

[First Reprint]

**ASSEMBLY, No. 4062**

---

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED JUNE 8, 2009

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington and Camden)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

"New Jersey Broadband and Electronic Health Information Network Authority Act."

**CURRENT VERSION OF TEXT**

As reported by the Assembly Health and Senior Services Committee on November 23, 2009, with amendments.



**(Sponsorship Updated As Of: 6/19/2009)**

1 AN ACT establishing the "New Jersey Broadband and Electronic  
2 Health Information Network Authority" and supplementing  
3 P.L.2007, c.330 (C.26:1A-132 et seq.).  
4

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

8 1. This act shall be known and may be cited as the "New Jersey  
9 Broadband and Electronic Health Information Network Authority  
10 Act."  
11

12 2. The Legislature finds and declares that:

13 a. The use of broadband Internet service to access news and  
14 information, exchange personal communication, conduct electronic  
15 commerce, and interact with federal, state<sup>1</sup> and local  
16 governmental entities has greatly expanded in recent years;

17 b. In particular, the use of broadband Internet service to  
18 implement an electronic health information network has been  
19 shown to be an effective means of promoting a more affordable,  
20 safe<sup>1</sup> and accessible health care system by improving  
21 communication among many different health care entities<sup>1</sup>  
22 including, but not limited to, hospitals, clinics, pharmacies, and  
23 health care professionals;

24 c. States such as Delaware and Kentucky have established  
25 **'[state-wide] statewide'** health information networks that have  
26 demonstrated the feasibility of using such networks to facilitate the  
27 sharing of health records and information among health care  
28 providers and to address the needs of residents for timely, reliable,  
29 and relevant health care information;

30 d. In other states such as Virginia, Wisconsin, Illinois<sup>1</sup> and  
31 Michigan, public authorities and commissions have been  
32 established to oversee and promote the overall development of  
33 broadband Internet service in their respective jurisdictions in order  
34 to provide their residents with greater access to broadband services;  
35 **'and'**

36 e. In recognition of the need for a **'[State-wide] Statewide'**  
37 electronic health information network, and the growing importance  
38 of broadband Internet service to the economic and social life of the  
39 residents of this State, it is in the public interest to establish an  
40 independent authority to promote the development of broadband  
41 infrastructure projects, and to specifically oversee and develop a  
42 **'[State-wide] Statewide'** electronic health information network  
43 utilizing the State's broadband capacity and the bonding capacity of

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AHE committee amendments adopted November 23, 2009.

1 the authority as a funding mechanism to expedite the development  
2 of such a network.

3

4 3. As used in this act:

5 "Authority" means the New Jersey Broadband and Electronic  
6 Health Information Network Authority established pursuant to  
7 section 4 of this act.

8 "Broadband developer" means a person selected by the authority  
9 to acquire, construct, develop<sup>1,1</sup> and create any part of a broadband  
10 infrastructure project.

11 "Broadband infrastructure project" or "project" means all  
12 facilities, hardware, and software, and other intellectual property  
13 necessary to provide an electronic health information network, and  
14 other 'related' broadband services in this State, including<sup>1,1</sup> but not  
15 limited to, voice, video<sup>1,1</sup> and data.

16 "Broadband operator" means a person selected by the authority  
17 to operate any part of a broadband infrastructure.

18 "Broadband services" means those services, including<sup>1,1</sup> but not  
19 limited to, voice, video<sup>1,1</sup> and data, that provide capacity for  
20 transmission of information at rates in excess of 200 kilobits per  
21 second in at least one direction regardless of the technology or  
22 medium used<sup>1,1</sup> including wireless, copper wire, fiber optic cable,  
23 or coaxial cable. If voice transmission capacity is offered in  
24 conjunction with other services utilizing transmission at rates in  
25 excess of 200 kilobits per second, the voice transmission capacity  
26 rate may be less than 200 kilobits per second.

27 "Development costs" or "costs" means the costs associated with a  
28 broadband infrastructure project that have been approved by the  
29 authority<sup>1,1</sup> including, but not limited to, the costs for planning,  
30 acquiring, leasing, constructing, maintaining<sup>1,1</sup> and operating a  
31 broadband infrastructure project.

32 "Electronic health information network" means a system that  
33 utilizes certain broadband services to provide a secure, integrated  
34 method of storing, sending, and accessing health information,  
35 records, and data to, and by, health care organizations, health care  
36 professionals, public and private payers, and patients, and that links  
37 together components of the health care delivery system in this State.

38 "Health care organization" means<sup>1,1</sup> an organization located in  
39 this State which is authorized or permitted by law, whether directly  
40 or indirectly through a holding corporation, partnership or other  
41 entity, to provide health care-related services, including, but not  
42 limited to, hospital, outpatient, public health, home health care,  
43 residential care, assisted living, hospice, <sup>1</sup>health maintenance  
44 organization,<sup>1</sup> blood bank, alcohol or drug abuse, half-way house,  
45 diagnostic, treatment, rehabilitation, extended care, skilled nursing  
46 care, nursing care, intermediate care, tuberculosis care, chronic  
47 disease care, maternity, mental health, boarding or sheltered care or

1 day care <sup>1</sup>services<sup>1</sup>, services provided by a physician in his office,  
2 or any other service offered in connection with health care services  
3 or by an entity affiliated with a health care organization or an  
4 integrated delivery system<sup>1</sup>; or a health insurance carrier<sup>1</sup>.

