et seq.).

9 "Participating hospital" means a public hospital or private hospital  
10 which has entered into a regulatory agreement in accordance with this  
11 act.

12 "Private hospital" means a hospital or health-care institution, or an  
13 institution for the training of doctors, nurses, paramedical or other  
14 personnel engaged in the provision of health care, other than a State,  
15 county or municipal hospital or health care facility, or related  
16 institution [including a health maintenance organization, public health  
17 center, diagnostic center, treatment center, rehabilitation center,  
18 extended care facility, skilled nursing home, nursing home,  
19 intermediate care facility, tuberculosis hospital, chronic disease  
20 hospital, maternity hospital, special hospital, mental hospital,  
21 outpatient clinic, dispensary, home health agency, boarding home or  
22 other home for sheltered care situated within the State and which is a  
23 nonprofit institution providing hospital or health care service to the  
24 public].

25 "Public hospital" means a State, county or municipal hospital or  
26 health-care facility including health maintenance organization, public  
27 health center, diagnostic center, treatment center, rehabilitation center,  
28 extended care facility, skilled nursing home, nursing home,  
29 intermediate care facility, tuberculosis hospital, chronic disease  
30 hospital, maternity hospital, mental hospital, outpatient clinic,  
31 dispensary, home health care agency, boarding home or other home  
32 for sheltered care now or hereafter established or authorized by law.

33 "Project" [or "hospital project"] means [a specific work,  
34 including lands, buildings, improvements, alterations, renovations,  
35 enlargements, reconstructions, fixtures and articles of personal  
36 property, acquired, constructed, rehabilitated, owned and operated by  
37 a participating hospital]; (1) (a) the acquisition, construction,  
38 reconstruction, repair, alteration, improvement and extension of any  
39 building, structure, facility or other improvement whether or not in  
40 existence or under construction; (b) the purchase and installation of  
41 equipment and machinery; (c) the acquisition and improvement of real  
42 estate and the extension or provision of utilities, access roads and  
43 other appurtenant facilities; and (2) (a) the acquisition, financing, or  
44 refinancing of inventory, raw materials, supplies, work in progress, or  
45 stock in trade; (b) the financing, refinancing or consolidation of  
46 secured or unsecured debt, borrowings, or obligations; or (c) the

1 provision of financing for any other expense incurred in the ordinary  
2 course of business all of which are to be used or occupied pursuant to  
3 this act, to provide [hospital or] health-care facilities or facilities  
4 related, required or useful to or for the operation of a [hospital] health  
5 care facility, and "project" [or "hospital project"] may include any  
6 combination of the foregoing undertaken jointly by any participating  
7 [hospital] health care facility with one or more other participating  
8 [hospitals] health care facilities. Project may also include: (1)  
9 reimbursement to any person for costs in connection with any project,  
10 or the refinancing of any project or portion thereof, if the authority  
11 determines that it is necessary, and in the public interest and will  
12 facilitate improvements thereto or the completion thereof.

13 "Project cost" [or "hospital project cost"] means the sum total of  
14 all or any part of costs incurred or estimated to be incurred by the  
15 authority or by a participating [hospital] health care facility which are  
16 reasonable and necessary for carrying out all works and undertakings  
17 and providing all necessary equipment for the development of a  
18 project, exclusive of the amount of any private or Federal, State or  
19 local financial assistance for and received by a participating [hospital]  
20 health care facility for the payment of such project cost. Such costs  
21 shall include, but are not necessarily limited to, interest prior to,  
22 during and for a reasonable period after such development, start-up  
23 costs and costs of operation and maintenance during the construction  
24 period and for a reasonable additional period thereafter, the cost of  
25 necessary studies, surveys, plans and specifications, architectural,  
26 engineering, legal or other special services, the cost of acquisition of  
27 land, buildings and improvements thereon (including payments for the  
28 relocation of persons displaced by such acquisition), site preparation  
29 and development, construction, reconstruction, equipment, including  
30 fixtures, equipment, and cost of demolition and removal, and articles  
31 of personal property required, the reasonable cost of financing  
32 incurred by a participating [hospital] health care facility or the  
33 authority in the course of the development of the project, reserves for  
34 debt service, the fees imposed upon a participating [hospital] health  
35 care facility by the commissioner and by the authority; other fees  
36 charged, and necessary expenses incurred in connection with the  
37 initial occupancy of the project, and the cost of such other items as  
38 may be reasonable and necessary for the development of a project.  
39 The commissioner's approval of estimated project cost in accordance  
40 with section 6 of this act shall include his approval, which shall be  
41 conclusive, as to the reasonableness or necessity of any item of cost  
42 and as to the reasonableness of any period of time in respect of which  
43 interest, start-up, operation and maintenance costs have included in  
44 project costs.

