

SENATE, No. 2226

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 17, 1997

By Senator INVERSO

1 AN ACT concerning the New Jersey Health Care Facilities Financing  
2 Authority and amending P.L.1972, c.29.

3

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

6

7 1. The Title of P.L.1972, c.29 is amended to read as follows:

8 AN ACT relating to the financing of health care facilities [and],  
9 equipment and services; creating the New Jersey Health Care  
10 Facilities Financing Authority and prescribing its powers and duties;  
11 authorizing the issuance of bonds and notes of the authority and  
12 providing for the terms and security thereof, and making an  
13 appropriation therefor.

14 (c.f: P.L.1972, c.29, Title)

15

16 2. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as  
17 follows:

18 1. It is hereby declared that a serious public emergency exists  
19 affecting the health, safety and welfare of the people of the State  
20 resulting from the fact that many [hospitals and other health-care]  
21 health care facilities throughout the State are [becoming obsolete and  
22 are] no longer adequate to meet the needs of modern [medicine]  
23 health care. [As a result of rapid technological changes, such facilities  
24 require substantial structural or functional changes. Others are  
25 unsuited for continued use by virtue of their location and the physical  
26 characteristics of their existing plants and should be replaced. Such  
27 inadequate] Inadequate and outmoded facilities deny to the people of  
28 the State the benefits of health care of the highest quality, efficiently  
29 and promptly provided at a reasonable cost. [Their replacement and  
30 modernization is essential to protect and prolong the lives of the  
31 State's population and cannot readily be accomplished by the ordinary  
32 unaided operation of private enterprise. Existing hospitals and other  
33 health-care facilities must be adapted to accommodate new concepts

**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 of medical treatment and provide units for the treatment of  
2 alcoholism, narcotics addiction and other social ills] As a result,  
3 health care providers are restructuring their organizations, facilities  
4 and operations in order to develop integrated health care delivery  
5 systems capable of providing a full range of health care services in the  
6 most cost-effective manner.

7 It is the purpose of this act to [encourage the timely construction  
8 and modernization, including the equipment, of hospital and other  
9 health-care facilities, which are necessary for the diagnosis or  
10 treatment of human disease, pain, injury, disability, deformity or  
11 physical condition, including mental illness and retardation, and of  
12 facilities incidental or appurtenant thereto to be administered in  
13 accordance with the provisions of the Health Care Facilities Planning  
14 Act, P.L.1971, c. 136 (C. 26:2H-1 et seq.)] ensure that all health care  
15 institutions have access to financial resources to improve the health  
16 and welfare of the citizens of the State. It is hereby declared to be the  
17 policy of the State to encourage the provision of modern,  
18 well-equipped [health-care] health care facilities, and such provision  
19 is hereby declared to be a public use and purpose.

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

21

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

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

27 "Authority" means the New Jersey Health Care Facilities Financing  
28 Authority created by this act or any board, body, commission,  
29 department or officer succeeding to the principal functions thereof or  
30 to whom the powers conferred upon the authority by this act shall be  
31 given by law.

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

34 "Commissioner" means the [State] Commissioner of Health and  
35 Senior Services.

36 ["Hospital facility" means a structure suitable to provide hospitals,  
37 hospital related housing facilities, doctors' office buildings or other  
38 health-care facilities for the prevention, diagnosis or treatment of  
39 human disease, pain, injury, disability, deformity or physical condition  
40 or mental illness and retardation, and for facilities incidental or  
41 appurtenant thereto.

42 "Participating hospital" means a public hospital or private hospital  
43 which has entered into a regulatory agreement in accordance with this  
44 act.

45 "Private hospital" means a hospital or health-care institution, or an  
46 institution for the training of doctors, nurses, paramedical or other

1 personnel engaged in the provision of health care, other than a State,  
2 county or municipal hospital or health care facility, or related  
3 institution including a health maintenance organization, public health  
4 center, diagnostic center, treatment center, rehabilitation center,  
5 extended care facility, skilled nursing home, nursing home,  
6 intermediate care facility, tuberculosis hospital, chronic disease  
7 hospital, maternity hospital, special hospital, mental hospital,  
8 outpatient clinic, dispensary, home health agency, boarding home or  
9 other home for sheltered care situated within the State and which is a  
10 nonprofit institution providing hospital or health care service to the  
11 public.]

12 "Credit agreement" means a loan agreement, revolving credit  
13 agreement, agreement establishing a line of credit, letter of credit,  
14 reimbursement agreement, interest exchange agreement, insurance  
15 contract, surety bond, commitment to purchase bonds, purchase or  
16 sale agreement, or commitment or other contract or agreement  
17 authorized and approved by the authority in connection with the  
18 authorization, issuance, security or payment of bonds.

19 "Health care organization" means an organization located in this  
20 State which is authorized or permitted by law, whether directly or  
21 indirectly through a holding corporation, partnership or other entity,  
22 to provide health care-related services, including, but not limited to,  
23 hospital, outpatient, public health, home health care, residential care,  
24 blood bank, alcohol or drug abuse, half-way house, diagnostic,  
25 treatment, rehabilitation, extended care, skilled nursing care, nursing  
26 care, intermediate care, tuberculosis care, chronic disease care,  
27 maternity, mental health, boarding or sheltered care or day care,  
28 services provided by a physician in his office, or any other service  
29 offered in connection with health care services or by an entity affiliated  
30 with a health care organization or an integrated delivery system.

31 "Integrated delivery system" means a group of legally affiliated  
32 health care organizations which includes an acute care hospital.