5 <sup>1</sup>"Health insurance carrier" means an entity subject to the  
6 insurance laws and regulations of this State, or subject to the  
7 jurisdiction of the Commissioner of Banking and Insurance, which  
8 contracts or offers to contract to provide, deliver, arrange for, pay  
9 for, or reimburse any of the costs of health care services, including,  
10 but not limited to, an insurance company, health service  
11 corporation, hospital service corporation, medical service  
12 corporation, health maintenance organization, dental service  
13 corporation, and dental plan organization.<sup>1</sup>

14 "Health insurance plan" means any hospital and medical expense  
15 insurance policy<sup>1</sup>[;]<sup>1</sup> health, hospital or medical service  
16 corporation contract or certificate<sup>1</sup>[;]<sup>1</sup> or health maintenance  
17 organization subscriber contract or certificate<sup>1</sup>,<sup>1</sup> or dental or vision  
18 plan.  
19

20 4. a. There is hereby established in, but not of, the Department  
21 of Health and Senior Services, a public body corporate and politic,  
22 with corporate succession, to be known as the "New Jersey  
23 Broadband and Electronic Health Information Network Authority."  
24 The authority shall constitute a political subdivision of the State  
25 established as an instrumentality exercising public and essential  
26 governmental functions, and the exercise by the authority of the  
27 powers conferred by this act shall be deemed and held to be an  
28 essential governmental function.

29 b. The authority shall consist of <sup>1</sup>**[15]** seven<sup>1</sup> members as  
30 follows:

31 (1) the <sup>1</sup>**[Commissioners of Health and Senior Services,**  
32 **Banking and Insurance, and Human Services, the State Treasurer,**  
33 **and the]**<sup>1</sup> Chief Technology Officer of the New Jersey Office of  
34 Information Technology, or <sup>1</sup>**[their designees]** his designee<sup>1</sup>, who  
35 shall serve ex officio; and

36 (2) <sup>1</sup>**[Ten]** Six<sup>1</sup> public members<sup>1</sup>, as follows:

37 (a) two public members, who shall be appointed by the  
38 Governor, one each<sup>1</sup> with demonstrated professional expertise,  
39 knowledge, and skill in the academic<sup>1</sup>**[,]** and<sup>1</sup> business <sup>1</sup>**[,]** fields  
40 relating to the work of the authority, respectively;

41 (b) two public members, who shall be appointed by the  
42 President of the Senate, one each with demonstrated professional  
43 expertise, knowledge, and skill in the<sup>1</sup> technology<sup>1</sup>**[,]**<sup>1</sup> and  
44 financial fields relating to the work of the authority,<sup>1</sup>**[including]**  
45 respectively; and

1       (c) two public members, who shall be appointed by the Speaker  
2 of the General Assembly, including<sup>1</sup> one member with expertise in  
3 electronic health information technology<sup>1</sup>], who shall be appointed  
4 by the Governor] and one member who is licensed or otherwise  
5 authorized to practice as a health care professional pursuant to Title  
6 45 of the Revised Statutes.

7       The appointments of the public members shall be made<sup>1</sup> no later  
8 than the 60th day after the effective date of this act, 'and the  
9 appointments of the public members by the Governor shall be  
10 made<sup>1</sup> with the advice and consent of the Senate.

11       The Governor shall designate a public member as chair of the  
12 authority.

13       c. The public members shall serve for a term of five years;  
14 except that, of the public members first appointed, '[five] those  
15 appointed by the Governor<sup>1</sup> shall serve for a term of three years,  
16 and '[five] those appointed by the President of the Senate and by  
17 the Speaker of the General Assembly shall serve<sup>1</sup> for a term of two  
18 years. Vacancies in the membership of the authority shall be filled  
19 in the same manner as the original appointments were made.

20       Any 'public<sup>1</sup> member of the authority '[appointed by the  
21 Governor]<sup>1</sup> may be removed from office '[by the Governor]<sup>1</sup> for  
22 cause after a public hearing<sup>1</sup>, as follows: by the Governor if the  
23 public member was appointed pursuant to subparagraph (a) of  
24 paragraph (2) of subsection b. of this section; by the President of  
25 the Senate if the public member was appointed pursuant to  
26 subparagraph (b) of paragraph (2) of subsection b. of this section;  
27 and by the Speaker of the General Assembly if the public member  
28 was appointed pursuant to subparagraph (c) of paragraph (2) of  
29 subsection b. of this section<sup>1</sup>.

