

P U B L I C     H E A R I N G

before

ASSEMBLY INSTITUTIONS, HEALTH AND WELFARE COMMITTEE

on

A-1823

(Institutional Bond Issue)

Held:  
June 19, 1980  
Room 217  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman George J. Otlowski (Chairman)  
Assemblyman Raymond Lesniak  
Assemblyman C. Louis Bassano  
Assemblyman Clifford W. Snedeker

ALSO:

John D. Kohler, Research Associate  
Office of Legislative Services  
Aide, Assembly Institutions, Health and Welfare Committee

\* \* \*



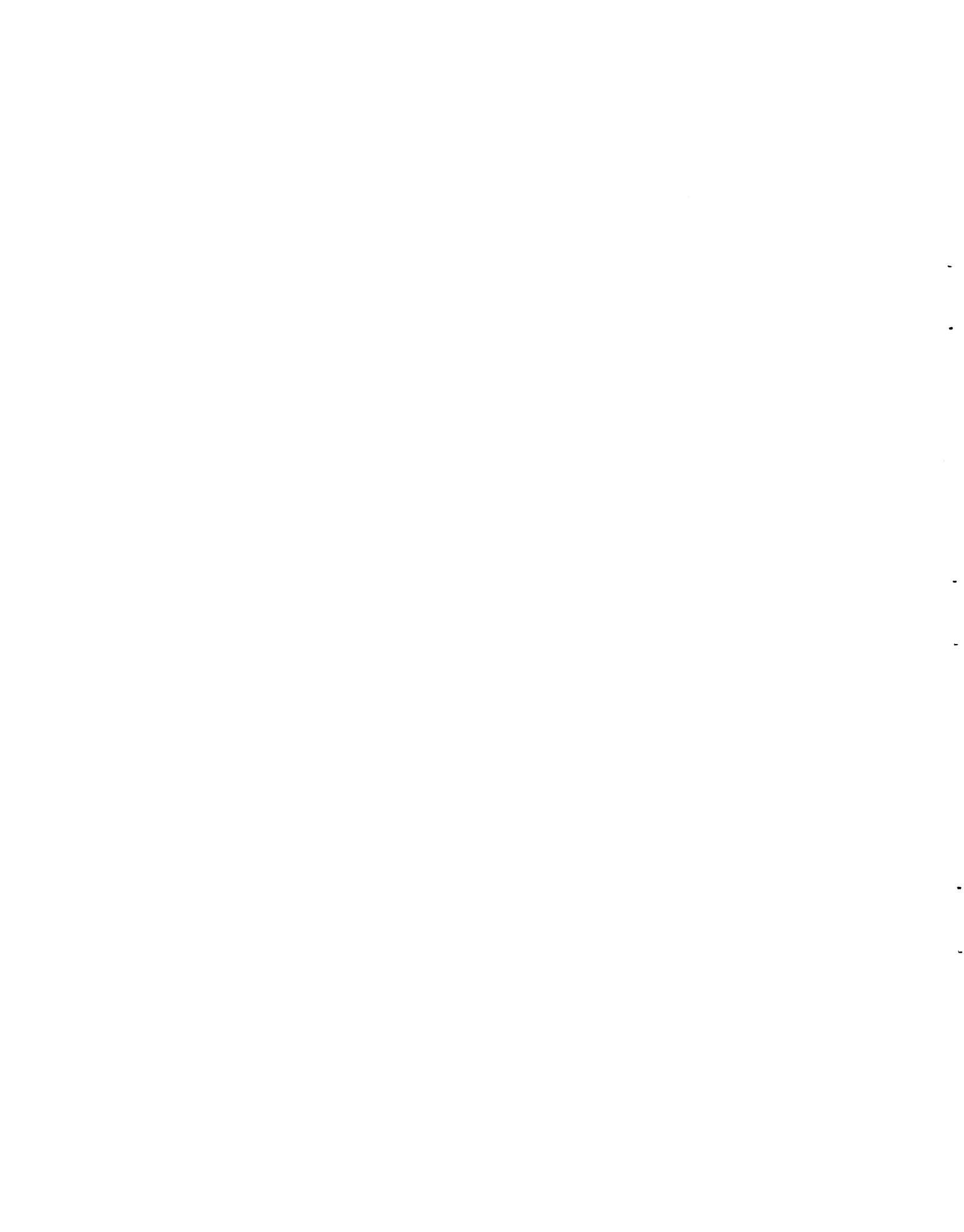
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ASSEMBLY, No. 1823

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Assemblymen OTLOWSKI, KARCHER, PATERO, PATERNITI, ADUBATO, SCHWARTZ, BURSTEIN, FLYNN, BORNHEIMER, SNEDEKER, SAXTON, LITTELL, HURLEY and D. GALLO

Referred to Committee on Institutions, Health and Welfare

AN Act authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$125,000,000.00 for buildings for public purposes, their planning, construction, reconstruction, development, erection, acquisition, extension, improvement, rehabilitation, demolition and equipment; providing the ways and means to pay the interest of said debt, and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

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

1 1. This act shall be known and may be cited as the "New Jersey  
2 Public Purpose Buildings Construction Bond Act of 1980."