33 "Public [hospital] health care organization" means a State, county  
34 or municipal [hospital or health-care facility including health  
35 maintenance organization, public health center, diagnostic center,  
36 treatment center, rehabilitation center, extended care facility, skilled  
37 nursing home, nursing home, intermediate care facility, tuberculosis  
38 hospital, chronic disease hospital, maternity hospital, mental hospital,  
39 outpatient clinic, dispensary, home health care agency, boarding home  
40 or other home for sheltered care now or hereafter established or  
41 authorized by law] health care organization.

42 "Project" or "[hospital] health care organization project" means  
43 [a specific work, including] the acquisition, construction,  
44 improvement, renovation or rehabilitation of lands, buildings,  
45 [improvements, alterations, renovations, enlargements,  
46 reconstructions,] fixtures, equipment and articles of personal property,

1 [acquired, constructed, rehabilitated, owned and operated by] or other  
2 tangible or intangible assets that are necessary or useful in the  
3 development, establishment or operation of a [participating hospital]  
4 health care organization pursuant to this act, [to provide hospital or  
5 health-care facilities or facilities related, required or useful to or for  
6 the operation of a hospital facility,] and "project" or "[hospital] health  
7 care organization project" may include: the financing, refinancing or  
8 consolidation of secured or unsecured debt, borrowings or obligations,  
9 or the provision of financing for any other expense incurred in the  
10 ordinary course of business, all of which lands, buildings, fixtures,  
11 equipment and articles of personal property are to be used or occupied  
12 by any person in the health care organization; the acquisition of an  
13 entity interest, including capital stock, in a corporation; or any  
14 combination thereof; and may include any combination of the  
15 foregoing undertaken jointly by any [participating hospital] health care  
16 organization with one or more other [participating hospitals] health  
17 care organizations.

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

1 provision or reserves for working capital, operating or maintenance or  
2 replacement expenses, or for payment or security of principal of, or  
3 interest on, bonds. [The commissioner's approval of estimated project  
4 cost in accordance with section 6 of this act shall include his approval,  
5 which shall be conclusive, as to the reasonableness or necessity of any  
6 item of cost and as to the reasonableness of any period of time in  
7 respect of which interest, start-up, operation and maintenance costs  
8 have included in project costs.]

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

10

11 4. Section 4 of P.L.1972, c.29 (C.26:2I-4) is amended to read as  
12 follows:

13 4. a. There is hereby established in the [State] Department of  
14 Health and Senior Services, a public body corporate and politic, with  
15 corporate succession, to be known as the "New Jersey [Health-Care]  
16 Health Care Facilities Financing Authority." The authority shall  
17 constitute a political subdivision of the State established as an  
18 instrumentality exercising public and essential governmental functions,  
19 and the exercise by the authority of the powers conferred by this act  
20 shall be deemed and held to be an essential governmental function.

21 b. The authority shall consist of seven members, three of whom  
22 shall be the commissioner, who shall be the chairman, the  
23 Commissioner of Banking and Insurance, and the Commissioner of  
24 [the Department of Institutions and Agencies] Human Services, who  
25 shall serve during their terms of office, or when so designated by them,  
26 their deputies or other representatives, who shall serve at their  
27 pleasure, and four public members who are citizens of the State to be  
28 appointed by the Governor, with the advice and consent of the Senate  
29 for terms of [4] four years; provided that the four members first  
30 appointed by the Governor shall serve terms expiring on the first,  
31 second, third, and fourth, respectively, April 30 ensuing after the  
32 enactment of this act. Each member shall hold office for the term of  
33 his appointment and until his successor shall have been appointed and  
34 qualified. Any vacancy among the public members shall be filled by  
35 appointment for the unexpired term only.

36 c. Any member of the authority appointed by the Governor may be  
37 removed from office by the Governor for cause after a public hearing.

38 d. The members of the authority shall serve without compensation,  
39 but the authority may reimburse its members for necessary expenses  
40 incurred in the discharge of their official duties.

41 e. The authority, upon the first appointment of its members and  
42 thereafter on or after April 30 in each year, shall annually elect from  
43 among its members a vice chairman who shall hold office until April  
44 30 next ensuing and shall continue to serve during the term of his  
45 successor and until his successor shall have been appointed and  
46 qualified. The authority may also appoint, retain and employ, without

1 regard to the provisions of Title 11, Civil Service, of the Revised  
2 Statutes, such officers, agents, and employees as it may require, and  
3 it shall determine their qualifications, terms of office, duties, services  
4 and compensation.

5 f. The powers of the authority shall be vested in the members  
6 thereof in office from time to time and a majority of the total  
7 authorized membership of the authority shall constitute a quorum at  
8 any meeting thereof. Action may be taken and motions and resolutions  
9 adopted by the authority at any meeting thereof by the affirmative vote  
10 of a majority of the members present, unless in any case the bylaws of  
11 the authority shall require a larger number. No vacancy in the  
12 membership of the authority shall impair the right of a quorum to  
13 exercise all the rights and perform all the duties of the authority.

14 g. Each member and the treasurer of the authority shall execute a  
15 bond to be conditioned upon the faithful performance of the duties of  
16 such member or treasurer, as the case may be, in such form and  
17 amount as may be prescribed by the Attorney General. Such bonds  
18 shall be filed in the office of the Secretary of State. At all times  
19 thereafter the members and treasurer of the authority shall maintain  
20 such bonds in full force and effect. All costs of such bonds shall be  
21 borne by the authority.