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

33       e. The authority, upon the first appointment of its members and  
34 thereafter on or after April 30 in each year, shall annually elect  
35 from among its members a vice chairman who shall hold office  
36 until April 30 next ensuing and shall continue to serve after the  
37 expiration of the term of the '[vice-chairman's] vice chairman's<sup>1</sup>  
38 successor and until the '[vice-chairman's] vice chairman's<sup>1</sup>  
39 successor shall have been appointed and qualified. The authority  
40 may also appoint, retain and employ, without regard to the  
41 provisions of Title 11A, Civil Service, of the New Jersey Statutes,  
42 such officers, agents, and employees as it may require, and it shall  
43 determine their qualifications, terms of office, duties, services, and  
44 compensation.

45       f. The powers of the authority shall be vested in the members  
46 thereof in office from time to time, and a majority of the total

1 authorized membership of the authority shall constitute a quorum at  
2 any meeting thereof. Action may be taken and motions and  
3 resolutions adopted by the authority at any meeting thereof by the  
4 affirmative vote of a majority of the members present, unless in any  
5 case the bylaws of the authority shall require a larger number. No  
6 vacancy in the membership of the authority shall impair the right of  
7 a quorum to exercise all the rights and perform all the duties of the  
8 authority.

9 g. Each member and such person as may be designated by the  
10 authority as its chief financial officer, shall execute a bond to be  
11 conditioned upon the faithful performance of the duties of such  
12 member or officer, as the case may be, in such form and amount as  
13 may be prescribed by the Attorney General. Such bonds shall be  
14 filed in the office of the Secretary of State. At all times  
15 thereafter<sup>1, 1</sup> the members and the chief financial officer, if any, of  
16 the authority shall maintain such bonds in full force and effect. All  
17 costs of such bonds shall be borne by the authority.

18 h. No trustee, director, <sup>1or</sup> officer <sup>1[or employee]</sup> of a health  
19 care organization may serve as a member of the authority.

20 i. At least two true copies of the minutes of every meeting of  
21 the authority shall be forthwith delivered by and under the  
22 certification of the secretary thereof, to the Governor. No action  
23 taken at such meeting by the authority shall have force or effect  
24 until 10 days, exclusive of Saturdays, Sundays<sup>1, 1</sup> and public  
25 holidays, after such copies of the minutes shall have been so  
26 delivered or at such earlier time as the Governor shall sign a  
27 statement of approval thereof. If, in the 10-day period, the  
28 Governor returns a copy of the minutes with veto of any action  
29 taken by the authority or any member thereof at such meeting, such  
30 action shall be null and of no effect. If the Governor shall not  
31 return the minutes within the 10-day period, any action therein  
32 recited shall have force and effect according to the wording thereof.  
33 At any time prior to the expiration of the 10-day period, the  
34 Governor may sign a statement of approval of each, or any such  
35 action of the authority.

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

39  
40 5. The authority shall have power:

41 a. To adopt bylaws for the regulation of its affairs and the  
42 conduct of its business and to alter and revise such bylaws from  
43 time to time at its discretion<sup>1[.]; 1</sup>

44 b. To adopt and have an official seal and alter the same at  
45 pleasure<sup>1[.]; 1</sup>

46 c. To maintain an office at such place or places within the State  
47 as it may designate<sup>1[.]; 1</sup>

- 1 d. To sue and be sued in its own name '[.]:'
- 2 e. To borrow money and to issue bonds and notes to fund the  
3 operations of the authority, to finance or refinance part or all of the  
4 development costs of broadband infrastructure projects<sup>1,1</sup> including,  
5 but not limited to, a '[State-wide] Statewide' electronic health  
6 information network, '[and the provision of broadband Internet  
7 services to residential, commercial, public and nonprofit customers  
8 in this State,]'<sup>1</sup> to refinance existing debt for technology that  
9 constitutes a part of or is related to broadband infrastructure  
10 projects, and to secure bonds and notes by mortgage, assignment, or  
11 pledge of any of its revenues and assets '[.]:'
- 12 f. To make loans and to enter into partnership arrangements with  
13 broadband developers and broadband operators in order to acquire,  
14 construct, maintain, and operate all or portions of broadband  
15 infrastructure projects '[.]:'
- 16 g. To set construction, operation, and financing standards for  
17 broadband infrastructure projects in connection with authority  
18 financing and to provide for inspections to determine compliance  
19 with those standards '[.]:'
- 20 h. To oversee the development of a '[State-wide] Statewide'  
21 electronic health information network in order to ensure that the  
22 network is designed to:
- 23 (1) promote more efficient and effective communication among  
24 multiple health care providers<sup>1,1</sup> including, but not limited to,  
25 hospitals, physicians, payers, employers, pharmacies, laboratories,  
26 and other health care entities;
- 27 (2) create efficiencies in the provision of health care by  
28 eliminating redundancy in data capture and storage, and reduce  
29 administrative, billing<sup>1,1</sup> and data collection costs;
- 30 (3) create the ability to monitor community health status; and
- 31 (4) provide reliable information to health care consumers and  
32 purchasers regarding the quality and cost-effectiveness of health  
33 care, health insurance plans, and health care providers<sup>1,1</sup> including,  
34 but not limited to, health care professionals, hospitals, nursing  
35 homes<sup>1,1</sup> and other health care facilities '[.]:'
- 36 i. To acquire in the name of the authority by purchase or  
37 otherwise, on such terms and conditions and in such manner as it  
38 may deem proper, any land or interest therein and other property  
39 which it may determine is reasonably necessary for any broadband  
40 infrastructure project; and to hold and use the same and to sell,  
41 convey, lease<sup>1,1</sup> or otherwise dispose of property so acquired, that  
42 is no longer necessary for the authority's purposes, for fair  
43 consideration after public notice '[.]:'
- 44 j. To receive and accept, from any federal or other public agency  
45 or governmental entity, grants or loans for, or in aid of, the  
46 acquisition or construction of any broadband infrastructure project,