45 (cf: P.L.1972, c.29, s.3)

46 5. Section 4 of P.L.1972, c.29 (C.26:2I-4) is hereby amended to

1 read as follows:

2 4. Authority created; members; terms; organization meetings;  
3 governor's veto power. a. There is hereby established [in the State  
4 Department of Health, a public body corporate and politic, with  
5 corporate succession, to be known as the "New Jersey Health-Care  
6 Facilities Financing Authority." The authority shall constitute a  
7 political subdivision of the State established as an instrumentality  
8 exercising public and essential governmental functions, and the  
9 exercise by the authority of the powers conferred by this act shall be  
10 deemed and held to be an essential governmental function] the Health  
11 Care Facilities Financing Advisory Board which shall review all  
12 applications for financing of projects through the authority and make  
13 recommendations to the members of the authority.

14 b. The [authority] advisory board shall consist of [seven] eight  
15 members, [three] one of whom shall be the [commissioner]  
16 Commissioner of Health, who shall be the chairman, [the  
17 Commissioner of Insurance, and the Commissioner of the Department  
18 of Institutions and Agencies,] who shall serve during [their] the  
19 commissioner's [terms] term of office, or when so designated by  
20 [them] the commissioner, [their deputies] the commissioner's deputy  
21 or other [representatives] representative, who shall serve at [their] the  
22 commissioner's pleasure, and [four] two public members [who] , one  
23 physician, three representatives of the hospital industry and one  
24 representative of the financial services industry, all of whom are  
25 citizens of the State, to be appointed by the Governor, with the advice  
26 and consent of the Senate for terms of 4 years; provided that the  
27 [four] members first appointed by the Governor shall serve terms  
28 expiring on the first, second, third, and fourth, respectively, April 30  
29 ensuing after the enactment of [this act] P.L. , c. (C. ) (now  
30 before the Legislature as this bill) provided that on the effective date  
31 of P.L. , c. (C. ) (now before the Legislature as this bill), the  
32 current members of the original authority shall cease to be members of  
33 the original authority and shall immediately become interim members  
34 of the advisory board until such time as the Governor appoints the new  
35 members of the advisory board and the new members have qualified  
36 pursuant to this section. Each member shall hold office for the term  
37 of [his] the member's appointment and until [his] the member's  
38 successor shall have been appointed and qualified. Any vacancy  
39 among the public members shall be filled by appointment for the  
40 unexpired term only and in the same manner as the original  
41 appointment.

42 c. Any member of the [authority] advisory board appointed by the  
43 Governor may be removed from office by the Governor for cause after  
44 a public hearing.

45 d. The members of the [authority] advisory board shall serve  
46 without compensation, but the [authority] advisory board may

1 reimburse its members for necessary expenses incurred in the discharge  
2 of their official duties.

3 e. The [authority] advisory board, upon the first appointment of its  
4 members and thereafter on or after April 30 in each year, shall  
5 annually elect from among its members a vice chairman who shall hold  
6 office until April 30 next ensuing and shall continue to serve during  
7 the term of [his] the member's successor and until [his] the member's  
8 successor shall have been appointed and qualified. The [authority]  
9 advisory board may also appoint, retain and employ, without regard  
10 to the provisions of [Title 11, Civil Service, of the Revised Statutes]  
11 Title 11A of the New Jersey Statutes, such officers, agents, and  
12 employees as it may require to assist the advisory board, and it shall  
13 determine their qualifications, terms of office, duties, services and  
14 compensation.

15 f. The powers of the [authority] advisory board shall be vested in  
16 the members thereof in office from time to time and a majority of the  
17 total authorized membership of the [authority] advisory board shall  
18 constitute a quorum at any meeting thereof. Action may be taken and  
19 motions and resolutions adopted by the [authority] advisory board at  
20 any meeting thereof by the affirmative vote of a majority of the  
21 members present, unless in any case the bylaws of the [authority]  
22 advisory board shall require a larger number. No vacancy in the  
23 membership of the [authority] advisory board shall impair the right of  
24 a quorum to exercise all the rights and perform all the duties of the  
25 [authority] advisory board.

26 [g. Each member and the treasurer of the authority shall execute  
27 a bond to be conditioned upon the faithful performance of the duties  
28 of such member or treasurer, as the case may be, in such form and  
29 amount as may be prescribed by the Attorney General. Such bonds  
30 shall be filed in the office of the Secretary of State. At all times  
31 thereafter the members and treasurer of the authority shall maintain  
32 such bonds in full force and effect. All costs of such bonds shall be  
33 borne by the authority.

34 h. No trustee, director, officer or employee of a hospital may serve  
35 as a member of the authority.

36 i. At least two true copies of the minutes of every meeting of the  
37 authority shall be forthwith delivered by and under the certification of  
38 the secretary thereof, to the Governor. No action taken at such  
39 meeting by the authority shall have force or effect until 10 days,  
40 exclusive of Saturdays, Sundays and public holidays, after such copies  
41 of the minutes shall have been so delivered or at such earlier time as  
42 the Governor shall sign a statement of approval thereof. If, in said  
43 10-day period, the Governor returns a copy of the minutes with veto  
44 of any action taken by the authority or any member thereof at such  
45 meeting, such action shall be null and of no effect. If the Governor  
46 shall not return the minutes within said 10-day period, any action

1 therein recited shall have force and effect according to the wording  
2 thereof. At any time prior to the expiration of the said 10-day period,  
3 the Governor may sign a statement of approval of all or any such  
4 action of the authority.