22 h. No trustee, director, officer or employee of a [hospital] health  
23 care organization may serve as a member of the authority.

24 i. At least two true copies of the minutes of every meeting of the  
25 authority shall be forthwith delivered by and under the certification of  
26 the secretary thereof, to the Governor. No action taken at such  
27 meeting by the authority shall have force or effect until 10 days,  
28 exclusive of Saturdays, Sundays and public holidays, after such copies  
29 of the minutes shall have been so delivered or at such earlier time as  
30 the Governor shall sign a statement of approval thereof. If, in said  
31 10-day period, the Governor returns a copy of the minutes with veto  
32 of any action taken by the authority or any member thereof at such  
33 meeting, such action shall be null and of no effect. If the Governor  
34 shall not return the minutes within said 10-day period, any action  
35 therein recited shall have force and effect according to the wording  
36 thereof. At any time prior to the expiration of the said 10-day period,  
37 the Governor may sign a statement of approval of all or any such  
38 action of the authority.

39 The powers conferred in this subsection upon the Governor shall be  
40 exercised with due regard for the rights of the holders of bonds of the  
41 authority at any time outstanding.

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

43

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

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

- 1 a. To adopt bylaws for the regulation of its affairs and the conduct  
2 of its business and to alter and revise such bylaws from time to time at  
3 its discretion.
- 4 b. To adopt and have an official seal and alter the same at  
5 pleasure.
- 6 c. To maintain an office at such place or places within the State as  
7 it may designate.
- 8 d. To sue and be sued in its own name.
- 9 e. To borrow money and to issue bonds of the authority and to  
10 provide for the rights of the holders thereof as provided in this act.
- 11 f. To acquire, lease as lessee or lessor, hold and dispose of real  
12 and personal property or any interest therein, in the exercise of its  
13 powers and the performance of its duties under this act.
- 14 g. To acquire in the name of the authority by purchase or  
15 otherwise, on such terms and conditions and in such manner as it may  
16 deem proper, any land or interest therein and other property which it  
17 may determine is reasonably necessary for any project; and to hold and  
18 use the same and to sell, convey, lease or otherwise dispose of  
19 property so acquired, no longer necessary for the authority's purposes,  
20 for fair consideration after public notice.
- 21 h. To receive and accept, from any federal or other public agency  
22 or governmental entity directly or through the Department of Health  
23 and Senior Services or any other agency of the State or any  
24 [participating hospital] health care organization, grants or loans for or  
25 in aid of the acquisition or construction of any project, and to receive  
26 and accept aid or contributions from any other source, of either  
27 money, property, labor or other things of value, to be held, used and  
28 applied only for the purposes for which such grants, loans and  
29 contributions may be made.
- 30 i. To prepare or cause to be prepared plans, specifications, designs  
31 and estimates of costs for the construction and equipment of [hospital]  
32 health care organization projects for [participating hospitals] health  
33 care organizations under the provisions of this act, and from time to  
34 time to modify such plans, specifications, designs or estimates.
- 35 j. By contract or contracts with and for [participating hospitals]  
36 health care organizations only, to construct, acquire, reconstruct,  
37 rehabilitate and improve, and furnish and equip [hospital] health care  
38 organization projects. The authority, in the exercise of its authority to  
39 make and enter into contracts and agreements necessary or incidental  
40 to the performance of its duties and the execution of its powers, shall  
41 adopt standing rules and procedures providing that, except as  
42 hereinafter provided, no contract on behalf of the authority shall be  
43 entered into for the doing of any work, or for the hiring of equipment  
44 or vehicles, where the sum to be expended exceeds the sum of  
45 \$7,500.00 or the amount determined as provided in this subsection,  
46 unless the authority shall first publicly advertise for bids therefor, and

1 shall award the contract to the lowest responsible bidder; provided,  
2 however, that such advertising shall not be required where the contract  
3 to be entered into is one for the furnishing or performing of services  
4 of a professional nature or for the supplying of any product or the  
5 rendering of any service by a public utility subject to the jurisdiction  
6 of the Board of Public Utilities, and tariffs and schedules of the  
7 charges, made, charged, or exacted by the public utility for any such  
8 products to be supplied or services to be rendered are filed with said  
9 board. The Governor, in consultation with the Department of the  
10 Treasury, shall, no later than March 1 of each odd-numbered year,  
11 adjust the threshold amount set forth in this subsection, or subsequent  
12 to 1985 the threshold amount resulting from any adjustment under  
13 this subsection or section 17 of P.L. 1985, c. 469, in direct proportion  
14 to the rise or fall of the Consumer Price Index for all urban consumers  
15 in the New York City and the Philadelphia areas as reported by the  
16 United States Department of Labor. The Governor shall, no later than  
17 June 1 of each odd-numbered year, notify the authority of the  
18 adjustment. The adjustment shall become effective July 1 of each  
19 odd-numbered year.

20 k. To determine the location and character of any project to be  
21 undertaken, subject to the provisions of this act, and subject to State  
22 health and environmental laws, to construct, reconstruct, maintain,  
23 repair, lease as lessee or lessor, and regulate the same and operate the  
24 same in the event of default by a [participating hospital] health care  
25 organization of its obligations and agreements with the authority; to  
26 enter into contracts for any or all such purposes; and to enter into  
27 contracts for the management and operation of a project in the event  
28 of default as herein provided. The authority shall use its best efforts  
29 to conclude its position as an operator as herein provided as soon as  
30 is practicable.