1 and to receive and accept aid or contributions from any other  
2 source, of either money, property, labor, or other things of value, to  
3 be held, used', and applied only for the purposes for which such  
4 grants, loans', and contributions may be made'.'.':

5 k. To prepare or cause to be prepared plans, specifications,  
6 designs, and estimates of costs of the broadband infrastructure  
7 projects, and of the technology that constitutes a part of or is related  
8 to such projects, and for the construction of such projects under the  
9 provisions of this act, and from time to time to modify such plans,  
10 specifications, designs, or estimates'.'.':

11 l. By contract or contracts with and for broadband developers  
12 only, to construct, acquire, reconstruct, rehabilitate and improve,  
13 and furnish and equip broadband infrastructure projects. The  
14 authority, in the exercise of its authority to make and enter into  
15 contracts and agreements necessary or incidental to the performance  
16 of its duties and the execution of its powers, shall adopt standing  
17 rules and procedures providing that, except as hereinafter provided,  
18 no contract on behalf of the authority shall be entered into for the  
19 doing of any work, or for the hiring of equipment or vehicles, under  
20 which the sum to be expended exceeds the adjusted amount  
21 determined by the Governor as provided in subsection j. of section  
22 5 of P.L.1972, c.29 (C.26:2I-5) with respect to contracts of the New  
23 Jersey Health Care 'Facilities' Financing Authority, unless the  
24 authority shall first publicly advertise for bids therefor, and shall  
25 award the contract to the lowest responsible bidder; provided,  
26 however, that such advertising shall not be required if the contract  
27 to be entered into is one for the furnishing or performing of services  
28 of a professional nature or for the supplying of any product or the  
29 rendering of any service by a public utility subject to the  
30 jurisdiction of the Board of Public Utilities, and tariffs and  
31 schedules of the charges, made, charged, or exacted by the public  
32 utility for any such products to be supplied or services to be  
33 rendered, are filed with the board'.'.':

34 m. To determine the location and character of any broadband  
35 infrastructure project to be undertaken, subject to the provisions of  
36 this act, and subject to State health and environmental laws, to  
37 construct, reconstruct, maintain, repair, lease as lessee or lessor, and  
38 regulate the same and operate the same in the event of default by a  
39 broadband operator of its obligations and agreements with the  
40 authority; to enter into contracts for any or all such purposes; and to  
41 enter into contracts for the management and operation of a  
42 broadband infrastructure project in the event of default as herein  
43 provided. The authority shall use its best efforts to conclude its  
44 position as an operator as herein provided as soon as is  
45 practicable'.'.':

46 n. To establish rules and regulations for the use of a broadband  
47 infrastructure project or any portion thereof and to designate a



1 health care organization as its agent to '[establish] implement'  
2 rules and regulations for the use of a project undertaken by such a  
3 health care organization<sup>'[.].'</sup>

4 o. Generally to fix and revise, from time to time, and to charge  
5 and collect rates, rents, fees<sup>'.'</sup> and other charges for the use of, and  
6 for the services furnished or to be furnished by, those portions of a  
7 broadband infrastructure project financed by the authority pursuant  
8 to this act, and to contract with holders of its bonds and with any  
9 other person, party, association, corporation<sup>'.'</sup> or other body, public  
10 or private, in respect thereof<sup>'[.].'</sup>

11 p. 'To develop and manage a master patient index and a health  
12 insurance claims database;

13 q.<sup>'</sup> To enter into agreements, credit agreements or contracts,  
14 execute any and all instruments, and do and perform any and all  
15 acts or things necessary, convenient<sup>'.'</sup> or desirable for the purposes  
16 of the authority or to carry out any power expressly given in this  
17 act<sup>'[.].'</sup>

18 '[q.] r.<sup>'</sup> To invest any moneys held in reserve or sinking funds,  
19 or any moneys not required for immediate use or disbursement, at  
20 the discretion of the authority, in such obligations as are authorized  
21 by resolution of the authority<sup>'[.].'</sup>

22 '[r.] s.<sup>'</sup> To obtain, or aid in obtaining, from any department or  
23 agency of the United States any insurance or guarantee as to, or of,  
24 or for the payment or repayment of interest or principal, or both, or  
25 any part thereof, on any loan or any instrument evidencing or  
26 securing the same, made or entered into pursuant to the provisions  
27 of this act; and notwithstanding any other provisions of this act, to  
28 enter into agreement, contract<sup>'.'</sup> or any other instrument  
29 whatsoever with respect to any such insurance or guarantee, and  
30 accept payment in such manner and form as provided therein in the  
31 event of default by the borrower<sup>'[.].'</sup>