5 The powers conferred in this subsection upon the Governor shall be  
6 exercised with due regard for the rights of the holders of bonds of the  
7 authority at any time outstanding.]

8 (cf: P.L.1972, c.29, s.4)

9

10 6. (New section) The advisory board, established pursuant to  
11 section 4 of P.L.1972, c.29 (C.26:2I-4), shall have the power,  
12 subject to the approval of the authority:

13 a. To adopt bylaws for the regulation of its affairs and the conduct  
14 of its business.

15 b. To assist the authority in reviewing, evaluating and obtaining  
16 loans, grants, aid or contributions from any public agency,  
17 governmental agency or any other source for or in aid of any project.

18 c. To advise the authority in the event the authority takes over a  
19 participating health care facility in the event of default.

20 d. To assist the authority with the transition of functions from the  
21 original authority to the authority.

22 e. To assist the authority with the preparation of reports required  
23 pursuant to P.L. , c. (C. ) (now before the Legislature as this  
24 bill), and P.L.1972, c.29 (C.26:2I-1 et seq.).

25 f. To review all applications from health care facilities for financing  
26 from the authority and provide recommendations to the authority  
27 within 60 days of the advisory board's receipt of the application.

28 g. To recommend a plan to the authority, within 60 days of the  
29 effective date of P.L. , c. (C. ) (now before the Legislature  
30 as this bill), for the use of fund balances.

31

32 7. Section 5 of P.L.1972, c.29 (C.26:2I-5) is amended to read as  
33 follows:

34 5. Powers of authority. The authority shall have power:

35 a. To adopt bylaws for the regulation of its affairs and the conduct  
36 of its business and to alter and revise such bylaws from time to time at  
37 its discretion.

38 b. To adopt and have an official seal and alter the same at pleasure.

39 c. To maintain an office at such place or places within the State as  
40 it may designate.

41 d. To sue and be sued in its own name.

42 e. To borrow money and to issue bonds of the authority and to  
43 provide for the rights of the holders thereof as provided in this act.

44 f. To acquire, lease as lessee or lessor, hold and dispose of real and  
45 personal property or any interest therein, in the exercise of its powers  
46 and the performance of its duties under this act.

1 g. To acquire in the name of the authority by purchase or  
2 otherwise, on such terms and conditions and in such manner as it may  
3 deem proper, any land or interest therein and other property which it  
4 may determine is reasonably necessary for any project; and to hold and  
5 use the same and to sell, convey, lease or otherwise dispose of  
6 property so acquired, no longer necessary for the authority's purposes,  
7 for fair consideration after public notice.

8 h. To receive and accept, from any federal or other public agency  
9 or governmental entity directly or through the Department of Health  
10 or any other agency of the State or any participating hospital, grants  
11 or loans for or in aid of the acquisition or construction of any project,  
12 and to receive and accept aid or contributions from any other source,  
13 of either money, property, labor or other things of value, to be held,  
14 used and applied only for the purposes for which such grants, loans  
15 and contributions may be made.

16 i. To prepare or cause to be prepared plans, specifications, designs  
17 and estimates of costs for the construction and equipment of [hospital]  
18 health care facility projects for participating [hospitals] health care  
19 facilities under the provisions of this act, and from time to time to  
20 modify such plans, specifications, designs or estimates.

21 j. By contract or contracts with and for participating [hospitals]  
22 health care facilities only, to construct, acquire, reconstruct,  
23 rehabilitate and improve, and furnish and equip [hospital] projects.  
24 The authority, in the exercise of its authority to make and enter into  
25 contracts and agreements necessary or incidental to the performance  
26 of its duties and the execution of its powers, shall adopt standing rules  
27 and procedures providing that, except as hereinafter provided, no  
28 contract on behalf of the authority shall be entered into for the doing  
29 of any work, or for the hiring of equipment or vehicles, where the sum  
30 to be expended exceeds the sum of \$7,500.00 or the amount  
31 determined as provided in this subsection, unless the authority shall  
32 first publicly advertise for bids therefor, and shall award the contract  
33 to the lowest responsible bidder; provided, however, that such  
34 advertising shall not be required where the contract to be entered into  
35 is one for the furnishing or performing services of a professional  
36 nature or for the supplying of any product or the rendering of any  
37 service by a public utility subject to the jurisdiction of the Board of  
38 Public Utilities, and tariffs and schedules of the charges, made,  
39 charged, or exacted by the public utility for any such products to be  
40 supplied or services to be rendered are filed with said board. The  
41 Governor, in consultation with the Department of the Treasury, shall,  
42 no later than March 1 of each odd-numbered year, adjust the threshold  
43 amount set forth in this subsection, or subsequent to 1985 the  
44 threshold amount resulting from any adjustment under this subsection  
45 or section 17 of P.L.1985, c.469, in direct proportion to the rise or fall  
46 of the Consumer Price Index for all urban consumers in the New York

1 City and the Philadelphia areas as reported by the United States  
2 Department of Labor. The Governor shall, no later than June 1 of each  
3 odd-numbered year, notify the authority of the adjustment. The  
4 adjustment shall become effective July 1 of each odd-numbered year.