31 l. To establish rules and regulations for the use of a project or any  
32 portion thereof and to designate a [participating hospital] health care  
33 organization as its agent to establish rules and regulations for the use  
34 of a project undertaken by such a [participating hospital] health care  
35 organization.

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

43 n. To enter into agreements, credit agreements or contracts,  
44 execute any and all instruments, and do and perform any and all acts  
45 or things necessary, convenient or desirable for the purposes of the  
46 authority or to carry out any power expressly given in this act.

1 o. To invest any moneys held in reserve or sinking funds, or any  
2 moneys not required for immediate use or disbursement, at the  
3 discretion of the authority, in such obligations as are authorized by  
4 resolution of the authority.

5 p. To obtain, or aid in obtaining, from any department or agency  
6 of the United States any insurance or guarantee as to, or of, or for the  
7 payment or repayment of interest or principal, or both, or any part  
8 thereof, on any loan or any instrument evidencing or securing the  
9 same, made or entered into pursuant to the provisions of this act; and  
10 notwithstanding any other provisions of this act, to enter into  
11 agreement, contract or any other instrument whatsoever with respect  
12 to any such insurance or guarantee, and accept payment in such  
13 manner and form as provided therein in the event of default by the  
14 borrower.

15 q. To obtain from any department or agency of the United States  
16 or a private insurance company any insurance or guarantee as to, or of,  
17 or for the payment or repayment of interest or principal, or both, or  
18 any part thereof, on any bonds issued by the authority pursuant to the  
19 provisions of this act; and notwithstanding any other provisions of this  
20 act, to enter into any agreement, contract or any other instrument  
21 whatsoever with respect to any such insurance or guarantee, except to  
22 the extent that such action would in any way impair or interfere with  
23 the authority's ability to perform and fulfill the terms of any agreement  
24 made with the holders of the bonds of the authority.

25 r. To receive and accept, from any department or agency of the  
26 United States or of the State or from any other entity, any grant,  
27 appropriation or other moneys to be used for or applied to any  
28 corporate purpose of the authority, including without limitation the  
29 meeting of debt service obligations of the authority in respect of its  
30 bonds.

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

32  
33 6. Section 10 of P.L.1972, c.29 (C.26:2I-10) is amended to read  
34 as follows:

35 10. The authority is authorized to fix, revise, charge and collect  
36 rates, rents, fees and charges for the use of and for the services  
37 furnished or to be furnished by each project and to contract with any  
38 person, partnership, association or corporation, or other body, public  
39 or private, in respect thereof. Such rates, rents, fees and charges shall  
40 be fixed and adjusted in respect of the aggregate of rents, rates, fees  
41 and charges from such project so as to provide funds sufficient with  
42 other revenues or moneys, if any:

43 a. To pay the cost of maintaining, repairing and operating the  
44 project and each and every portion thereof, to the extent that the  
45 payment of such cost has not otherwise been adequately provided for.

46 b. To pay the principal of and the interest on outstanding bonds of

1 the authority issued in respect of such project as the same shall  
2 become due and payable; and

3 c. To create and maintain reserves required or provided for in any  
4 resolution authorizing, or trust agreement securing, such bonds of the  
5 authority.

6 Such rates, rents, fees and charges shall not be subject to  
7 supervision or regulation by any department, commission, board, body,  
8 bureau or agency of this State other than the authority [and the  
9 provisions of the Health Care Facilities Planning Act, P.L.1971,  
10 c.136 (C.26:2H-1 et seq.)]. A sufficient amount of the revenues  
11 derived in respect of a project, except such part of such revenues as  
12 may be necessary to pay the cost of maintenance, repair and operation  
13 and to provide reserves for renewals, replacements, extensions,  
14 enlargements and improvements as may be provided for in the  
15 resolution authorizing the issuance of any bonds of the authority or  
16 in the trust agreement securing the same, shall be set aside at such  
17 regular intervals as may be provided in such resolution or trust  
18 agreement in a sinking or other similar fund which is hereby pledged  
19 to, and charged with, the payment of the principal of and the interest  
20 on such bonds as the same shall become due, and the redemption price  
21 or the purchase price of bonds retired by call or purchase as therein  
22 provided. Such pledge shall be valid and binding from the time when  
23 the pledge is made; the rates, rents, fees and charges and other  
24 revenues or other moneys or securities so pledged and thereafter  
25 received by the authority shall immediately be subject to the lien of  
26 such pledge without any physical delivery thereof or further act, and  
27 the lien of any such pledge shall be valid and binding as against all  
28 parties having claims of any kind in tort, contract or otherwise against  
29 the authority, irrespective of whether such parties have notice thereof.  
30 Neither the resolution nor any trust agreement by which a pledge is  
31 created need be filed or recorded except in the records of the  
32 authority. The use and disposition of moneys to the credit of such  
33 sinking or other similar fund shall be subject to the provisions of the  
34 resolution authorizing the issuance of such bonds or of such trust  
35 agreement. Except as may otherwise be provided in such resolution  
36 or such trust agreement, such sinking or other similar fund shall be a  
37 fund for all such bonds issued to finance projects of a [participating  
38 hospital] health care organization without distinction or priority of  
39 one over another; provided the authority in any such resolution or  
40 trust agreement may provide that such sinking or other similar fund  
41 shall be the fund for a particular project at a [participating hospital]  
42 health care organization and for the bonds issued to finance a  
43 particular project and may, additionally, permit and provide for the  
44 issuance of bonds having a subordinate lien in respect of the security  
45 herein authorized to other bonds of the authority and, in such case, the  
46 authority may create separate sinking or other similar funds in respect

1 to such subordinate lien bonds.

