

26:2i-7.1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 98
NJSA: 26:2i-7.1 (Refinance outstanding bonded indebtedness of hospitals)
BILL NO: A2578 (Substituted for S1464)
SPONSOR (S): Vandervalk and Blee
DATE INTRODUCED: June 5, 2000
COMMITTEE: **ASSEMBLY:** Appropriations
 SENATE: ----
AMENDED DURING PASSAGE: No
DATE OF PASSAGE: **ASSEMBLY:** June 29, 2000
 SENATE: June 29, 2000
DATE OF APPROVAL: August 29, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: (Original version enacted)

A2578

SPONSORS STATEMENT: (Begins on page 10 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S1464

SPONSORS STATEMENT: (Begins on page 10 of original bill) Yes

Bill and Sponsors Statement identical to A2578

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes
Identical to Assembly Statement for A2578

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS:

Yes

974.90 News Jersey Advisory Commission on Hospitals
H828 Final Report 1999, Trenton, (Report without appendices)
1999 PDF copy of the report

HEARINGS

No

NEWSPAPER CLIPPINGS

No

ASSEMBLY, No. 2578

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED JUNE 5, 2000

Sponsored by:

Assemblywoman CHARLOTTE VANDERVALK

District 39 (Bergen)

Assemblyman FRANCIS J. BLEE

District 2 (Atlantic)

Co-Sponsored by:

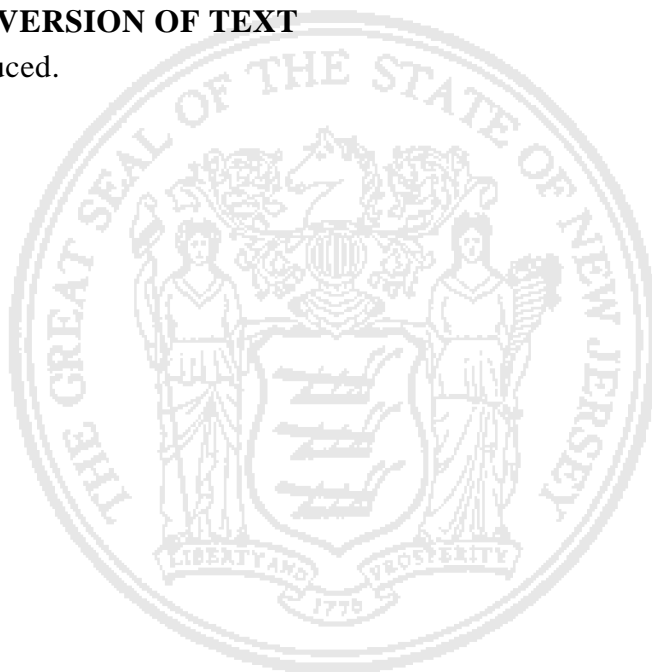
**Assemblywoman Watson Coleman, Assemblyman Conaway, Senators
Sinagra, Singer and Girgenti**

SYNOPSIS

Permits NJHCFFA to refinance outstanding bonded indebtedness of hospitals that cease acute care operations or transition to alternative services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT concerning the New Jersey Health Care Facilities Financing
2 Authority and amending and supplementing 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. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as
8 follows:

9 1. It is hereby declared that a serious public emergency exists
10 affecting the health, safety and welfare of the people of the State
11 resulting from the fact that many health care facilities throughout the
12 State are no longer adequate to meet the needs of modern health care.
13 Inadequate and outmoded facilities deny to the people of the State the
14 benefits of health care of the highest quality, efficiently and promptly
15 provided at a reasonable cost. As a result, health care providers are
16 restructuring their organizations, facilities and operations in order to
17 develop integrated health care delivery systems capable of providing
18 a full range of health care services in the most cost-effective manner.

19 It is the purpose of this act to ensure that all health care institutions
20 have access to financial resources to improve the health and welfare
21 of the citizens of the State. It is hereby declared to be the policy of
22 the State to encourage the provision of modern, well-equipped health
23 care facilities, and such provision is hereby declared to be a public use
24 and purpose.

25 It is also the purpose of this act to provide assistance in the
26 restructuring of the health care system of the State and to aid in the
27 termination of the provision of hospital acute care services at such
28 locations as may no longer be useful or necessary for this purpose.

29 (cf: P.L.1997, c.435, s.2)

30

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

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

36 "Authority" means the New Jersey Health Care Facilities Financing
37 Authority created by this act or any board, body, commission,
38 department or officer succeeding to the principal functions thereof or
39 to whom the powers conferred upon the authority by this act shall be
40 given by law.

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

43 "Commissioner" means the Commissioner of Health and Senior

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

Matter underlined thus is new matter.

1 Services.

2 "Credit agreement" means a loan agreement, revolving credit
3 agreement, agreement establishing a line of credit, letter of credit,
4 reimbursement agreement, interest exchange agreement, insurance
5 contract, surety bond, commitment to purchase bonds, purchase or
6 sale agreement, or commitment or other contract or agreement
7 authorized and approved by the authority in connection with the
8 authorization, issuance, security or payment of bonds.

9 "Health care organization" means an organization located in this
10 State which is authorized or permitted by law, whether directly or
11 indirectly through a holding corporation, partnership or other entity,
12 to provide health care-related services, including, but not limited to,
13 hospital, outpatient, public health, home health care, residential care,
14 assisted living, hospice, health maintenance organization, blood bank,
15 alcohol or drug abuse, half-way house, diagnostic, treatment,
16 rehabilitation, extended care, skilled nursing care, nursing care,
17 intermediate care, tuberculosis care, chronic disease care, maternity,
18 mental health, boarding or sheltered care or day care, services
19 provided by a physician in his office, or any other service offered in
20 connection with health care services or by an entity affiliated with a
21 health care organization or an integrated delivery system.

22 "Hospital asset transformation program" means the hospital asset
23 transformation program established pursuant to subsection g. of
24 section 7 of P.L.1972, c.29 (C.26:2I-7).

25 "Integrated delivery system" means a group of legally affiliated
26 health care organizations.

27 "Public health care organization" means a State, county or
28 municipal health care organization.

29 "Project" or "health care organization project" means the
30 acquisition, construction, improvement, renovation or rehabilitation of
31 lands, buildings, fixtures, equipment and articles of personal property,
32 or other tangible or intangible assets that are necessary or useful in the
33 development, establishment or operation of a health care organization
34 pursuant to this act, and "project" or "health care organization project"
35 may include: the financing, refinancing or consolidation of secured or
36 unsecured debt, borrowings or obligations, or the provision of
37 financing for any other expense incurred in the ordinary course of
38 business, all of which lands, buildings, fixtures, equipment and articles
39 of personal property are to be used or occupied by any person in the
40 health care organization; the acquisition of an entity interest, including
41 capital stock, in a corporation; or any combination thereof; and may
42 include any combination of the foregoing undertaken jointly by any
43 health care organization with one or more other health care
44 organizations.