5 k. To determine the location and character of any project to be  
6 undertaken, subject to the provisions of this act, and subject to State  
7 health and environmental laws, to construct, reconstruct, maintain,  
8 repair, lease as lessee or lessor, and regulate the same and operate the  
9 same in the event of default by a participating [hospital] health care  
10 facilities of its obligations and agreements with the authority; to enter  
11 into contracts for any or all such purposes; and to enter into contracts  
12 for the management and operation of a project in the event of default  
13 as herein provided. The authority shall use its best efforts to conclude  
14 its position as an operator as herein provided as soon as is practicable.

15 l. To establish rules and regulations for the use of a project or any  
16 portion thereof and to designate a participating[ hospital] health care  
17 facility as its agent to establish rules and regulations for the use of a  
18 project undertaken by such a participating [hospital] health care  
19 facility.

20 m. Generally to fix and revise from time to time and to charge and  
21 collect rates, rents, fees and other charges for the use of and for the  
22 services furnished or to be furnished by a project or any portion  
23 thereof and to contract with holders of its bonds and with any other  
24 person, party, association, corporation or other body, public or  
25 private, in respect thereof, subject to the provisions of the "Health  
26 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.).

27 n. To enter into agreements or contracts, execute any and all  
28 instruments, and do and perform any and all acts or things necessary,  
29 convenient or desirable for the purposes of the authority or to carry  
30 out any power expressly given in this act.

31 o. To invest any moneys held in reserve or sinking funds, or any  
32 moneys not required for immediate use or disbursement, at the  
33 discretion of the authority, in such obligations as are authorized by  
34 resolution of the authority.

35 p. To obtain, or aid in obtaining, from any department or agency  
36 of the United States any insurance or guarantee as to, or of, or for the  
37 payment or repayment of interest or principal, or both, or any part  
38 thereof, on any loan or any instrument evidencing or securing the  
39 same, made or entered into pursuant to the provisions of this act; and  
40 notwithstanding any other provisions of this act, to enter into  
41 agreement, contract or any other instrument whatsoever with respect  
42 to any such insurance or guarantee, and accept payment in such  
43 manner and form as provided therein in the event of default by the  
44 borrower.

45 q. To obtain from any department or agency of the United States  
46 or a private insurance company any insurance or guarantee as to, or of,

1 or for the payment or repayment of interest or principal, or both, or  
2 any part thereof, on any bonds issued by the authority pursuant to the  
3 provisions of this act; and notwithstanding any other provisions of this  
4 act, to enter into any agreement, contract or any other instrument  
5 whatsoever with respect to any such insurance or guarantee, except to  
6 the extent that such action would in any way impair or interfere with  
7 the authority's ability to perform and fulfill the terms of any agreement  
8 made with the holders of the bonds of the authority.

9 r. To receive and accept, from any department or agency of the  
10 United States or of the State or from any other entity, any grant,  
11 appropriation or other moneys to be used for or applied to any  
12 corporate purpose of the authority, including without limitation the  
13 meeting of debt service obligations of the authority in respect of its  
14 bonds.

15 (cf: P.L.1985, c.469, s.2)

16  
17 8. Section 6 of P.L.1972, c.29 (C.26:2I-6) is amended to read as  
18 follows:

19 6. Approval of project costs; regulatory agreements; expenses.  
20 Notwithstanding any other provision of this act, the authority shall not  
21 acquire or authorize the acquisition, the commencement of  
22 construction or rehabilitation of any project or [hospital] health care  
23 facility to be leased to a participating [hospital] health care facility, in  
24 respect of any project where such acquisition or work is to be done by  
25 the authority, nor advance loan funds to any participating [hospital]  
26 health care facility, in respect of a project involving a loan to such  
27 [hospital] health care facility, until (i) the estimated project cost shall  
28 have been approved by the [commissioner] Commissioner of Health  
29 and (ii) the participating [hospital] health care facility shall have  
30 entered into a regulatory agreement with the [commissioner]  
31 Commissioner of Health. Such regulatory agreement shall contain  
32 such provisions as shall be deemed adequate by the [commissioner]  
33 Commissioner of Health to assure that the project shall be constructed,  
34 maintained and operated in a manner consistent with the purposes of  
35 this act and the Health Care Facilities Planning Act, P.L.1971, c.136  
36 (C.26:2H-1 et seq.).

37 The requirements of the preceding paragraph shall not preclude the  
38 authority from taking actions, and incurring expenses in connection  
39 therewith, preliminary to the actual acquisition or commencement of  
40 construction or rehabilitation of facilities or the advancing of loan  
41 funds in respect of any proposed project, provided, that all expenses  
42 incurred in carrying out the provisions of this act shall be payable  
43 solely from funds provided under the authority of this act and no  
44 liability or obligation shall be incurred by the authority hereunder  
45 beyond the extent to which moneys shall have been provided under  
46 the provisions of this act.