2 (cf: P.L.1972, c.29, s.10)

3

4 7. Section 17 of P.L.1972, c.29 (C.26:2I-17) is amended to read  
5 as follows:

6 17. The State of New Jersey does pledge to and agree with the  
7 holders of the bonds issued pursuant to authority contained in this act,  
8 and with those parties who may enter into contracts with the authority  
9 pursuant to the provisions of this act, that the State will not limit, alter  
10 or restrict the rights hereby vested in the authority and the  
11 [participating hospital] health care organization to maintain, construct,  
12 reconstruct and operate any project as defined in this act or to  
13 establish and collect such rents, fees, receipts or other charges as may  
14 be convenient or necessary to produce sufficient revenues to meet the  
15 expenses of maintenance and operation thereof and to fulfill the terms  
16 of any agreements made with the holders of bonds authorized by this  
17 act, and with the parties who may enter into contracts with the  
18 authority pursuant to the provisions of this act, or in any way impair  
19 the rights or remedies of the holders of such bonds or such parties  
20 until the bonds, together with interest thereon, are fully paid and  
21 discharged and such contracts are fully performed on the part of the  
22 authority. The authority as a public body corporate and politic shall  
23 have the right to include the pledge herein made in its bonds and  
24 contracts.

25 (cf: P.L.1972, c.29, s.17)

26

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

29 21. The Department of Health and Senior Services, or the  
30 commissioner or their representatives, may visit, examine into and  
31 inspect, the authority and may require, as often as desired, duly  
32 verified reports therefrom giving such information and in such form  
33 as such department or commissioner shall prescribe.

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

35

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

38 23. In order to provide new [hospitals] health care organizations  
39 and to enable the construction and financing thereof, to refinance  
40 indebtedness hereafter created by the authority for the purpose of  
41 providing [a hospital or hospitals] one or more health care  
42 organizations or additions or improvements thereto or modernization  
43 thereof or for any one or more of said purposes but for no other  
44 purpose unless authorized by law, each of the following bodies shall  
45 have the powers hereafter enumerated to be exercised upon such terms  
46 and conditions, including the fixing of fair consideration or rental to

1 be paid or received, as it shall determine by resolution as to such  
2 property and each shall be subject to the performance of the duties  
3 hereafter enumerated, that is to say, the [State] Department of Health  
4 and Senior Services as to such as are located on land owned by, or  
5 owned by the State and held for, any State institution or on lands of  
6 the institutions under the jurisdiction of the [State] Department of  
7 Health and Senior Services or of the [State] Department of  
8 [Institutions and Agencies] Human Services, or by the authority, the  
9 Commissioner of [the State Department of Institutions and Agencies]  
10 Human Services as to State institutions operated by that department,  
11 the board of trustees or governing body of any public [hospital] health  
12 care organization, the board of trustees of the [College] University of  
13 Medicine and Dentistry of New Jersey, as to such as are located on  
14 land owned by [such college] the university, or by the State for [such  
15 college] the university, the State or by the particular public [hospital]  
16 health care organization, respectively, namely:

17 a. The power to sell and to convey to the authority title in fee  
18 simple in any such land and any existing [hospital facilities] health care  
19 facility thereon owned by the State and held for any department  
20 thereof or of any of the institutions under the jurisdiction of the  
21 [State] Department of Health and Senior Services or the power to sell  
22 and to convey to the authority such title as the State or the public  
23 [hospital] health care organization, respectively, may have in any such  
24 land and any existing [hospitals] health care facility thereon.

25 b. The power to lease to the authority any land and any existing  
26 [hospital facilities] health care facility thereon so owned for a term or  
27 terms not exceeding 50 years each.

28 c. The power to lease or sublease from the authority, and to make  
29 available, any such land and existing [hospitals] health care facility  
30 conveyed or leased to the authority under subsections a. and b. of this  
31 section, and any new [hospitals] health care facility erected upon such  
32 land or upon any other land owned by the authority.

33 d. The power and duty, upon receipt of notice of any assignment  
34 by the authority of any lease or sublease made under subsection c. of  
35 this section, or of any of its rights under any such lease or sublease,  
36 to recognize and give effect to such assignment, and to pay to the  
37 assignee thereof rentals or other payments then due or which may  
38 become due under any such lease or sublease which has been so  
39 assigned by the authority.

40 (cf: P.L.1972, c.29, s.23)

41

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

44 24. In addition thereto the Commissioner of [the State Department  
45 of Institutions and Agencies] Human Services as to institutions  
46 operated by that department, the chief executive officer and the board

1 of trustees of other State institutions, and the board of trustees or  
2 governing body of county and municipal public [hospitals] health care  
3 organizations shall have the following powers and shall be subject to  
4 the following duties as to their lands and [hospital] health care  
5 facilities:

6 a. The power to pledge and assign all or any part of the revenues  
7 derived from the operation of [such new hospitals] a health care  
8 organization as security for the payment of rentals due and to become  
9 due under any lease or sublease of [such] a new [hospitals] health care  
10 facility as provided under subsection c. of [the preceding] section 23  
11 of P.L.1972, c.29 (C.26:2I-23).