32 '[s.] t.<sup>'</sup> To obtain from any department or agency of the United  
33 States or a private insurance company any insurance or guarantee as  
34 to, or of, or for the payment or repayment of interest or principal, or  
35 both, or any part thereof, on any bonds issued by the authority  
36 pursuant to the provisions of this act; and notwithstanding any other  
37 provisions of this act, to enter into any agreement, contract<sup>'.'</sup> or  
38 any other instrument whatsoever with respect to any such insurance  
39 or guarantee, except to the extent that such action would in any way  
40 impair or interfere with the authority's ability to perform and fulfill  
41 the terms of any agreement made with the holders of the bonds of  
42 the authority<sup>'[.].'</sup>

43 '[t.] u.<sup>'</sup> To receive and accept, from any department or agency  
44 of the United States or of the State or from any other entity, any  
45 grant, appropriation<sup>'.'</sup> or other moneys to be used for or applied to  
46 any corporate purpose of the authority, including without limitation

1 the meeting of debt service obligations of the authority in respect of  
2 its bonds' [.]';

3 '[u.] v.' To develop or design other initiatives in furtherance of  
4 its purposes' [.]';

5 '[v.] w.' To report and make recommendations to the '[New  
6 Jersey Health Information Technology Commission established  
7 pursuant to section 5 of P.L.2007, c.330 (C.26:1A-136).] Office for  
8 e-HIT established pursuant to section 8 of P.L.2007, c.330  
9 (C.17:1D-1); and'

10 '[w.] x.' To perform any and all other activities in furtherance  
11 of the purposes of the authority.

12  
13 6. a. Each worker employed in the construction or rehabilitation  
14 of any broadband infrastructure project undertaken in connection  
15 with loans, loan guarantees, expenditures, investments, tax  
16 exemptions', or other incentives or financial assistance approved,  
17 provided, authorized, facilitated, or administered by the authority,  
18 or undertaken to fulfill any condition of receiving any of the  
19 incentives or financial assistance, shall be paid not less than the  
20 prevailing wage rate for the worker's craft or trade, as determined  
21 by the Commissioner of Labor and Workforce Development  
22 pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

23 b. The Commissioner of Labor and Workforce Development  
24 shall determine the prevailing wage rate in the locality in which the  
25 construction or rehabilitation is to be performed for each craft,  
26 trade', or classification of worker employed in the construction or  
27 rehabilitation, as if the construction or rehabilitation is "public  
28 work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

29 c. For the purpose of implementing the provisions of this  
30 section, the Commissioner of Labor and Workforce Development  
31 shall, and a worker employed in the performance of work subject to  
32 this act or the employer or any designated representative of the  
33 worker may, exercise all rights, powers', or duties granted or  
34 imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

35 d. The authority shall, in consultation with the Commissioner  
36 of Labor and Workforce Development, adopt rules and regulations,  
37 consistent with the rules and regulations adopted by the  
38 Commissioner of Labor and Workforce Development pursuant to  
39 P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than  
40 the prevailing wage be paid to workers employed in the  
41 construction or rehabilitation of projects undertaken in connection  
42 with loans, loan guarantees, expenditures, investments, incentives,  
43 or other financial assistance provided, authorized', or administered  
44 by the authority. The prevailing wage rate shall be the rate  
45 determined by the Commissioner of Labor and Workforce  
46 Development pursuant to the provisions of P.L.1963, c.150  
47 (C.34:11-56.25 et seq.).

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

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

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

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

33       (1) pledging all or any part of the revenues of a broadband  
34 infrastructure project or any <sup>1</sup>~~['revenue producing']~~ revenue-  
35 producing<sup>1</sup> contract or contracts made by the authority with any  
36 individual, partnership, corporation<sup>1,1</sup> or association or other body,  
37 public or private, to secure the payment of the bonds or of any  
38 particular issue of bonds, subject to such agreements with  
39 bondholders as may then exist;

40       (2) the rentals, fees<sup>1,1</sup> and other charges to be charged, and the  
41 amounts to be raised in each year thereby, and the use and  
42 disposition of the revenues;

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

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

47       (5) the limitations on the purpose to which the proceeds of sale  
48 of any issue of bonds then or thereafter to be issued may be applied

1 and pledging such proceeds to secure the payment of the bonds or  
2 any issue of the bonds;

3 (6) the limitations on the issuance of additional bonds, the terms  
4 upon which additional bonds may be issued and secured<sup>1, 1</sup> and the  
5 refunding of outstanding bonds;

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

10 (8) limitations on the amount of moneys derived from a project  
11 to be expended for operating, administrative<sup>1, 1</sup> or other expenses of  
12 the authority; and

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

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

21 f. The authority shall have power out of any funds available  
22 therefor to purchase its bonds. The authority may hold, pledge,  
23 cancel<sup>1, 1</sup> or resell such bonds, subject to and in accordance with  
24 agreements with bondholders.