1 (cf: P.L.1972, c.29, s.6)

2

3 9. (New section) a. The authority is hereby required to maintain  
4 the following reserves:

5 (1) A reserve equal to two times the operating expenses associated  
6 with its activities; and

7 (2) A reserve of two million dollars in the event of bankruptcies or  
8 other contingencies.

9 b. Within six months of the effective date of P.L. , c. (C. )  
10 (now before the Legislature as this bill), the authority shall report to  
11 the Governor on the amount of such reserves that it deems  
12 appropriate, consistent with sound financial planning. On acceptance  
13 of such report by the Governor, the level of reserves set forth herein  
14 shall be immediately modified to reflect the amounts recommended by  
15 the authority and accepted by the Governor.

16 c. All fund balances remaining after the establishment of the  
17 reserves required by this section may be utilized for projects  
18 authorized by the "New Jersey Health Care Facilities Financing Law,"  
19 P.L.1972, c.29 (C.26:2I-1 et seq.) provided that the income and  
20 expenses generated for such projects shall be separately accounted for  
21 by the authority.

22

23 10. Section 21 of P.L.1972, c.29 (C.26:2I-21) is amended to read  
24 as follows:

25 21. Visatorial powers; department of [health]commerce and  
26 economic development; commissioner. The Department of [Health]  
27 Commerce and Economic Development , or the commissioner or their  
28 representatives, may visit, examine into and inspect, the authority and  
29 may require, as often as desired, duly verified reports therefrom  
30 giving such information and in such form as such department or  
31 commissioner shall prescribe.

32 (cf: P.L.1971, c.29, s.21)

33

34 11. Section 4 of P.L.1974, c.80 (C.34:1B-4) is amended to read as  
35 follows:

36 4. a. There is hereby established in, but not of, the Department of  
37 Commerce and Economic Development a public body corporate and  
38 politic, with corporate succession, to be known as the "New Jersey  
39 Economic Development Authority." The authority is hereby  
40 constituted as an instrumentality of the State exercising public and  
41 essential governmental functions, and the exercise by the authority of  
42 the powers conferred by this act shall be deemed and held to be an  
43 essential governmental function of the State.

44 b. The authority shall consist of the Commissioner of Banking, the  
45 Commissioner of Commerce and Economic Development, the  
46 Commissioner of Labor, the Commissioner of Health, the

1 Commissioner of Insurance, and the State Treasurer, who shall be  
2 members ex officio, and six public members appointed by the  
3 Governor with the advice and consent of the Senate, of which one  
4 public member (who shall not be a legislator) shall be appointed by the  
5 Governor upon recommendation of the Senate President and one  
6 public member (who shall not be a legislator) shall be appointed by the  
7 Governor upon recommendation of the Speaker of the General  
8 Assembly, all for terms of three years. The first two public member  
9 positions on the authority that are or become vacant on or after the  
10 effective date of P.L.1992, c.16 (C.34:1B-7.10 et al.) shall be filled by  
11 appointment of the Governor upon the recommendation of the Senate  
12 President and the Speaker of the General Assembly, respectively.  
13 Each member shall hold office for the term of his appointment and  
14 until his successor shall have been appointed and qualified. A member  
15 shall be eligible for reappointment. Any vacancy in the membership  
16 occurring other than by expiration of term shall be filled in the same  
17 manner as the original appointment but for the unexpired term only.  
18 In the event the authority shall by resolution determine to accept the  
19 declaration of an urban growth zone by any municipality, the mayor or  
20 other chief executive officer of such municipality shall ex officio be a  
21 member of the authority for the purpose of participating and voting on  
22 all matters pertaining to such urban growth zone.

23 The Governor shall appoint with the advice and consent of the  
24 Senate, three alternate members of the authority, of which one  
25 alternate member (who shall not be a legislator) shall be appointed by  
26 the Governor upon the recommendation of the Senate President, and  
27 one alternate member (who shall not be a legislator) shall be appointed  
28 by the Governor upon the recommendation of the Speaker of the  
29 General Assembly, all for terms of three years. The first two alternate  
30 member positions on the authority that are or become vacant on or  
31 after the effective date of P.L.1992, c.16 (C.34:1B-7.10 et al.) shall be  
32 filled by appointment of the Governor upon the recommendation of the  
33 Senate President and the Speaker of the General Assembly,  
34 respectively. The chairperson may authorize an alternate member, in  
35 order of appointment, to exercise all of the powers, duties and  
36 responsibilities of such member, including, but not limited to, the right  
37 to vote on matters before the authority.

38 Each alternate member shall hold office for the term of his  
39 appointment and until his successor shall have been appointed and  
40 qualified. An alternate member shall be eligible for reappointment.  
41 Any vacancy in the alternate membership occurring other than by the  
42 expiration of a term shall be filled in the same manner as the original  
43 appointment but for the unexpired term only. Any reference to a  
44 member of the authority in this act shall be deemed to include alternate  
45 members unless the context indicates otherwise.

46 c. Each member appointed by the Governor may be removed from

1 office by the Governor, for cause, after a public hearing, and may be  
2 suspended by the Governor pending the completion of such hearing.  
3 Each member before entering upon his duties shall take and subscribe  
4 an oath to perform the duties of his office faithfully, impartially and  
5 justly to the best of his ability. A record of such oaths shall be filed in  
6 the office of the Secretary of State.