45 "Project cost" or "health care organization project cost" means the
46 sum total of all or any part of costs incurred or estimated to be

1 incurred by the authority or by a health care organization which are
2 reasonable and necessary for carrying out all works and undertakings
3 and providing all necessary equipment for the development of a
4 project, exclusive of the amount of any private or federal, State or
5 local financial assistance for and received by a health care organization
6 for the payment of such project cost. Such costs shall include, but are
7 not necessarily limited to: interest prior to, during and for a reasonable
8 period after such development; start-up costs and costs of operation
9 and maintenance during the construction period and for a reasonable
10 additional period thereafter; organization, administration, operation
11 and other expenses of the health care organization prior to and during
12 construction; the cost of necessary studies, surveys, plans and
13 specifications, architectural, engineering, legal or other special
14 services; the cost of acquisition of land, buildings and improvements
15 thereon (including payments for the relocation of persons displaced by
16 such acquisition), site preparation and development, construction,
17 reconstruction, equipment, including fixtures, equipment, and cost of
18 demolition and removal, and articles of personal property required; the
19 reasonable cost of financing incurred by a health care organization or
20 the authority in the course of the development of the project; reserves
21 for debt service; the fees imposed upon a health care organization by
22 the commissioner and by the authority; other fees charged, and
23 necessary expenses incurred in connection with the initial occupancy
24 of the project; and the cost of such other items as may be reasonable
25 and necessary for the development of a project; as well as provision or
26 reserves for working capital, operating or maintenance or replacement
27 expenses, or for payment or security of principal of, or interest on,
28 bonds.

29 (cf: P.L.1997, c.435, s.3)

30

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

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

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

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

39 c. To maintain an office at such place or places within the State
40 as 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
45 and personal property or any interest therein, in the exercise of its
46 powers 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 and Senior Services or any other agency of the State or any health care
11 organization, grants or loans for or in aid of the acquisition or
12 construction of any project, and to receive and accept aid or
13 contributions from any other source, of either money, property, labor
14 or other things of value, to be held, used and applied only for the
15 purposes for which such grants, loans and contributions may be made.

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

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

1 as reported by the United States Department of Labor. The Governor
2 shall, no later than June 1 of each odd-numbered year, notify the
3 authority of the adjustment. The adjustment shall become effective
4 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 health care organization of its
10 obligations and agreements with the authority; to enter into contracts
11 for any or all such purposes; and to enter into contracts for the
12 management and operation of a project in the event of default as
13 herein provided. The authority shall use its best efforts to conclude its
14 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
16 any portion thereof and to designate a health care organization as its
17 agent to establish rules and regulations for the use of a project
18 undertaken by such a health care organization.

19 m. Generally to fix and revise from time to time and to charge and
20 collect rates, rents, fees and other charges for the use of and for the
21 services furnished or to be furnished by a project or any portion
22 thereof and to contract with holders of its bonds and with any other
23 person, party, association, corporation or other body, public or
24 private, in respect thereof.

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

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

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

43 q. To obtain from any department or agency of the United States
44 or a private insurance company any insurance or guarantee as to, or of,
45 or for the payment or repayment of interest or principal, or both, or
46 any part thereof, on any bonds issued by the authority pursuant to the

1 provisions of this act; and notwithstanding any other provisions of this
2 act, to enter into any agreement, contract or any other instrument
3 whatsoever with respect to any such insurance or guarantee, except to
4 the extent that such action would in any way impair or interfere with
5 the authority's ability to perform and fulfill the terms of any agreement
6 made with the holders of the bonds of the authority.

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

13 s. Subject to the approval of the State Treasurer, to grant or loan
14 all or any portion of the funds received pursuant to subsection g. of
15 section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the hospital
16 asset transformation program.

17 (cf: P.L.1997, c.435, s.5)

18

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

21 7. a. The authority is authorized from time to time to issue its
22 bonds for any corporate purpose and to fund and refund the same all
23 as provided in this act. Such bonds may, at the discretion of the
24 authority, be designated as "bonds," "notes," "bond anticipation
25 notes" or otherwise.

26 b. Except as may otherwise be expressly provided by the authority,
27 every issue of its bonds shall be general obligations of the authority
28 payable from any revenues or moneys of the authority, subject only to
29 any agreements with the holders of particular bonds pledging any
30 particular revenues or moneys. Notwithstanding that bonds may be
31 payable from a special fund, they shall be fully negotiable within the
32 meaning of Title 12A, the Uniform Commercial Code, of the New
33 Jersey Statutes, subject only to any provisions of the bonds for
34 registration.

35 c. The bonds may be issued as serial bonds or as term bonds, or the
36 authority, in its discretion, may issue bonds of both types. The bonds
37 shall be authorized by resolution of the members of the authority and
38 shall bear such date or dates, mature at such time or times, not
39 exceeding 50 years from their respective dates, bear interest at such
40 rate or rates, be payable at such time or times, be in such
41 denominations, be in such form, either coupon or registered, carry
42 such registration privileges, be executed in such manner, be payable
43 in lawful money of the United States of America at such place or
44 places, and be subject to such terms of redemption, as such resolution
45 or resolutions may provide. The bonds may be sold at public or
46 private sale for such price or prices as the authority shall determine.

1 Pending preparation of the definitive bonds, the authority may issue
2 interim receipts or certificates which shall be exchanged for such
3 definitive bonds.

4 d. Any resolution or resolutions authorizing any bonds or any issue
5 of bonds may contain provisions, which shall be a part of the contract
6 with the holders of the bonds to be authorized, as to:

7 (i) pledging all or any part of the revenues of a project or any
8 revenue producing contract or contracts made by the authority with
9 any individual, partnership, corporation or association or other body,
10 public or private, to secure the payment of the bonds or of any
11 particular issue of bonds, subject to such agreements with
12 bondholders as may then exist;

13 (ii) the rentals, fees and other charges to be charged, and the
14 amounts to be raised in each year thereby, and the use and disposition
15 of the revenues;

16 (iii) the setting aside of reserves or sinking funds, and the regulation
17 and disposition thereof;

18 (iv) limitations on the right of the authority or its agent to restrict
19 and regulate the use of a project;

20 (v) limitations on the purpose to which the proceeds of sale of any
21 issue of bonds then or thereafter to be issued may be applied and
22 pledging such proceeds to secure the payment of the bonds or any
23 issue of the bonds;

24 (vi) limitations on the issuance of additional bonds, the terms upon
25 which additional bonds may be issued and secured and the refunding
26 of outstanding bonds;

27 (vii) the procedure, if any, by which the terms of any contract with
28 bondholders may be amended or abrogated, the amount of bonds the
29 holders of which must consent thereto, and the manner in which such
30 consent may be given;

31 (viii) limitations on the amount of moneys derived from a project to
32 be expended for operating, administrative or other expenses of the
33 authority; and

34 (ix) defining the acts or omissions to act which shall constitute a
35 default in the duties of the authority to holders of its obligations and
36 providing the rights and remedies of such holders in the event of a
37 default.