25

26 8. In the discretion of the authority, any bonds issued under the  
27 provisions of this act may be secured by a trust agreement by and  
28 between the authority and a corporate trustee or trustees, which may  
29 be any trust company or bank having the powers of a trust company  
30 within or without the State. Such trust agreement or the resolution  
31 providing for the issuance of such bonds may pledge or assign the  
32 revenues or other moneys or securities to be received or proceeds of  
33 any contract or contracts pledged. Such trust agreement or  
34 resolution providing for the issuance of such bonds may contain  
35 such provisions for protecting and enforcing the rights and remedies  
36 of the bondholders as may be reasonable and proper and not in  
37 violation of law, including particularly such provisions as have  
38 hereinabove been specifically authorized to be included in any  
39 resolution or resolutions of the authority authorizing bonds thereof.  
40 Any bank or trust company incorporated under the laws of this State  
41 which may act as depositary of the proceeds of bonds or revenues or  
42 other moneys or securities may furnish such indemnifying bonds or  
43 pledge such securities as may be required by the authority. Any  
44 such trust agreement may set forth the rights and remedies of the  
45 bondholders and of the trustee or trustees, and may restrict the  
46 individual right of action by bondholders. In addition to the  
47 foregoing, any such trust agreement or resolution may contain such  
48 other provisions as the authority may deem reasonable and proper

1 for the security of the bondholders. All expenses incurred in  
2 carrying out the provisions of such trust agreement or resolution  
3 may be treated as project costs.

4  
5 9. Bonds issued under the provisions of this act shall not be  
6 deemed to constitute a debt or liability of the State or of any  
7 political subdivision thereof other than the authority, nor a pledge  
8 of the faith and credit of the State or of any such political  
9 subdivision, other than the authority, but shall be payable solely  
10 from the funds herein provided. All such bonds shall contain on the  
11 face thereof a statement to the effect that neither the State of New  
12 Jersey nor the authority shall be obligated to pay the same or the  
13 interest thereon except from revenues or other moneys of the  
14 authority and that neither the faith and credit nor the taxing power  
15 of the State of New Jersey or of any political subdivision thereof  
16 other than the authority is pledged to the payment of the principal of  
17 or the interest on such bonds. The issuance of bonds under the  
18 provisions of this act shall not directly or indirectly or contingently  
19 obligate the State or any political subdivision thereof to levy or to  
20 pledge any form of taxation whatever therefor.

21  
22 10. The authority is authorized to fix, revise, charge<sup>1,1</sup> and  
23 collect rates, rents, fees<sup>1,1</sup> and charges for the use of and for the  
24 services furnished or to be furnished by each broadband  
25 infrastructure project and to contract with any person, partnership,  
26 association<sup>1,1</sup> or corporation, or other body, public or private, in  
27 respect thereof. Such rates, rents, fees<sup>1,1</sup> and charges shall be fixed  
28 and adjusted in respect of the aggregate of rents, rates, fees<sup>1,1</sup> and  
29 charges from such project so as to provide funds sufficient with  
30 other revenues or moneys, if any:

31 a. To pay the cost of maintaining, repairing<sup>1,1</sup> and operating  
32 the project and each and every portion thereof, to the extent that the  
33 payment of such cost has not otherwise been adequately provided  
34 for;

35 b. To pay the principal of, and the interest on, outstanding  
36 bonds of the authority issued in respect of such project as the same  
37 shall become due and payable; and

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

41 Such rates, rents, fees<sup>1,1</sup> and charges shall not be subject to  
42 supervision or regulation by any department, commission, board,  
43 body, bureau<sup>1,1</sup> or agency of this State other than the authority. A  
44 sufficient amount of the revenues derived in respect of a project,  
45 except such part of such revenues as may be necessary to pay the  
46 cost of maintenance, repair<sup>1,1</sup> and operation and to provide reserves  
47 for renewals, replacements, extensions, enlargements<sup>1,1</sup> and

1 improvements as may be provided for in the resolution authorizing  
2 the issuance of any bonds of the authority or in the trust agreement  
3 securing the same, shall be set aside at such regular intervals as may  
4 be provided in such resolution or trust agreement in a sinking or  
5 other similar fund which is hereby pledged to, and charged with, the  
6 payment of the principal of, and the interest on, such bonds as the  
7 same shall become due, and the redemption price or the purchase  
8 price of bonds retired by call or purchase as therein provided. Such  
9 pledge shall be valid and binding from the time when the pledge is  
10 made; the rates, rents, fees<sup>1,1</sup> and charges and other revenues or  
11 other moneys or securities so pledged and thereafter received by the  
12 authority shall immediately be subject to the lien of such pledge  
13 without any physical delivery thereof or further act, and the lien of  
14 any such pledge shall be valid and binding as against all parties  
15 having claims of any kind in tort, contract<sup>1,1</sup> or otherwise against  
16 the authority, irrespective of whether such parties have notice  
17 thereof. Neither the resolution nor any trust agreement by which a  
18 pledge is created need be filed or recorded except in the records of  
19 the authority. The use and disposition of moneys to the credit of  
20 such sinking or other similar fund shall be subject to the provisions  
21 of the resolution authorizing the issuance of such bonds or of such  
22 trust agreement. Except as may otherwise be provided in such  
23 resolution or such trust agreement, such sinking or other similar  
24 fund shall be a fund for all such bonds issued to finance projects of  
25 a health care organization without distinction or priority of one over  
26 another; provided the authority in any such resolution or trust  
27 agreement may provide that such sinking or other similar fund shall  
28 be the fund for a particular project at a health care organization and  
29 for the bonds issued to finance a particular project and may,  
30 additionally, permit and provide for the issuance of bonds having a  
31 subordinate lien in respect of the security herein authorized to other  
32 bonds of the authority<sup>1,1</sup> and, in such case, the authority may create  
33 separate sinking or other similar funds in respect to such  
34 subordinate lien bonds.