7 d. The Commissioner of Commerce and Economic Development  
8 may, at his discretion, serve as the chairperson of the authority or may  
9 appoint one of the six public members of the authority as chairperson.  
10 Any such designation or appointment shall be made in writing and shall  
11 be delivered to the authority and to the Governor and shall continue  
12 in effect until revoked or amended by a writing delivered to the  
13 authority and the Governor. The members of the authority shall elect  
14 from their remaining number a vice chairperson and a treasurer  
15 thereof. The authority shall employ an executive director who shall be  
16 its secretary and chief executive officer. The powers of the authority  
17 shall be vested in the members thereof in office from time to time and  
18 [~~six~~] seven members of the authority shall constitute a quorum at any  
19 meeting thereof. Action may be taken and motions and resolutions  
20 adopted by the authority at any meeting thereof by the affirmative vote  
21 of at least [~~six~~] seven members of the authority. No vacancy in the  
22 membership of the authority shall impair the right of a quorum of the  
23 members to exercise all the powers and perform all the duties of the  
24 authority.

25 e. Each member of the authority shall execute a bond to be  
26 conditioned upon the faithful performance of the duties of such  
27 member in such form and amount as may be prescribed by the Director  
28 of the Division of Budget and Accounting in the Department of the  
29 Treasury. Such bonds shall be filed in the office of the Secretary of  
30 State. At all times thereafter the members and treasurer of the  
31 authority shall maintain such bonds in full force and effect. All costs  
32 of such bonds shall be borne by the authority.

33 f. The members of the authority shall serve without compensation,  
34 but the authority shall reimburse its members for actual expenses  
35 necessarily incurred in the discharge of their duties. Notwithstanding  
36 the provisions of any other law, no officer or employee of the State  
37 shall be deemed to have forfeited or shall forfeit his office or  
38 employment or any benefits or emoluments thereof by reason of his  
39 acceptance of the office of ex officio member of the authority or his  
40 services therein.

41 g. Each ex officio member of the authority may designate an officer  
42 or employee of his department to represent him at meetings of the  
43 authority, and each such designee may lawfully vote and otherwise act  
44 on behalf of the member for whom he constitutes the designee. Any  
45 such designation shall be in writing delivered to the authority and shall  
46 continue in effect until revoked or amended by writing delivered to the

1 authority.

2 h. The authority may be dissolved by act of the Legislature on  
3 condition that the authority has no debts or obligations outstanding or  
4 that provision has been made for the payment or retirement of such  
5 debts or obligations. Upon any such dissolution of the authority, all  
6 property, funds and assets thereof shall be vested in the State.

7 i. A true copy of the minutes of every meeting of the authority shall  
8 be forthwith delivered by and under the certification of the secretary  
9 thereof to the Governor. No action taken at such meeting by the  
10 authority shall have force or effect until 10 days, Saturdays, Sundays,  
11 and public holidays excepted, after the copy of the minutes shall have  
12 been so delivered , unless during such 10-day period the Governor  
13 shall approve the same in which case such action shall become  
14 effective upon such approval. If, in that 10-day period, the Governor  
15 returns such copy of the minutes with veto of any action taken by the  
16 authority or any member thereof at such meeting, such action shall be  
17 null and void and of no effect. The powers conferred in this  
18 subsection i. upon the Governor shall be exercised with due regard for  
19 the rights of the holders of bonds and notes of the authority at any  
20 time outstanding, and nothing in, or done pursuant to, this subsection  
21 i. shall in any way limit, restrict or alter the obligation or powers of the  
22 authority or any representative or officer of the authority to carry out  
23 and perform in every detail each and every covenant, agreement or  
24 contract at any time made or entered into by or on behalf of the  
25 authority with respect to its bonds or notes or for the benefit,  
26 protection or security of the holders thereof.

27 j. On or before March 31 in each year, the authority shall make an  
28 annual report of its activities for the preceding calendar year to the  
29 Governor and the Legislature. Each such report shall set forth a  
30 complete operating and financial statement covering the authority's  
31 operations during the year. The authority shall cause an audit of its  
32 books and accounts to be made at least once in each year by certified  
33 public accountants and cause a copy thereof to be filed with the  
34 Secretary of State and the Director of the Division of Budget and  
35 Accounting in the Department of the Treasury.

36 k. The Director of the Division of Budget and Accounting in the  
37 Department of the Treasury and his legally authorized representatives  
38 are hereby authorized and empowered from time to time to examine  
39 the accounts, books and records of the authority including its receipts,  
40 disbursements, contracts, sinking funds, investments and any other  
41 matters relating thereto and to its financial standing.

42 l. No member, officer, employee or agent of the authority shall be  
43 interested, either directly or indirectly, in any project or in any  
44 contract, sale, purchase, lease or transfer of real or personal property  
45 to which the authority is a party.