38 e. Neither the members of the authority nor any person executing
39 the bonds shall be liable personally on the bonds or be subject to any
40 personal liability or accountability by reason of the issuance thereof.

41 f. The authority shall have power out of any funds available
42 therefor to purchase its bonds. The authority may hold, pledge, cancel
43 or resell such bonds, subject to and in accordance with agreements
44 with bondholders.

45 g. (1) There is established a hospital asset transformation program
46 in the authority for the purpose of providing financial assistance by the

1 authority to nonprofit hospitals in this State, from funds received
2 pursuant to and in accordance with the provisions of this subsection,
3 in connection with the termination of the provision of hospital acute
4 care services at a specific location that may no longer be necessary or
5 useful for this purpose.

6 (2) Subject to the approval of the State Treasurer, the authority
7 shall have the power to issue bonds and refunding bonds, incur
8 indebtedness and borrow money secured, in whole or in part, by
9 monies received pursuant to subsection a. of section 6 of
10 P.L. , c. (C.)(pending before the Legislature as this bill), in order
11 to satisfy the outstanding bonded indebtedness of any nonprofit
12 hospital in the State in connection with the hospital asset
13 transformation program. The authority may establish reserves or other
14 funds to further secure these bonds or refunding bonds.

15 (3) The authority may, in any resolution authorizing the issuance of
16 bonds or refunding bonds issued pursuant to this subsection, pledge
17 the contract with the State Treasurer provided for in subsection b. of
18 section 6 of P.L. , c. (C.)(pending before the Legislature as this
19 bill), or any part thereof, for the payment or redemption of the bonds
20 or refunding bonds, and covenant as to the use and disposition of
21 money available to the authority for payments of bonds and refunding
22 bonds. Subject to the approval of the State Treasurer, the authority
23 may pay the costs associated with the issuance of bonds or refunding
24 bonds by the authority for the purposes of this subsection from
25 amounts it receives from the proceeds of the bonds or refunding bonds
26 and from amounts it receives pursuant to subsection a. of section 6 of
27 P.L. , c. (C.)(pending before the Legislature as this bill), which
28 costs may include, but are not limited to, any costs relating to the
29 issuance of the bonds or refunding bonds and costs attributable to any
30 agreements securing, or providing for the payment of, these bonds or
31 refunding bonds. The authority is authorized to enter into any
32 agreement necessary or desirable to effectuate the purposes of this
33 subsection, including an agreement to sell bonds or refunding bonds
34 to any person and to comply with the laws of any jurisdiction relating
35 thereto.

36 (cf: P.L.1972, c.29, s.7)

37

38 5. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read as
39 follows:

40 30. For the purpose of obtaining and securing loans under section
41 29 of P.L.1972, c.29 (C.26:2I-29) or subsection s. of section 5 of
42 P.L.1972, c.29 (C.26:2I-5), every health care organization shall have
43 power to mortgage and pledge any of its real or personal property, and
44 to pledge any of its income from whatever source to repay the
45 principal of and interest on any loan made to it by the authority or to
46 pay the interest on and principal and redemption premium, if any, of

1 any bond or other evidence of indebtedness evidencing the debt
2 created by any such loan; provided that the foregoing shall not be
3 construed to authorize actions in conflict with specific legislation,
4 trusts, endowment, or other agreements relating to specific properties
5 or funds.

6 (cf: P.L.1997, c.435, s.15)

7

8 6. (New section) a. In each fiscal year, the State Treasurer shall
9 pay from the General Fund to the authority, in accordance with a
10 contract between the State Treasurer and the authority as provided in
11 subsection b. of this section, an amount equivalent to the amount due
12 to be paid in that fiscal year for the debt service on the bonds or
13 refunding bonds issued by the authority pursuant to subsection g. of
14 section 7 of P.L.1972, c.29 (C.26:2I-7) and any additional costs as
15 authorized pursuant thereto, including any agreement securing or
16 providing for the payment of the bonds or refunding bonds.

17 b. The State Treasurer and the authority are authorized to enter
18 into one or more contracts to implement the payment arrangement
19 provided for in subsection a. of this section. The contract shall
20 provide for payment by the State Treasurer of the amounts required to
21 be paid pursuant to subsection a. of this section and shall set forth the
22 procedure for the transfer of monies for the purpose of making that
23 payment. The contract shall contain such terms as are determined by
24 the State Treasurer and the authority and shall include, but not be
25 limited to, terms and conditions necessary and desirable to secure any
26 bonds or refunding bonds issued by the authority pursuant to
27 subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7); except that,
28 notwithstanding any provision of any law, rule or regulation to the
29 contrary, the State Treasurer shall pay the authority only such amounts
30 as shall be determined by the contract and the incurrence of any
31 obligation of the State under the contract, including any payment to be
32 made from the General Fund pursuant thereto, shall be subject to and
33 dependent upon appropriations made by the Legislature for the
34 purposes of this section.

35

36 7. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill permits the New Jersey Health Care Facilities Financing
42 Authority (NJHCFFA), subject to the approval of the State Treasurer,
43 to issue bonds secured in whole or in part by the State in order to
44 implement a hospital asset transformation program.

45 The provisions of this bill are intended to implement the
46 recommendation of the New Jersey Hospital Advisory Commission in

1 its recent report, which concluded that part of the financial distress
2 experienced by the hospital industry in New Jersey is attributable to an
3 excessive number of underutilized beds. The commission called upon
4 the State to facilitate the restructuring of the hospital industry by
5 empowering NJHCFFA to issue, under limited circumstances, bonds
6 secured in part by State appropriations. Specifically, this bill allows
7 NJHCFFA to refinance outstanding bond indebtedness for nonprofit
8 hospitals that cease acute care operations at a specific location.