12 b. The power to covenant and agree in any lease or sublease of  
13 such new [hospitals] health care facilities made under subsection c. of  
14 [the preceding] section 23 of P.L.1972, c.29 (C.26:2I-23) to impose  
15 fees, rentals or other charges for the use and occupancy or other  
16 operation of such new [hospitals] health care facilities in an amount  
17 calculated to produce net revenues sufficient to pay the rentals due  
18 and to become due under such lease or sublease.

19 c. The power to apply all or any part of the revenues derived from  
20 the operation of any [hospitals] health care organization to the  
21 payment of rentals due and to become due under any lease or sublease  
22 made under subsection c. of [the preceding] section 23 of P.L.1972,  
23 c.29 (C.26:2I-23).

24 d. The power to pledge and assign all or any part of the revenues  
25 derived from the operation of any [hospitals] health care organization  
26 to the payment of rentals due and to become due under any lease or  
27 sublease made under subsection c. of [the preceding] section 23 of  
28 P.L.1972, c.29 (C.26:2I-23).

29 e. The power to covenant and agree in any lease or sublease made  
30 under subsection c. of [the preceding] section 23 of P.L.1972, c.29  
31 (C.26:2I-23) to impose fees, rentals or other charges for the use and  
32 occupancy of a health care facility or [other] for the operation of [any  
33 hospitals] a health care organization in an amount calculated to  
34 produce net revenues sufficient to pay the rentals due and to become  
35 due under such lease or sublease.

36 (cf: P.L.1972, c.29, s.24)

37

38 11. Section 25 of P.L.1972, c.29 (C.26:2I-25) is amended to read  
39 as follows:

40 25. In addition to the powers and duties with respect to [hospitals]  
41 health care organizations given under sections 23 and 24 of P.L.1972,  
42 c.29 (C.26:2I-23 and C.26:2I-24, respectively), the board of trustees  
43 or governing body of any State institution or public [hospital] health  
44 care organization and the board of trustees of the [College] University  
45 of Medicine and Dentistry of New Jersey shall also have the same  
46 powers and be subject to the same duties in relation to any

1 conveyance, lease or sublease made under subsections a., b., or c. of  
2 section 24 of P.L.1972, c.29 (C.26:2I-24), with respect to revenue  
3 producing facilities; that is to say, structures or facilities which  
4 produce revenues sufficient to pay the rentals due and to become due  
5 under any lease or sublease made under subsection c. of section 24 of  
6 P.L.1972, c.29 (C.26:2I-24), including, without limitation, extended  
7 care and parking facilities.

8 (cf: P.L.1972, c.29, s.25)

9

10 12. Section 27 of P.L.1972, c.29 (C.26:2I-27) is amended to read  
11 as follows:

12 27. To the extent not otherwise expressly provided under existing  
13 law, all powers and duties conferred upon any State institution or the  
14 [College] University of Medicine and Dentistry of New Jersey or any  
15 county, city or municipal [hospital] health care organization pursuant  
16 to this act shall be exercised and performed by resolution of its  
17 governing body and all powers and duties conferred upon any of [said  
18 hospitals] these health care organizations pursuant to this act shall be  
19 exercised and performed by resolution of its board of trustees or  
20 governing body.

21 (cf: P.L.1972, c.29, s.27)

22

23 13. Section 28 of P.L.1972, c.29 (C.26:2I-28) is amended to read  
24 as follows:

25 28. In addition to the foregoing powers, the authority with respect  
26 to [private hospitals] health care organizations shall have power[, but  
27 only upon approval by the commissioner of a regulatory agreement  
28 with such private hospital and subject to the terms and conditions of  
29 such agreement; and provided that no project will be undertaken  
30 pursuant to this act without the prior issuance of a certificate of need  
31 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)]:

32 a. Upon application of the [participating hospital] health care  
33 organization to construct, acquire or otherwise provide projects for  
34 the use and benefit of the [participating hospital] health care  
35 organization and the patients, employees and staff of [such  
36 participating hospital] the health care organization. The [participating  
37 hospital] health care organization for which such a project is  
38 undertaken by the authority shall approve the plans and specifications  
39 of such project.

40 b. To operate and manage any project provided pursuant to this  
41 section, or the authority may lease any such project to the  
42 [participating hospital] health care organization for which such project  
43 is provided. At such time as the liabilities of the authority incurred for  
44 any such project have been met and the bonds of the authority issued  
45 therefor have been paid, or such liabilities and bonds have otherwise  
46 been discharged, the authority shall transfer title to all the real and

1 personal property of such project vested in the authority, to the  
2 [participating hospital] health care organization in connection with  
3 which such project is then being operated, or to which such project is  
4 then leased; provided, however, that if at any time prior thereto [such  
5 participating hospital] the health care organization ceases to offer  
6 [hospital or] health services, then such title shall vest in the State of  
7 New Jersey.