46 (cf: P.L.1995, c.227.5.1)

1       12. (New section) a. Immediately upon the effective date of  
2 P.L. , c. (C. ) (now before the Legislature as this bill):

3       (1) The authority shall become the successor authority to the  
4 original authority and the powers, duties and functions of the original  
5 authority shall then and thereafter be vested in and shall be exercised  
6 by the authority to the extent provided by the provisions of P.L. ,  
7 c. (C. ) (now before the Legislature as this bill).

8       (2) The officers having custody of the funds of the original  
9 authority shall deliver those funds into the custody of the chief  
10 financial officer of the authority, all the property, real and personal,  
11 including moneys, investments, causes of action and every other asset  
12 of the original authority shall become the property and assets of the  
13 authority, without further act or deed, and the original authority shall  
14 cease to exist, provided that the title to any real estate, or interest  
15 therein, vested in the original authority shall not revert or be in any  
16 way impaired by reason of the succession effected hereby.

17       (3) The authority shall assume and be liable for all the liabilities  
18 and obligations of the original authority to make payments on its  
19 outstanding bonds, and notes or other obligations and no liability or  
20 obligation due or to become due, claim or demand for any cause  
21 existing against the original authority respectively, or any officer or  
22 member thereof, shall be released or impaired or in any respect  
23 expanded in regard to the source of payment thereof or otherwise, by  
24 the succession provided for by any provision of P.L. , c. (C. )(now  
25 before the Legislature as this bill). Neither the rights of creditors nor  
26 any liens upon, or security interests in, the property of the original  
27 authority shall be impaired by the succession. No action or  
28 proceeding, whether civil or criminal, pending by or against the  
29 original authority, respectively, or any officer or member thereof, shall  
30 abate or be discontinued by the succession, but may be enforced,  
31 prosecuted, settled or compromised as if such succession had not  
32 occurred, or the authority may be substituted in such action or special  
33 proceeding in place of the original authority, as the case may be.

34       (4) With respect to contracts, agreements, leases, and other similar  
35 arrangements previously made by and between the original authority  
36 and any other party, the authority shall, in succeeding to the powers,  
37 duties and functions of the original authority, perform all the  
38 obligations and duties of, and shall have all the rights, powers, and  
39 functions of, the original authority under and pursuant to such  
40 contracts, agreements, leases or other similar arrangements.

41       (5) The authority shall possess all the rights, privileges, immunities,  
42 powers and purposes of the original authority and nothing in P.L. ,  
43 c. (C. )(now before the Legislature as this bill), shall limit or  
44 otherwise affect the power of the authority to issue bonds, notes and  
45 other obligations under and pursuant to and in accordance with, the  
46 terms and conditions of the "New Jersey Economic Development

1 Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.) and the "New  
2 Jersey Health Care Facilities Financing Law," P.L.1972, c.29 (C.26:2I-  
3 1 et seq.), or to alter the terms and conditions of any grants, loans,  
4 bonds or agreements made by the original authority. Nothing in  
5 P.L. , c. (C. ) (now before the Legislature as this bill) shall be  
6 construed to alter the terms, conditions, rights or remedies of any  
7 obligation issued by the original authority.

8 (6) In addition to succeeding to the powers, duties and functions  
9 of the original authority, the authority is authorized to issue bonds,  
10 notes and other obligations for any purpose for which the original  
11 authority was authorized by law to issue bonds, notes or other  
12 obligations, under and pursuant to, and in accordance with the terms  
13 and conditions of, and subject to the limitations in, the "New Jersey  
14 Health Care Facilities Financing Law," P.L.1972, c.29 (C.26:2I-1 et  
15 seq.), and the "New Jersey Economic Development Authority Act,"  
16 P.L.1974, c.80 (C.34:1B-1 et seq.).

17 (7) The exercise of powers, duties and functions of the original  
18 authority to which the authority has succeeded, including, without  
19 limitation, the execution of contracts in connection therewith, shall be  
20 governed by applicable provisions of the "New Jersey Health Care  
21 Facilities Financing Law," P.L.1972, c.29 (C.26:2I-1 et seq.), and the  
22 "New Jersey Economic Development Authority Act," P.L.1974, c. 80  
23 (C.34:1B-1 et seq.).

24 (8) The officers and employees of the original authority shall be  
25 transferred to the authority and shall become employees of the  
26 authority until determined otherwise by the authority.

27 Nothing in P.L. , c. (C. ) (now before the Legislature as this  
28 bill) shall be construed to deprive any officers or employees of their  
29 rights, privileges, obligations or status with respect to any pension or  
30 retirement system. The officers and employees of the original  
31 authority who are transferred to the authority shall continue to be  
32 enrolled in the Public Employees Retirement System and, for the  
33 purposes of P.L. , c. (C. ) (now before the Legislature as this  
34 bill), the authority shall be considered to be a State agency which shall  
35 make the appropriate contributions on behalf of such officers and  
36 employees to the Public Employees Retirement System in order to  
37 maintain their rights, privileges, obligations or status with respect to  
38 that retirement system. The employees shall retain all of their rights  
39 and benefits under existing collective bargaining agreements or  
40 contracts until such time as new or revised agreements or contracts are  
41 agreed to or these agreements or contracts shall expire. All existing  
42 bargaining agents shall be retained to act on behalf of those employees  
43 until such time as the employees shall, pursuant to law, elect to change  
44 those agents.