35  
36 11. All moneys received by the authority pursuant to this act,  
37 whether as proceeds from the sale of bonds or as revenues, shall be  
38 deemed to be trust funds to be held and applied solely as provided  
39 in this act. Any officer with whom, or any bank or trust company  
40 with which, such moneys shall be deposited shall act as trustee of  
41 such moneys and shall hold and apply the same for the purposes  
42 hereof, subject to such regulations as this act and the resolution  
43 authorizing the bonds of any issue or the trust agreement securing  
44 such bonds may provide.

45  
46 12. Any holder of bonds issued under the provisions of this act  
47 or any of the coupons appertaining thereto, and the trustee or  
48 trustees under any trust agreement, except to the extent the rights

1 herein given may be restricted by any resolution authorizing the  
2 issuance of, or any such trust agreement securing, such bonds, may,  
3 either at law or in equity, by suit, action, proceeding in lieu of  
4 prerogative writ, or other proceedings, protect and enforce any and  
5 all rights under the laws of the State or granted hereunder or under  
6 such resolution or trust agreement, and may enforce and compel the  
7 performance of all duties required by this act or by such resolution  
8 or trust agreement to be performed by the authority or by any  
9 officer, employee or agent thereof, including the fixing, charging<sup>1, 1</sup>  
10 and collecting of the rates, rents, fees, and charges herein  
11 authorized and required by the provisions of such resolution or trust  
12 agreement to be fixed, established, and collected.

13

14 13. a. The authority is hereby authorized to provide for the  
15 issuance of bonds of the authority for the purpose of refunding any  
16 bonds of the authority then outstanding, including the payment of  
17 any redemption premium thereon and any interest accrued or to  
18 accrue to the earliest or subsequent date of redemption, purchase<sup>1, 1</sup>  
19 or maturity of such bonds, and, if deemed advisable by the  
20 authority, for the additional purpose of paying all or any part of the  
21 cost of constructing and acquiring additions, improvements,  
22 extensions<sup>1, 1</sup> or enlargements of a project or any portion thereof  
23 and for making payments to reserve funds therefor.

24 b. The proceeds of any such bonds issued for the purpose of  
25 refunding outstanding bonds may, in the discretion of the authority,  
26 be applied to the purchase or retirement at maturity or redemption  
27 of such outstanding bonds either on their earliest or any subsequent  
28 redemption date or upon the purchase or at the maturity thereof and  
29 may, pending such application, be placed in escrow to be applied to  
30 such purchase or retirement at maturity or redemption on such date  
31 as may be determined by the authority.

32 c. Any such escrowed proceeds, pending such use, may be  
33 invested and reinvested as permitted by the applicable resolution or  
34 trust agreement. The interest, income<sup>1, 1</sup> and profits, if any, earned  
35 or realized on any such investment may also be applied to the  
36 payment of outstanding bonds to be refunded. After the terms of  
37 the escrow have been fully satisfied and carried out, any balance of  
38 such proceeds and interest, income<sup>1, 1</sup> and profits, if any, earned or  
39 realized on the investments thereof may be returned to the authority  
40 for use by it in any lawful manner.

41 d. All such bonds shall be subject to the provisions of this act  
42 in the same manner and to the same extent as other bonds issued  
43 pursuant to this act.

44

45 14. Bonds and notes issued by the authority under the provisions  
46 of this act are hereby made securities in which the State and all  
47 political subdivisions of the State, their officers, boards,

1 commissions, departments or other agencies, all banks, bankers,  
2 savings banks, trust companies, savings and loan associations,  
3 investment companies and other persons carrying on a banking  
4 business, all insurance companies, insurance associations, and other  
5 persons carrying on an insurance business, and all administrators,  
6 executors, guardians, trustees and other fiduciaries, and all other  
7 persons whatsoever who now are or may hereafter be authorized to  
8 invest in bonds or other obligations of the State, may properly and  
9 legally invest any funds, including capital belonging to them or  
10 within their control; and said bonds, notes<sup>1,1</sup> or other securities or  
11 obligations are hereby made securities which may properly and  
12 legally be deposited with and received by any State or municipal  
13 officers or agency of the State for any purpose for which the deposit  
14 of bonds or other obligations of the State is now or may hereafter be  
15 authorized by law.