9 Under its current statute, NJHCFFA is authorized to finance the
10 acquisition, construction, improvement, renovation or rehabilitation of
11 assets that are necessary or useful in the development, establishment
12 or operation of a health care organization, and to issue bonds secured
13 by the revenues of the health care organization for which bonds are
14 being issued. This bill would permit NJHCFFA to issue bonds to
15 refinance outstanding debt on behalf of a hospital that will cease to
16 provide acute care services at a specific location and to secure those
17 bonds, in whole or in part, by a contract with the State Treasurer.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2578

STATE OF NEW JERSEY

DATED: JUNE 22, 2000

The Assembly Appropriation Committee reports favorably Assembly Bill No. 2578.

Assembly Bill No. 2578 permits the New Jersey Health Care Facilities Financing Authority (NJHCFFA), subject to the approval of the State Treasurer, to issue bonds secured in whole or in part by the State in order to implement a hospital asset transformation program.

This bill implements the recommendation of the New Jersey Hospital Advisory Commission in its recent report, which concluded that part of the financial distress experienced by the hospital industry in New Jersey is attributable to an excessive number of underutilized beds. The commission called upon the State to facilitate the restructuring of the hospital industry by empowering NJHCFFA to issue, under limited circumstances, bonds secured in part by State appropriations.

FISCAL IMPACT:

The fiscal impact of the bill is indeterminate from information currently available.

The bill allows NJHCFFA to refinance outstanding bond indebtedness for nonprofit hospitals that cease acute care operations at a specific location.

Under current law, NJHCFFA is authorized to finance the acquisition, construction, improvement, renovation or rehabilitation of assets that are necessary or useful in the development, establishment or operation of a health care organization, and to issue bonds secured by the revenues of the health care organization for which bonds are being issued. This bill permits NJHCFFA to issue bonds to refinance outstanding debt on behalf of a hospital that will cease to provide acute care services at a specific location and to secure those bonds, in whole or in part, by a contract with the State Treasurer.

P.L. 2000, CHAPTER 98, *approved August 29, 2000*
Assembly, No. 2578

1 **AN ACT** concerning the New Jersey Health Care Facilities Financing
2 Authority and amending and supplementing 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. Section 1 of P.L.1972, c.29 (C.26:2I-1) is amended to read as
8 follows:

9 1. It is hereby declared that a serious public emergency exists
10 affecting the health, safety and welfare of the people of the State
11 resulting from the fact that many health care facilities throughout the
12 State are no longer adequate to meet the needs of modern health care.
13 Inadequate and outmoded facilities deny to the people of the State the
14 benefits of health care of the highest quality, efficiently and promptly
15 provided at a reasonable cost. As a result, health care providers are
16 restructuring their organizations, facilities and operations in order to
17 develop integrated health care delivery systems capable of providing
18 a full range of health care services in the most cost-effective manner.

19 It is the purpose of this act to ensure that all health care institutions
20 have access to financial resources to improve the health and welfare
21 of the citizens of the State. It is hereby declared to be the policy of
22 the State to encourage the provision of modern, well-equipped health
23 care facilities, and such provision is hereby declared to be a public use
24 and purpose.

25 It is also the purpose of this act to provide assistance in the
26 restructuring of the health care system of the State and to aid in the
27 termination of the provision of hospital acute care services at such
28 locations as may no longer be useful or necessary for this purpose.

29 (cf: P.L.1997, c.435, s.2)

30

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

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

36 "Authority" means the New Jersey Health Care Facilities Financing
37 Authority created by this act or any board, body, commission,
38 department or officer succeeding to the principal functions thereof or
39 to whom the powers conferred upon the authority by this act shall be
40 given by law.

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

Matter underlined thus is new matter.

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

3 "Commissioner" means the Commissioner of Health and Senior
4 Services.

5 "Credit agreement" means a loan agreement, revolving credit
6 agreement, agreement establishing a line of credit, letter of credit,
7 reimbursement agreement, interest exchange agreement, insurance
8 contract, surety bond, commitment to purchase bonds, purchase or
9 sale agreement, or commitment or other contract or agreement
10 authorized and approved by the authority in connection with the
11 authorization, issuance, security or payment of bonds.

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

25 "Hospital asset transformation program" means the hospital asset
26 transformation program established pursuant to subsection g. of
27 section 7 of P.L.1972, c.29 (C.26:2I-7).

28 "Integrated delivery system" means a group of legally affiliated
29 health care organizations.

30 "Public health care organization" means a State, county or
31 municipal health care organization.

32 "Project" or "health care organization project" means the
33 acquisition, construction, improvement, renovation or rehabilitation of
34 lands, buildings, fixtures, equipment and articles of personal property,
35 or other tangible or intangible assets that are necessary or useful in the
36 development, establishment or operation of a health care organization
37 pursuant to this act, and "project" or "health care organization project"
38 may include: the financing, refinancing or consolidation of secured or
39 unsecured debt, borrowings or obligations, or the provision of
40 financing for any other expense incurred in the ordinary course of
41 business, all of which lands, buildings, fixtures, equipment and articles
42 of personal property are to be used or occupied by any person in the
43 health care organization; the acquisition of an entity interest, including
44 capital stock, in a corporation; or any combination thereof; and may
45 include any combination of the foregoing undertaken jointly by any
46 health care organization with one or more other health care

1 organizations.

2 "Project cost" or "health care organization project cost" means the
3 sum total of all or any part of costs incurred or estimated to be
4 incurred by the authority or by a health care organization which are
5 reasonable and necessary for carrying out all works and undertakings
6 and providing all necessary equipment for the development of a
7 project, exclusive of the amount of any private or federal, State or
8 local financial assistance for and received by a health care organization
9 for the payment of such project cost. Such costs shall include, but are
10 not necessarily limited to: interest prior to, during and for a reasonable
11 period after such development; start-up costs and costs of operation
12 and maintenance during the construction period and for a reasonable
13 additional period thereafter; organization, administration, operation
14 and other expenses of the health care organization prior to and during
15 construction; the cost of necessary studies, surveys, plans and
16 specifications, architectural, engineering, legal or other special
17 services; the cost of acquisition of land, buildings and improvements
18 thereon (including payments for the relocation of persons displaced by
19 such acquisition), site preparation and development, construction,
20 reconstruction, equipment, including fixtures, equipment, and cost of
21 demolition and removal, and articles of personal property required; the
22 reasonable cost of financing incurred by a health care organization or
23 the authority in the course of the development of the project; reserves
24 for debt service; the fees imposed upon a health care organization by
25 the commissioner and by the authority; other fees charged, and
26 necessary expenses incurred in connection with the initial occupancy
27 of the project; and the cost of such other items as may be reasonable
28 and necessary for the development of a project; as well as provision or
29 reserves for working capital, operating or maintenance or replacement
30 expenses, or for payment or security of principal of, or interest on,
31 bonds.