45 Nothing in P.L. , c. (C. ) (now before the Legislature as  
46 this bill) shall affect the civil service status, if any, of those officers or

1 employees. The provisions of this subsection shall not apply to any  
2 officer or employee appointed or employed, or any collective  
3 bargaining agreement entered into, on or after the date of enactment  
4 of P.L. , c. (C. ) (now before the Legislature as this bill).  
5 Nothing in P.L. , c. (C. ) (now before the Legislature as this  
6 bill), shall be construed as providing for the permanent tenure of  
7 officers or employees who were granted this tenure by the original  
8 authority and no officer or employee transferred pursuant to  
9 subparagraph (8) of this subsection shall be deemed to receive or  
10 enjoy permanent tenure with the authority by virtue of any action of  
11 the original authority.

12 (9) In continuing the functions, contracts, obligations and duties of  
13 the original authority, the authority is authorized to act in its own  
14 name or in the name of the original authority as may be convenient or  
15 advisable under the circumstances from time to time.

16 (10) Any references to the original authority in any other law or  
17 regulation shall be deemed to refer and apply to the authority.

18 (11) All rules and regulations of the original authority shall  
19 continue in effect as the rules and regulations of the authority until  
20 amended, supplemented or rescinded by the authority in accordance  
21 with law.

22 (12) All operations of the original authority shall continue as  
23 operations of the authority until altered by the authority as may be  
24 permitted pursuant to P.L. c. (C. ) (now before the  
25 Legislature as this bill), and pursuant to P.L.1972, c.29 (C.26:2I-1 et  
26 seq.).

27 (13) The powers vested in the authority by P.L. c. (C. )  
28 (now before the Legislature as this bill) shall be construed as being in  
29 addition to, and not in diminution of, the powers heretofore vested by  
30 law in the original authority to the extent not otherwise altered or  
31 provided for in P.L. , c. (C. ) (now before the Legislature as  
32 this bill).

33 b. All transfers directed by P.L. , c. (C. ) (now before the  
34 Legislature as this bill), shall be made in accordance with, and subject  
35 to, the provisions of the "State Agency Transfer Act," P.L.1971, c.375  
36 (C.52:14D-1 et seq.).

37  
38 13. (New section) The authority shall submit to the Governor,  
39 within three months of the effective date of P.L. , c. (C. )  
40 (now before the Legislature as this bill), the following:

41 a. A report analyzing where operational, financial, procedural and  
42 organizational improvements can be made as a result of P.L. , c.  
43 (C. ) (now before the Legislature as this bill);

44 b. A report of the impact of the consolidation on any projects of  
45 the authority and original authority;

46 c. A report identifying positions or functions which may be

1 eliminated as a result of P.L. , c. (C. ) (now before the  
2 Legislature as this bill);

3 d. Recommendations for additional legislative initiatives to achieve  
4 further operational, procedural, organizational or financial  
5 improvements; and

6 e. Recommendations for reductions in the fees paid by participating  
7 health care facilities in connection with applications with the original  
8 authority.

9  
10 14. This act shall take effect 90 days following the date of  
11 enactment.

#### 12 13 14 STATEMENT

15  
16 This bill provides that, immediately upon the effective date of the  
17 bill, the New Jersey Economic Development Authority (NJEDA) shall  
18 become the successor authority to the New Jersey Health Care  
19 Facilities Financing Authority (NJHCFFA), which shall thereafter  
20 cease to exist.

21 The bill also provides that the seven members of the NJHCFFA  
22 shall be replaced, immediately upon the effective date of this bill,  
23 with an eight-member Health Care Facility Financing Advisory Board  
24 composed of the Commissioner of Health, who shall serve ex officio,  
25 two public members, one physician, three representatives of the  
26 hospital industry and one representative of the financial services  
27 industry, all of whom are to be appointed by the Governor, with the  
28 advice and consent of the Senate.

29 The advisory board shall review applications for financing of health  
30 care facility projects through the NJEDA and make recommendations  
31 to members of the NJEDA. Immediately upon the effective date of the  
32 bill, the NJEDA shall succeed to the functions, powers and duties of  
33 the NJHCFFA and the employees of the NJHCFFA shall be employees  
34 of the NJEDA, until otherwise determined by the NJEDA.

35 The bill further provides that the NJEDA shall submit a report to  
36 the Governor, within three months of the effective date of the bill,  
37 analyzing the improvements resulting from the bill and the impact of  
38 the consolidation on projects, identifying functions or positions that  
39 may be eliminated as a result of the consolidation and recommending  
40 any additional legislative initiatives needed to further implement the  
41 goals of the bill.

42 The bill also amends P.L.1974, c.80 (C.34:1B-1 et seq.) to add the  
43 Commissioner of Health and the Commissioner of Insurance as  
44 members of the NJEDA.

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3 Provides for establishing the New Jersey Economic Development

4 Authority as the successor authority to the New Jersey Health Care

5 Facilities Financing Authority.