1 2. The Legislature hereby finds that:

2 a. The State of New Jersey requires an immediate program to  
3 provide safe and humane facilities for persons who require insti-  
4 tutionalization or extended care.

5 b. The State of New Jersey requires an immediate and integrated  
6 program for the improvement, rehabilitation, and construction of  
7 institutions for the aged, aged veterans, the mentally ill, the men-  
8 tally retarded, children in need of supervision and the incarcerated.

9 c. The State of New Jersey requires an immediate program to  
10 facilitate the construction of long-term care facilities in order to  
11 increase the number of beds available to aged Medicaid eligible  
12 persons in need of such facilities.

13 d. The State of New Jersey requires an immediate program for  
14 the construction of institutions for the mentally retarded in con-  
15 junction with the Federal program for Intermediate Care Facil-  
16 ities/Mentally Retarded.

17 e. The State of New Jersey requires an immediate program for  
18 the construction of additional long-term care facilities for veterans  
19 in conjunction with the Federal State Home Construction Program.

20 f. The State of New Jersey requires an immediate program for  
21 the construction of additional facilities for the incarcerated.

22 g. Implementation of such programs will be a substantial step  
23 toward meeting the immediate and critical needs of the people of  
24 the State, will substantially further the public interest, and can be  
25 most economically financed through a bond issue.

1 3. Except as the context may otherwise require:

2 a. "Commission" means the New Jersey Commission on Capital  
3 Budgeting and Planning.

4 b. "Construction" means the planning, erection, acquisition,  
5 improvement, rehabilitation, construction, reconstruction, develop-  
6 ment, extension, demolition, and equipment of public buildings or  
7 institutions including all equipment and facilities necessary to the  
8 operation thereof and includes the acquisition of land necessary for  
9 said purposes, and the guarantee of loans made by public authori-  
10 ties, herein defined, for the development of long-term care facilities.

11 c. "Public purpose buildings" means (1) structures, institutions  
12 or facilities under the supervision or control of the Department of  
13 Corrections or the Department of Human Services; (2) structures,  
14 institutions or facilities necessary for the operation of State,  
15 county, municipal or private programs for the mentally retarded,  
16 the mentally ill, the developmentally disabled, or the aged; and  
17 (3) long-term care facilities licensed by the Department of Health  
18 which are in conformance with rules and regulations promulgated  
19 by the Department of Human Services.

20 d. "Public authorities" means the Health Care Facilities Financ-  
21 ing Authority or the Economic Development Authority.

1 4. The chief executive officer of any department designated pur-  
2 suant to section 5 of this act to implement a portion of the con-  
3 struction provided for in this act shall issue and promulgate,  
4 pursuant to law, such rules and regulations as are necessary and  
5 appropriate to carry out the provisions of this act. Such chief  
6 executive officer shall review and consider the findings and recom-  
7 mendations of the commission in the administration of the provi-  
8 sions of this act.

1 5. Bonds of the State of New Jersey in the sum of \$125,000,000.00  
2 are hereby authorized for the construction of public purpose build-  
3 ings as defined herein. Of such total, the proceeds from the sale of  
4 bonds shall be allocated, to the maximum extent practicable and  
5 feasible, according to the following estimates of costs:

6 a. For construction and improvement of public buildings for the  
7 mentally retarded in conjunction with the Federal Program for  
8 Intermediate Care Facilities/Mentally Retarded, to be implemented  
9 by the Department of Human Services—\$50 million.

10 b. For improvements and additions to facilities for the mentally  
11 ill, to be implemented by the Department of Human Services—  
12 \$21.5 million.

13 c. For improvements and additions to facilities for children in  
14 need of supervision, to be implemented by the Department of  
15 Human Services—\$3.5 million.

16 d. For construction of additional long-term care facilities for  
17 veterans in conjunction with the Federal State Home Construction  
18 program, to be implemented by the Department of Human Services  
19 upon receipt of Federal matching funds—\$7 million.

20 e. For the establishment of a loan guarantee fund to encourage  
21 the construction of long-term care facilities which will provide  
22 additional Medicaid beds, to be implemented by the Department of  
23 Human Services pursuant to agreements with public authorities,  
24 which agreements provide for the guarantee of obligations issued  
25 by such public authorities to finance the construction of such long-  
26 term care facilities—\$10 million.

27 f. For repairs and renovations of facilities for the incarcerated,  
28 to be implemented by the Department of Corrections—\$7 million.

29 g. For the construction of additional facilities for the incar-  
30 cerated, to be implemented by the Department of Corrections—  
31 \$26 million.