16  
17 15. Bonds may be issued under the provisions of this act without  
18 obtaining the consent of any department, division, commission,  
19 board, bureau, agency<sup>1,1</sup> or officer of the State, and without any  
20 other proceedings or the happening of any other conditions or  
21 things than those proceedings, conditions<sup>1,1</sup> and things which are  
22 specifically required by this act.

23  
24 16. The exercise of the powers granted by **'[the]'** this act  
25 **'[will] shall'** be in all respects for the benefit of the people of this  
26 State, for the increase of their commerce, welfare and prosperity,  
27 and for the improvement of their health and living conditions, and  
28 as the operation and maintenance of a project by the authority or its  
29 agent **'[will] shall'** constitute the performance of an essential  
30 public function, neither the authority nor its agent shall be required  
31 to pay any taxes or assessments upon or in respect of a project or  
32 any property acquired or used by the authority or its agent under the  
33 provisions of this act or upon the income therefrom, and any bonds  
34 issued under the provisions of this act, their transfer and the income  
35 therefrom, including any profit made on the sale thereof, shall at all  
36 times be exempt from taxation except for transfer, inheritance<sup>1,1</sup>  
37 and estate taxes.

38  
39 17. The State of New Jersey does pledge to and agree with the  
40 holders of the bonds issued pursuant to the authority contained in  
41 this act, and with those parties who may enter into contracts with  
42 the authority pursuant to the provisions of this act, that the State  
43 will not limit, alter<sup>1,1</sup> or restrict the rights hereby vested in the  
44 authority and the health care organization to maintain, construct,  
45 reconstruct<sup>1,1</sup> and operate any project as defined in this act or to  
46 establish and collect such rents, fees, receipts<sup>1,1</sup> or other charges as  
47 may be convenient or necessary to produce sufficient revenues to



1 meet the expenses of maintenance and operation thereof and to  
2 fulfill the terms of any agreements made with the holders of bonds  
3 authorized by this act, and with the parties who may enter into  
4 contracts with the authority pursuant to the provisions of this act, or  
5 in any way impair the rights or remedies of the holders of such  
6 bonds or such parties until the bonds, together with interest thereon,  
7 are fully paid and discharged and such contracts are fully performed  
8 on the part of the authority. The authority as a public body  
9 corporate and politic shall have the right to include the pledge  
10 herein made in its bonds and contracts.

11  
12 18. On or before March 31 in each year, the authority shall make  
13 an annual report of its activities for the preceding calendar year to  
14 the Governor and<sup>1,1</sup> pursuant to 'section 2 of' P.L.1991, c.164  
15 (C.52:14-19.1), to the Legislature. Each such report shall set forth a  
16 complete operating and financial statement covering the authority's  
17 operations during the year. The authority shall cause an audit of its  
18 books and accounts to be made at least once in each year by  
19 certified public accountants and cause a copy thereof to be filed  
20 with the Secretary of State and the State Comptroller.

21  
22 19. Except as otherwise expressly provided in this act, any  
23 member, officer, agent, or employee of the authority, or member of  
24 the immediate family thereof, who has an interest, either directly or  
25 indirectly, in any contract or transaction of another 'party' with the  
26 authority, or in the purchase, sale or lease of any property, either  
27 real or personal, to or from the authority, shall be guilty of a crime  
28 of the fourth degree.

29  
30 20. The State Comptroller and the Comptroller's legally  
31 authorized representatives are hereby authorized and empowered  
32 from time to time to examine the accounts, books<sup>1,1</sup> and records of  
33 the authority, including its receipts, disbursements, contracts,  
34 sinking funds, investments<sup>1,1</sup> and any other matters relating thereto  
35 and to its financial standing.

36  
37 21. The authority shall be entitled to call to its assistance and  
38 avail itself of the services of such employees of any State  
39 department or agency as it may require and as may be available to it  
40 for said purpose.

41  
42 22. This act shall be liberally construed to effect the purpose  
43 thereof.

44  
45 23. Nothing contained in this act shall be deemed or construed  
46 to create or constitute a debt, liability, or a loan or pledge of the  
47 credit, of the State.

- 1       24. The foregoing sections of this act shall be deemed to provide  
2 an additional and alternative method for the doing of the things  
3 authorized thereby, and shall be regarded as supplemental and  
4 additional to powers conferred by other laws, and shall not be  
5 regarded as in derogation of any powers now existing; provided,  
6 however, that the issuance of bonds or refunding bonds under the  
7 provisions of this act need not comply with the requirements of any  
8 other law applicable to the issuance of bonds<sup>1,1</sup>  
9
- 10       25. All laws, or parts thereof, inconsistent with this act are  
11 hereby declared to be inapplicable to the provisions of this act,  
12 except as otherwise provided.  
13
- 14       26. The provisions of this act shall be severable, and if any of its  
15 provisions shall be held to be unconstitutional or otherwise invalid,  
16 the decision of the court shall not affect the validity of any of the  
17 remaining provisions of this act.  
18
- 19       27. This act shall take effect immediately.