32 (cf: P.L.1997, c.435, s.3)

33

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

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

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

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

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

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

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

- 1 f. To acquire, lease as lessee or lessor, hold and dispose of real
2 and personal property or any interest therein, in the exercise of its
3 powers and the performance of its duties under this act.
- 4 g. To acquire in the name of the authority by purchase or
5 otherwise, on such terms and conditions and in such manner as it may
6 deem proper, any land or interest therein and other property which it
7 may determine is reasonably necessary for any project; and to hold and
8 use the same and to sell, convey, lease or otherwise dispose of
9 property so acquired, no longer necessary for the authority's purposes,
10 for fair consideration after public notice.
- 11 h. To receive and accept, from any federal or other public agency
12 or governmental entity directly or through the Department of Health
13 and Senior Services or any other agency of the State or any health care
14 organization, grants or loans for or in aid of the acquisition or
15 construction of any project, and to receive and accept aid or
16 contributions from any other source, of either money, property, labor
17 or other things of value, to be held, used and applied only for the
18 purposes for which such grants, loans and contributions may be made.
- 19 i. To prepare or cause to be prepared plans, specifications,
20 designs and estimates of costs for the construction and equipment of
21 health care organization projects for health care organizations under
22 the provisions of this act, and from time to time to modify such plans,
23 specifications, designs or estimates.
- 24 j. By contract or contracts with and for health care organizations
25 only, to construct, acquire, reconstruct, rehabilitate and improve, and
26 furnish and equip health care organization projects. The authority, in
27 the exercise of its authority to make and enter into contracts and
28 agreements necessary or incidental to the performance of its duties and
29 the execution of its powers, shall adopt standing rules and procedures
30 providing that, except as hereinafter provided, no contract on behalf
31 of the authority shall be entered into for the doing of any work, or for
32 the hiring of equipment or vehicles, where the sum to be expended
33 exceeds the sum of \$7,500.00 or the amount determined as provided
34 in this subsection, unless the authority shall first publicly advertise for
35 bids therefor, and shall award the contract to the lowest responsible
36 bidder; provided, however, that such advertising shall not be required
37 where the contract to be entered into is one for the furnishing or
38 performing of services of a professional nature or for the supplying of
39 any product or the rendering of any service by a public utility subject
40 to the jurisdiction of the Board of Public Utilities, and tariffs and
41 schedules of the charges, made, charged, or exacted by the public
42 utility for any such products to be supplied or services to be rendered
43 are filed with said board. The Governor, in consultation with the
44 Department of the Treasury, shall, no later than March 1 of each
45 odd-numbered year, adjust the threshold amount set forth in this
46 subsection, or subsequent to 1985 the threshold amount resulting from

1 any adjustment under this subsection or section 17 of P.L.1985, c.469,
2 in direct proportion to the rise or fall of the Consumer Price Index for
3 all urban consumers in the New York City and the Philadelphia areas
4 as reported by the United States Department of Labor. The Governor
5 shall, no later than June 1 of each odd-numbered year, notify the
6 authority of the adjustment. The adjustment shall become effective
7 July 1 of each odd-numbered year.

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

18 l. To establish rules and regulations for the use of a project or
19 any portion thereof and to designate a health care organization as its
20 agent to establish rules and regulations for the use of a project
21 undertaken by such a health care organization.

22 m. Generally to fix and revise from time to time and to charge and
23 collect rates, rents, fees and other charges for the use of and for the
24 services furnished or to be furnished by a project or any portion
25 thereof and to contract with holders of its bonds and with any other
26 person, party, association, corporation or other body, public or
27 private, in respect thereof.

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

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

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

46 q. To obtain from any department or agency of the United States

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

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

16 s. Subject to the approval of the State Treasurer, to grant or loan
17 all or any portion of the funds received pursuant to subsection g. of
18 section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the hospital
19 asset transformation program.

20 (cf: P.L.1997, c.435, s.5)

21

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

24 7. a. The authority is authorized from time to time to issue its
25 bonds for any corporate purpose and to fund and refund the same all
26 as provided in this act. Such bonds may, at the discretion of the
27 authority, be designated as "bonds," "notes," "bond anticipation
28 notes" or otherwise.

29 b. Except as may otherwise be expressly provided by the authority,
30 every issue of its bonds shall be general obligations of the authority
31 payable from any revenues or moneys of the authority, subject only to
32 any agreements with the holders of particular bonds pledging any
33 particular revenues or moneys. Notwithstanding that bonds may be
34 payable from a special fund, they shall be fully negotiable within the
35 meaning of Title 12A, the Uniform Commercial Code, of the New
36 Jersey Statutes, subject only to any provisions of the bonds for
37 registration.

38 c. The bonds may be issued as serial bonds or as term bonds, or the
39 authority, in its discretion, may issue bonds of both types. The bonds
40 shall be authorized by resolution of the members of the authority and
41 shall bear such date or dates, mature at such time or times, not
42 exceeding 50 years from their respective dates, bear interest at such
43 rate or rates, be payable at such time or times, be in such
44 denominations, be in such form, either coupon or registered, carry
45 such registration privileges, be executed in such manner, be payable
46 in lawful money of the United States of America at such place or

1 places, and be subject to such terms of redemption, as such resolution
2 or resolutions may provide. The bonds may be sold at public or
3 private sale for such price or prices as the authority shall determine.
4 Pending preparation of the definitive bonds, the authority may issue
5 interim receipts or certificates which shall be exchanged for such
6 definitive bonds.

7 d. Any resolution or resolutions authorizing any bonds or any issue
8 of bonds may contain provisions, which shall be a part of the contract
9 with the holders of the bonds to be authorized, as to:

10 (i) pledging all or any part of the revenues of a project or any
11 revenue producing contract or contracts made by the authority with
12 any individual, partnership, corporation or association or other body,
13 public or private, to secure the payment of the bonds or of any
14 particular issue of bonds, subject to such agreements with
15 bondholders as may then exist;

16 (ii) the rentals, fees and other charges to be charged, and the
17 amounts to be raised in each year thereby, and the use and disposition
18 of the revenues;

19 (iii) the setting aside of reserves or sinking funds, and the regulation
20 and disposition thereof;

21 (iv) limitations on the right of the authority or its agent to restrict
22 and regulate the use of a project;

23 (v) limitations on the purpose to which the proceeds of sale of any
24 issue of bonds then or thereafter to be issued may be applied and
25 pledging such proceeds to secure the payment of the bonds or any
26 issue of the bonds;

27 (vi) limitations on the issuance of additional bonds, the terms upon
28 which additional bonds may be issued and secured and the refunding
29 of outstanding bonds;

30 (vii) the procedure, if any, by which the terms of any contract with
31 bondholders may be amended or abrogated, the amount of bonds the
32 holders of which must consent thereto, and the manner in which such
33 consent may be given;

34 (viii) limitations on the amount of moneys derived from a project to
35 be expended for operating, administrative or other expenses of the
36 authority; and

37 (ix) defining the acts or omissions to act which shall constitute a
38 default in the duties of the authority to holders of its obligations and
39 providing the rights and remedies of such holders in the event of a
40 default.