8 Any lease of a project authorized by this section shall be a general  
9 obligation of the lessee and may contain provisions, which shall be a  
10 part of the contract with the holders of the bonds of the authority  
11 issued for such project, as to:

12 (i) pledging all or any part of the moneys, earnings, income and  
13 revenues derived by the lessee from such project or any part or parts  
14 thereof, or other personal property of the lessee, to secure payments  
15 required under the terms of such lease;

16 (ii) the rates, rentals, fees and other charges to be fixed and  
17 collected by the lessee, the amounts to be raised in each year thereby,  
18 and the use and disposition of such moneys, earning, income and  
19 revenues;

20 (iii) the setting aside of reserves and the creation of special funds  
21 and the regulation and disposition thereof;

22 (iv) the procedure, if any, by which the terms of such lease may be  
23 amended;

24 (v) vesting in a trustee or trustees such specified properties, rights,  
25 powers and duties as shall be deemed necessary or desirable for the  
26 security of the holders of the bonds of the authority issued for such  
27 projects;

28 (vi) the obligations of the lessee with respect to the replacement,  
29 reconstruction, maintenance, operation, repairs and insurance of such  
30 project;

31 (vii) defining the acts or omissions to act which shall constitute a  
32 default in the obligations and duties of the lessee, and providing for  
33 the rights and remedies of the authority and of its bondholders in the  
34 event of such default;

35 (viii) any other matters, of like or different character, which may be  
36 deemed necessary or desirable for the security or protection of the  
37 authority or the holders of its bonds.

38 (cf: P.L.1972, c.29, s.28)

39  
40 14. Section 29 of P.L.1972, c.29 (C.26:2I-29) is amended to read  
41 as follows:

42 29. The authority also shall have power:

43 a. To make loans to any [private hospital] health care organization  
44 for the construction or acquisition of projects in accordance with a  
45 loan agreement [and plans and specifications approved by the  
46 authority]. No such loan shall exceed the total cost of such project [as

1 determined and approved by the authority]. Each such loan shall be  
2 promised upon an agreement between the authority and the [private  
3 hospital] health care organization as to payment, security, maturity,  
4 redemption, interest and other appropriate matters.

5 b. To make loans to any [private hospital] health care organization  
6 to refund existing bonds, mortgages or advances given or made by  
7 [such private hospital] the health care organization for the  
8 construction of projects to the extent that this will enable [such private  
9 hospital] the health care organization to offer greater security for loans  
10 for new project construction.

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

12  
13 15. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read  
14 as follows:

15 30. For the purpose of obtaining and securing loans under section  
16 29 of P.L.1972, c.29 (C.26:2I-29), every [private hospital] health care  
17 organization shall have power to mortgage and pledge any of its real  
18 or personal property, and to pledge any of its income from whatever  
19 source to repay the principal of and interest on any loan made to it by  
20 the authority or to pay the interest on and principal and redemption  
21 premium, if any, of any bond or other evidence of indebtedness  
22 evidencing the debt created by any such loan; provided that the  
23 foregoing shall not be construed to authorize actions in conflict with  
24 specific legislation, trusts, endowment, or other agreements relating to  
25 specific properties or funds.

26 (cf: P.L.1972, c.29, s.30)

27  
28 16. Section 31 of P.L.1972, c.29 (C.26:2I-31) is amended to read  
29 as follows:

30 31. Moneys of the authority received from any [private hospital]  
31 health care organization in payment of any sum due to the authority  
32 pursuant to the terms of any loan or other agreement or any bond,  
33 note or other evidence of indebtedness, shall be deposited in an  
34 account in which only moneys received from [private hospitals] health  
35 care organizations shall be deposited and shall be kept separate and  
36 apart from and not commingled with any other moneys of the  
37 authority. Moneys deposited in such account shall be paid out on  
38 checks signed by the chairman of the authority or by such other person  
39 or persons as the authority may authorize, and countersigned by one

1 other member of the authority.  
2 (cf: P.L.1972, c.29, s.31)

3  
4 17. Section 32 of P.L.1972, c.29 (C.26:2I-32) is amended to read  
5 as follows:

6 32. a. Whenever the authority under section 28 of P.L.1972, c.29  
7 (C.26:2I-28) undertakes to construct, acquire or otherwise provide  
8 and operate and manage a project, the authority shall be responsible  
9 for the direct operation and maintenance costs of such projects, but  
10 each [private hospital] health care organization in connection with  
11 which such a project is provided and operated and managed shall be  
12 responsible at its own expense for the overall supervision of each  
13 project, for the overhead and general administrative costs of the  
14 [private hospital] health care organization which are incurred because  
15 of such project and for the integration of each project operation into  
16 the [institution's hospital] health care organization's health care  
17 program.

18 b. Whenever the authority under section 28 of P.L.1972, c.29  
19 (C.26:2I-28) undertakes to construct, acquire or otherwise provide a  
20 project and to lease the same to a [private hospital] health care  
21 organization, the lessee shall be responsible for the direct operation  
22 and maintenance costs of such project and, in addition, shall be  
23 responsible for the overall supervision of each project, for the  
24 overhead and general administrative costs of the lessee which are  
25 incurred because of such project and for the integration of each  
26 project operation into the lessee's [hospital] health care program.

27 c. Whenever the authority under section 29 of P.L.1972, c.29  
28 (C.26:2I-29) makes loans for the construction of a project, the  
29 [private hospital] health care organization at which such project is  
30 located shall be responsible for the direct operation and maintenance  
31 costs of such project and, in addition, shall be responsible for the  
32 overall supervision of each project, for the overhead and general  
33 administrative costs of the [private hospital] health care organization  
34 which are incurred because of such project and for the integration of  
35 each project operation into the [institution's hospital] health care  
36 organization's health care program.  
37 (cf: P.L.1972, c.29, s.32)

38  
39 18. Section 33 of P.L.1972, c.29 (C.26:2I-33) is amended to read  
40 as follows:

41 33. Any pledge of moneys, earnings, income or revenues authorized  
42 with respect to [private hospitals] health care organizations, pursuant  
43 to the provisions of this act, shall be valid and binding from the time  
44 when the pledge is made. The moneys, earnings, income or revenues  
45 so pledged and thereafter received by the pledgor shall immediately be  
46 subject to the lien of such pledge without any physical delivery

1 thereof or further act. The lien of any such pledge shall be valid and  
2 binding as against all parties having claims of any kind in tort,  
3 contract or otherwise against the pledgor irrespective of whether such  
4 parties have notice thereof. No instrument by which such a pledge is  
5 created need be filed or recorded in any manner.