41 e. Neither the members of the authority nor any person executing
42 the bonds shall be liable personally on the bonds or be subject to any
43 personal liability or accountability by reason of the issuance thereof.

44 f. The authority shall have power out of any funds available
45 therefor to purchase its bonds. The authority may hold, pledge, cancel
46 or resell such bonds, subject to and in accordance with agreements

1 with bondholders.

2 g. (1) There is established a hospital asset transformation program
3 in the authority for the purpose of providing financial assistance by the
4 authority to nonprofit hospitals in this State, from funds received
5 pursuant to and in accordance with the provisions of this subsection,
6 in connection with the termination of the provision of hospital acute
7 care services at a specific location that may no longer be necessary or
8 useful for this purpose.

9 (2) Subject to the approval of the State Treasurer, the authority
10 shall have the power to issue bonds and refunding bonds, incur
11 indebtedness and borrow money secured, in whole or in part, by
12 monies received pursuant to subsection a. of section 6 of
13 P.L. , c. (C.)(pending before the Legislature as this bill), in order
14 to satisfy the outstanding bonded indebtedness of any nonprofit
15 hospital in the State in connection with the hospital asset
16 transformation program. The authority may establish reserves or other
17 funds to further secure these bonds or refunding bonds.

18 (3) The authority may, in any resolution authorizing the issuance of
19 bonds or refunding bonds issued pursuant to this subsection, pledge
20 the contract with the State Treasurer provided for in subsection b. of
21 section 6 of P.L. , c. (C.)(pending before the Legislature as this
22 bill), or any part thereof, for the payment or redemption of the bonds
23 or refunding bonds, and covenant as to the use and disposition of
24 money available to the authority for payments of bonds and refunding
25 bonds. Subject to the approval of the State Treasurer, the authority
26 may pay the costs associated with the issuance of bonds or refunding
27 bonds by the authority for the purposes of this subsection from
28 amounts it receives from the proceeds of the bonds or refunding bonds
29 and from amounts it receives pursuant to subsection a. of section 6 of
30 P.L. , c. (C.)(pending before the Legislature as this bill), which
31 costs may include, but are not limited to, any costs relating to the
32 issuance of the bonds or refunding bonds and costs attributable to any
33 agreements securing, or providing for the payment of, these bonds or
34 refunding bonds. The authority is authorized to enter into any
35 agreement necessary or desirable to effectuate the purposes of this
36 subsection, including an agreement to sell bonds or refunding bonds
37 to any person and to comply with the laws of any jurisdiction relating
38 thereto.

39 (cf: P.L.1972, c.29, s.7)

40

41 5. Section 30 of P.L.1972, c.29 (C.26:2I-30) is amended to read as
42 follows:

43 30. For the purpose of obtaining and securing loans under section
44 29 of P.L.1972, c.29 (C.26:2I-29) or subsection s. of section 5 of
45 P.L.1972, c.29 (C.26:2I-5), every health care organization shall have
46 power to mortgage and pledge any of its real or personal property, and

1 to pledge any of its income from whatever source to repay the
2 principal of and interest on any loan made to it by the authority or to
3 pay the interest on and principal and redemption premium, if any, of
4 any bond or other evidence of indebtedness evidencing the debt
5 created by any such loan; provided that the foregoing shall not be
6 construed to authorize actions in conflict with specific legislation,
7 trusts, endowment, or other agreements relating to specific properties
8 or funds.

9 (cf: P.L.1997, c.435, s.15)

10

11 6. (New section) a. In each fiscal year, the State Treasurer shall
12 pay from the General Fund to the authority, in accordance with a
13 contract between the State Treasurer and the authority as provided in
14 subsection b. of this section, an amount equivalent to the amount due
15 to be paid in that fiscal year for the debt service on the bonds or
16 refunding bonds issued by the authority pursuant to subsection g. of
17 section 7 of P.L.1972, c.29 (C.26:2I-7) and any additional costs as
18 authorized pursuant thereto, including any agreement securing or
19 providing for the payment of the bonds or refunding bonds.

20 b. The State Treasurer and the authority are authorized to enter
21 into one or more contracts to implement the payment arrangement
22 provided for in subsection a. of this section. The contract shall
23 provide for payment by the State Treasurer of the amounts required to
24 be paid pursuant to subsection a. of this section and shall set forth the
25 procedure for the transfer of monies for the purpose of making that
26 payment. The contract shall contain such terms as are determined by
27 the State Treasurer and the authority and shall include, but not be
28 limited to, terms and conditions necessary and desirable to secure any
29 bonds or refunding bonds issued by the authority pursuant to
30 subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7); except that,
31 notwithstanding any provision of any law, rule or regulation to the
32 contrary, the State Treasurer shall pay the authority only such amounts
33 as shall be determined by the contract and the incurrence of any
34 obligation of the State under the contract, including any payment to be
35 made from the General Fund pursuant thereto, shall be subject to and
36 dependent upon appropriations made by the Legislature for the
37 purposes of this section.

38

39 7. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill permits the New Jersey Health Care Facilities Financing
45 Authority (NJHCFFA), subject to the approval of the State Treasurer,
46 to issue bonds secured in whole or in part by the State in order to

1 implement a hospital asset transformation program.

2 The provisions of this bill are intended to implement the
3 recommendation of the New Jersey Hospital Advisory Commission in
4 its recent report, which concluded that part of the financial distress
5 experienced by the hospital industry in New Jersey is attributable to an
6 excessive number of underutilized beds. The commission called upon
7 the State to facilitate the restructuring of the hospital industry by
8 empowering NJHCFFA to issue, under limited circumstances, bonds
9 secured in part by State appropriations. Specifically, this bill allows
10 NJHCFFA to refinance outstanding bond indebtedness for nonprofit
11 hospitals that cease acute care operations at a specific location.

12 Under its current statute, NJHCFFA is authorized to finance the
13 acquisition, construction, improvement, renovation or rehabilitation of
14 assets that are necessary or useful in the development, establishment
15 or operation of a health care organization, and to issue bonds secured
16 by the revenues of the health care organization for which bonds are
17 being issued. This bill would permit NJHCFFA to issue bonds to
18 refinance outstanding debt on behalf of a hospital that will cease to
19 provide acute care services at a specific location and to secure those
20 bonds, in whole or in part, by a contract with the State Treasurer.

21

22

23

24

25 Permits NJHCFFA to refinance outstanding bonded indebtedness of
26 hospitals that cease acute care operations or transition to alternative
27 services.

CHAPTER 98

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

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

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

C.26:2I-1 Declaration of serious public emergency relative to health care facilities.

1. It is hereby declared that a serious public emergency exists affecting the health, safety and welfare of the people of the State resulting from the fact that many health care facilities throughout the State are no longer adequate to meet the needs of modern health care. Inadequate and outmoded facilities deny to the people of the State the benefits of health care of the highest quality, efficiently and promptly provided at a reasonable cost. As a result, health care providers are restructuring their organizations, facilities and operations in order to develop integrated health care delivery systems capable of providing a full range of health care services in the most cost-effective manner.

It is the purpose of this act to ensure that all health care institutions have access to financial resources to improve the health and welfare of the citizens of the State. It is hereby declared to be the policy of the State to encourage the provision of modern, well-equipped health care facilities, and such provision is hereby declared to be a public use and purpose.

It is also the purpose of this act to provide assistance in the restructuring of the health care system of the State and to aid in the termination of the provision of hospital acute care services at such locations as may no longer be useful or necessary for this purpose.

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

C.26:2I-3 Terms defined.

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

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

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

"Commissioner" means the Commissioner of Health and Senior Services.

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

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

"Hospital asset transformation program" means the hospital asset transformation program established pursuant to subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7).

"Integrated delivery system" means a group of legally affiliated health care organizations.

"Public health care organization" means a State, county or municipal health care organization.

"Project" or "health care organization project" means the acquisition, construction, improvement, renovation or rehabilitation of lands, buildings, fixtures, equipment and articles of personal property, or other tangible or intangible assets that are necessary or useful in the

development, establishment or operation of a health care organization pursuant to this act, and "project" or "health care organization project" may include: the financing, refinancing or consolidation of secured or unsecured debt, borrowings or obligations, or the provision of financing for any other expense incurred in the ordinary course of business, all of which lands, buildings, fixtures, equipment and articles of personal property are to be used or occupied by any person in the health care organization; the acquisition of an entity interest, including capital stock, in a corporation; or any combination thereof; and may include any combination of the foregoing undertaken jointly by any health care organization with one or more other health care organizations.

"Project cost" or "health care organization project cost" means the sum total of all or any part of costs incurred or estimated to be incurred by the authority or by a health care organization which are reasonable and necessary for carrying out all works and undertakings and providing all necessary equipment for the development of a project, exclusive of the amount of any private or federal, State or local financial assistance for and received by a health care organization for the payment of such project cost. Such costs shall include, but are not necessarily limited to: interest prior to, during and for a reasonable period after such development; start-up costs and costs of operation and maintenance during the construction period and for a reasonable additional period thereafter; organization, administration, operation and other expenses of the health care organization prior to and during construction; the cost of necessary studies, surveys, plans and specifications, architectural, engineering, legal or other special services; the cost of acquisition of land, buildings and improvements thereon (including payments for the relocation of persons displaced by such acquisition), site preparation and development, construction, reconstruction, equipment, including fixtures, equipment, and cost of demolition and removal, and articles of personal property required; the reasonable cost of financing incurred by a health care organization or the authority in the course of the development of the project; reserves for debt service; the fees imposed upon a health care organization by the commissioner and by the authority; other fees charged, and necessary expenses incurred in connection with the initial occupancy of the project; and the cost of such other items as may be reasonable and necessary for the development of a project; as well as provision or reserves for working capital, operating or maintenance or replacement expenses, or for payment or security of principal of, or interest on, bonds.

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

C.26:2I-5 Powers of authority.

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

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

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

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

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

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

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

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

h. To receive and accept, from any federal or other public agency or governmental entity directly or through the Department of Health and Senior Services or any other agency of the State or any health care organization, grants or loans for or in aid of the acquisition or construction of any project, and to receive and accept aid or contributions from any other source, of either money, property, labor or other things of value, to be held, used and applied

only for the purposes for which such grants, loans and contributions may be made.

i. To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of health care organization projects for health care organizations under the provisions of this act, and from time to time to modify such plans, specifications, designs or estimates.

j. By contract or contracts with and for health care organizations only, to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip health care organization projects. The authority, in the exercise of its authority to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of \$7,500.00 or the amount determined as provided in this subsection, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required where the contract to be entered into is one for the furnishing or performing of services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with said board. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in this subsection, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L.1985, c.469, in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective July 1 of each odd-numbered year.

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

l. To establish rules and regulations for the use of a project or any portion thereof and to designate a health care organization as its agent to establish rules and regulations for the use of a project undertaken by such a health care organization.

m. Generally to fix and revise from time to time and to charge and collect rates, rents, fees and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with holders of its bonds and with any other person, party, association, corporation or other body, public or private, in respect thereof.

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

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

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

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

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

s. Subject to the approval of the State Treasurer, to grant or loan all or any portion of the funds received pursuant to subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7) in connection with the hospital asset transformation program.

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

C.26:2I-7 Issuance of bonds authorized; maturity; terms.

7. a. The authority is authorized from time to time to issue its bonds for any corporate purpose and to fund and refund the same all as provided in this act. Such bonds may, at the discretion of the authority, be designated as "bonds," "notes," "bond anticipation notes" or otherwise.

b. Except as may otherwise be expressly provided by the authority, every issue of its bonds shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that bonds may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform Commercial Code, of the New Jersey Statutes, subject only to any provisions of the bonds for registration.

c. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

d. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(i) pledging all or any part of the revenues of a project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(v) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(vi) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(vii) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(viii) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority; and

(ix) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

e. Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

f. The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

g. (1) There is established a hospital asset transformation program in the authority for the purpose of providing financial assistance by the authority to nonprofit hospitals in this State, from funds received pursuant to and in accordance with the provisions of this subsection, in connection with the termination of the provision of hospital acute care services at a specific location that may no longer be necessary or useful for this purpose.

(2) Subject to the approval of the State Treasurer, the authority shall have the power to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by monies received pursuant to subsection a. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), in order to satisfy the outstanding bonded indebtedness of any nonprofit hospital in the State in connection with the hospital asset transformation program. The authority may establish reserves or other funds to further secure these bonds or refunding bonds.