6 (cf: P.L.1972, c.29, s.33)

7

8 19. Section 34 of P.L.1972, c.29 (C.26:2I-34) is amended to read  
9 as follows:

10 34. a. Whenever any [public or private hospital] health care  
11 organization has constructed or acquired any work or improvement  
12 which would otherwise qualify as a project under the preceding  
13 portions of this act except for the fact that such construction or  
14 acquisition was undertaken and financed without assistance from the  
15 authority, the authority may purchase such work or improvement, and  
16 lease the same to [such hospital] the health care organization, or may  
17 lend funds to [such hospital] the health care organization for the  
18 purpose of enabling the latter to retire obligations incurred for such  
19 construction or acquisition, provided that the amount of any such  
20 purchase price or loan shall not exceed the project cost as herein  
21 defined, irrespective of such work or improvement. All powers,  
22 rights, obligations and duties granted to or imposed upon the  
23 authority, [hospitals] health care organizations, State departments and  
24 agencies or others by this act in respect to projects shall apply to the  
25 same extent with respect to transactions authorized by this section,  
26 provided that any action otherwise required to be taken at a particular  
27 time in the progression of a project may, where the circumstances so  
28 required in connection with a transaction under this section be taken  
29 nunc pro tunc.

30 b. Acquisition of [hospital] health care facilities from counties or  
31 municipalities. Notwithstanding the provisions of any law to the  
32 contrary, the authority may authorize the acquisition, and any county  
33 or municipality by resolution or ordinance may authorize a private sale  
34 and conveyance or leasing to the authority, of any interest of the  
35 county or municipality in any lands and existing [hospital] health care  
36 facilities which are then being operated by a [private or public  
37 hospital] health care organization upon such terms and conditions as  
38 may be agreed upon by the authority and the county and municipality.  
39 The authority may use its funds for the acquisition by providing for  
40 the retirement of obligations incurred for the acquisition of the land,  
41 and for the acquisition and construction of the existing [hospital]  
42 health care facilities, provided that the amount of the purchase price  
43 shall not exceed the project costs. Upon acquisition of the lands and  
44 existing [hospital] health care facilities, the authority may convey or  
45 lease the lands and existing [hospital] health care facilities to a  
46 [participating hospital] health care organization under such terms and

1 conditions as the authority and [participating hospital] health care  
2 organization may agree.

3 (cf: P.L.1984, c.217, s.1)

4

5 20. Section 38 of P.L.1972, c.29 (C.26:2I-38) is amended to read  
6 as follows:

7 38. All laws, or parts thereof, inconsistent with this act are hereby  
8 declared to be inapplicable to the provisions of this act, except as  
9 otherwise provided[, and provided that no project shall be constructed  
10 pursuant to this act which does not comply with the Health Care  
11 Facilities Planning Act, P.L.1971, c. 136 (C. 26:2H-1, et seq.)].

12 (cf: P.L.1972, c.29, s.38)

13

14 21. Sections 6 and 26 of P.L.1972, c.29 (C.26:2I-6 and C.26:2I-  
15 26, respectively) are repealed.

16

17 22. This act shall take effect immediately.

18

19

20

#### STATEMENT

21

22 This bill amends the "New Jersey Health Care Facilities Financing  
23 Authority Law," P.L.1972, c.29 (C.26:2I-1 et seq.), which established  
24 the New Jersey Health Care Facilities Financing Authority  
25 (NJHCFFA), to expand the range of health care organizations and  
26 projects eligible for financing from the NJHCFFA.

27 In order to reflect the changing nature of health care delivery, the  
28 bill permits the NJHCFFA to provide financing for health care  
29 organizations or components thereof without regard to (1) whether the  
30 organization or component is a direct deliverer of health care services,  
31 or (2) its corporate tax status. The bill expands the definition of  
32 "health care organization" in P.L.1972, c.29 to include any  
33 organization or related entity authorized or permitted by law to  
34 provide health care services, which will permit the NJHCFFA to  
35 provide financing for all components of an integrated health care  
36 delivery system, including working capital, operating leases and  
37 reimbursement of construction and equipment acquisition.

38 The bill also deletes the requirement that the Commissioner of  
39 Health and Senior Services approve costs for those portions of  
40 projects which do not require a certificate of need from the  
41 Department of Health and Senior Services (DHSS).

42 The bill would repeal Sections 6 and 26 of P.L.1972, c.29 (C.26:2I-  
43 6 and C.26:2I-26, respectively) which require prior DHSS approval of:  
44 (1) the estimated project cost of construction or rehabilitation by the  
45 NJHCFFA of any project or hospital facility to be leased to a hospital;  
46 and (2) plans, specifications and location of each hospital undertaken

1 by the NJHCFFA for DHSS or under DHSS control or any public  
2 hospital undertaken by the NJHCFFA, respectively.

3 Finally, the bill clarifies and updates definitions and terminology in  
4 the statute to conform its language to current titles and names of State  
5 departments and offices.

6

7

8

9

10 Expands range of health care organizations and projects eligible for  
11 New Jersey Health Care Facilities Financing Authority financing.