(3) The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this subsection, pledge the contract with the State Treasurer provided for in subsection b. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), or any part thereof, for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payments of bonds and refunding bonds. Subject to the approval of the State Treasurer, the authority may pay the costs associated with the issuance of bonds or refunding bonds by the authority for the purposes of this subsection from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to subsection a. of section 6 of P.L.2000, c.98 (C.26:2I-7.1), which costs may include, but are not limited to, any costs relating to the issuance of the bonds or refunding bonds and costs attributable to any agreements securing, or providing for the payment of, these bonds or refunding bonds. The authority is authorized to enter into any agreement necessary or desirable to effectuate the purposes of this subsection, including an agreement to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

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

C.26:2I-30 Power of health care organization to mortgage, pledge property, income.

30. For the purpose of obtaining and securing loans under section 29 of P.L.1972, c.29 (C.26:2I-29) or subsection s. of section 5 of P.L.1972, c.29 (C.26:2I-5), every health care organization shall have power to mortgage and pledge any of its real or personal property, and to pledge any of its income from whatever source to repay the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any bond or other evidence of indebtedness evidencing the debt created by any such loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

C.26:2I-7.1 Payments, contracts to implement payment, for hospital asset transformation program.

6. a. In each fiscal year, the State Treasurer shall pay from the General Fund to the authority, in accordance with a contract between the State Treasurer and the authority as provided in subsection b. of this section, an amount equivalent to the amount due to be paid in that fiscal year for the debt service on the bonds or refunding bonds issued by the authority pursuant to subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7) and any additional costs as authorized pursuant thereto, including any agreement securing or providing for the payment of the bonds or refunding bonds.

b. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement provided for in subsection a. of this section. The contract shall provide for payment by the State Treasurer of the amounts required to be paid pursuant to subsection a. of this section and shall set forth the procedure for the transfer of monies for the purpose of making that payment. The contract shall contain such terms as are determined by the State Treasurer and the authority and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds issued by the authority pursuant to subsection g. of section 7 of P.L.1972, c.29 (C.26:2I-7); except that, notwithstanding any provision of any law, rule or regulation to the contrary, the State Treasurer shall pay the authority only such amounts as shall be determined by the contract and the incurrence of any obligation of the State under the contract, including any payment to be made from the General Fund pursuant thereto, shall be subject to and dependent upon appropriations made by the Legislature for the purposes of this section.

7. This act shall take effect immediately.

Approved August 29, 2000.

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TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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RELEASE: August 29, 2000

Governor Christie Whitman today signed the following pieces of legislation:

A-1292, sponsored by Assemblyman Guy F. Talarico (R-Bergen) and Senator Anthony R. Bucco (R-Morris), confers specific authority upon the State courts to establish special needs trusts to assist disabled individuals and ensures that Medicaid eligibility is not affected by assets in the trust. The bill does not prevent the establishment of such trusts outside the courts. The bill also insures that upon the disabled person's death, funds remaining in the trust are repaid to the State in an amount equal to the medical assistance that was paid on behalf of the disabled person.

This bill was drafted in response to changes in federal law regarding special needs trusts, which are established to assist disabled individuals by paying for health-related items or services after Medicaid benefits have been exhausted.

A-2550, sponsored by Assembly Members Anthony Impreveduto (D-Bergen/Hudson) and Nicholas R. Felice (R-Bergen/ Passaic), amends the law governing criminal history record background checks for individuals working with the developmentally disabled in community agencies by adding a rehabilitation provision. The Governor had signed the law on January 14, 2000.

The bill provides that an individual, otherwise disqualified from employment because of a conviction disclosed by a background check, can qualify for employment if the individual affirmatively demonstrates to the agency director that he or she was rehabilitated. If the individual with the conviction were the agency director, then the agency's board would make the determination.

Also, the bill requires a criminal history record background check to be conducted at least once every two years for agency directors and their employees (as is required for State institutions and facilities for the mentally ill and developmentally disabled).

A-2578, sponsored by Assembly Members Charlotte Vandervalk (R-Bergen) and Francis J. Blee (R-Atlantic) and Senators Jack Sinagra (R-Middlesex) and Robert W. Singer (R-Burlington/Monmouth/Ocean), enables the New Jersey Health Care Facilities Financing Authority (HCFFA) to refinance outstanding bond indebtedness of hospitals that cease acute care operations or transition to alternative services. The Appropriations Act for the current 2001 Budget set aside up to \$8 million for this purpose.

This bill was drafted in response to recommendations made by the New Jersey Hospital Advisory Commission at the end of 1999 which found that the State's hospital industry faced a serious financial crisis because of an excessive number of underutilized beds.

S-904, sponsored by Senators Diane B. Allen (R-Burlington/Camden) and Joseph A. Palaia (R-Monmouth) and Assembly Members James W. Holzapfel (R-Monmouth/Ocean) and Joel M. Weingarten (R-Essex/Union) clarifies procedures with regard to the payment of filing fees by inmates in connection with appeals from administrative determinations. This bill clarifies legislative intent regarding the payment of partial filing fees by indigent inmates by requiring inmates to pay a partial filing fee to appeal administrative rulings.

S-1116, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and John H. Adler (D-Camden) and Assembly Members John C. Gibson (R-Cape May/Atlantic/Cumberland) and Larry Chatzidakis (R-Atlantic/Burlington/Camden), excludes federal and other public or private financial aid received by New Jersey for open space or farmland preservation purposes from the \$200 million annual appropriations cap for projects approved by the Garden State Preservation Trust. This bill amends the Garden State Preservation Trust Act.

S-1320, sponsored by Senators Joseph A. Palaia (R-Monmouth) and Robert W. Sinagra (R-Middlesex) Assembly Members Clare M. Farragher (R-Monmouth) and Joseph R. Malone, III (R-Burlington/Monmouth/Ocean), appropriates funds to the Department of Environmental Protection for environmental infrastructure projects. Specifically, the bill appropriates federal Clean Water Funds to the DEP for zero-interest loans to local governments and privately owned water companies for up to 50 percent of the eligible project costs for the approved projects. The bill also authorizes DEP to issue a federal hardship grant to Swedesboro Borough in the amount of \$415,000 for a clean water project. The bill, along with S-1321, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.

S-1321, sponsored by Senators Henry P. McNamara (R-Bergen/Passaic) and Norman M. Robertson (R-Essex/Passaic) and Assembly Members Tom Smith (R-Monmouth) and Joseph V. Doria, Jr. (D-Hudson), authorizes the New Jersey Environmental Infrastructure Trust to make up to \$100 million in loans for environmental infrastructure projects. In addition, the bill authorizes the Trust to use unspent balances (in excess of \$44 million) from previously approved projects to finance loans for projects on the FY2001 Priority Project List. The bill, along with S-1320, comprises the annual New Jersey Environmental Infrastructure Financing Program for Fiscal Year 2001.