1 6. The bonds shall be serial bonds and shall be known as "Public  
2 Purpose Buildings Construction Bonds" and, as to each series, the  
3 last annual installment thereof (subject to redemption prior to  
4 maturity) shall mature and be paid not later than 35 years from the  
5 date of its issuance, but may be issued in whole or in part for a  
6 shorter term.

7 The bonds shall be issued from time to time as the issuing officials  
8 herein named shall determine.

1 7. The Governor, State Treasurer and Comptroller of the  
2 Treasury or any two of such officials (hereinafter referred to as  
3 "the issuing officials") are hereby authorized to carry out the pro-  
4 visions of this act relating to the issuance of the bonds, and shall  
5 determine all matters in connection therewith subject to provisions  
6 hereof. In case any of said officials shall be absent from the State  
7 or incapable of acting for any reason, his powers and duties shall  
8 be exercised and performed by the person authorized by law to  
9 act in his place as a State official.

1 8. Bonds issued in accordance with the provisions of this act  
2 shall be a direct obligation of the State of New Jersey and the faith  
3 and credit of the State are pledged for the payment of the interest  
4 thereon as same shall become due and the payment of the principal  
5 at maturity. The principal and interest of such bonds shall be  
6 exempt from taxation by the State or by any county, municipality  
7 or other taxing district of the State.

1 9. The bonds shall be signed in the name of the State by the  
2 Governor or by his facsimile signature, under the Great Seal of the  
3 State, and attested by the Secretary of State, or an assistant Secre-  
4 tray of State, and shall be countersigned by the facsimile signature  
5 of the Comptroller of the Treasury. Interest coupons attached to  
6 said bonds shall be signed by the facsimile signature of the Comp-  
7 troller of the Treasury. The bonds may be issued notwithstanding  
8 that any of the officials signing them or whose facsimile signatures  
9 appear on the bonds or coupons shall cease to hold office at the time  
10 of issue or at the time of the delivery of the bonds to the purchaser.

1 10. a. The bonds shall recite that they are issued for the pur-  
2 poses set forth in section 5 of this act and that they are issued  
3 in pursuance of this act and that this act was submitted to the  
4 people of the State at the general election held in the month of  
5 November, 1980 and that it received the approval of the majority  
6 of votes cast for and against it at such election. The recital in  
7 the bonds shall be conclusive evidence of the authority of the  
8 State to issue the bonds and of their validity. Any bonds contain-  
9 ing such recital shall in any suit, action or proceeding involving  
10 their validity be conclusively deemed to be fully authorized by  
11 this act and to have been issued, sold, executed and delivered in  
12 conformity herewith and with all other provisions of statutes  
13 applicable thereto, and shall be incontestable for any cause.

14 b. The bonds shall be issued in denominations and in the form  
15 or forms, whether coupon or registered as to both principal and  
16 interest, and with or without provisions for interchangeability  
17 thereof, as may be determined by the issuing officials.

1 11. When the bonds are issued from time to time the bonds of each  
2 issue shall constitute a separate series to be designated by the  
3 issuing officials. Each series of bonds shall bear such rate or rates  
4 of interest as may be determined by the issuing officials, which  
5 interest shall be payable semiannually; provided, that the first  
6 and last interest periods may be longer or shorter, in order that  
7 intervening semiannual payments may be at convenient dates.

1 12. The bonds shall be issued and sold at a price not less than  
2 the par value thereof and accrued interest thereon, and under

3 terms, conditions and regulations, as the issuing officials may pre-  
4 scribe, after notice of sale, published at least once in at least  
5 three newspapers published in the State of New Jersey, and at  
6 least once in a publication carrying municipal bond notices and  
7 devoted primarily to financial news, published in the city of New  
8 York or in New Jersey, the first notice to be at least 5 days prior  
9 to the day of bidding. The notice of sale may contain a pro-  
10 vision to the effect that any or all bids in pursuance thereof may  
11 be rejected. In the event of rejection or of failure to receive any  
12 acceptable bid, the issuing officials, at any time within 60 days  
13 from the date of the advertised sale, may sell the bonds at pri-  
14 vate sale at a price not less than the par value thereof and  
15 accrued interest thereon and under terms and conditions as the  
16 issuing officials may prescribe. The issuing officials may sell all  
17 or part of the bonds of any series as issued to any State fund  
18 or to the Federal Government or any agency thereof, at private  
19 sale, without advertisement.

1 13. Until permanent bonds can be prepared, the issuing officials  
2 may, in their discretion, issue in lieu of permanent bonds tem-  
3 porary bonds in the form and with privileges as to registration  
4 and exchange for permanent bonds as may be determined by the  
5 issuing officials.

1 14. The proceeds from the sale of the bonds shall be paid to  
2 the State Treasurer and be held by him in a separate fund and  
3 be deposited with such depositories as may be selected by him  
4 to the credit of the fund, which fund shall be known as the  
5 "Public Purpose Buildings Construction Fund;" provided, how-  
6 ever, that from the proceeds of the sale of bonds there shall be  
7 segregated the sum of \$10,000,000.00 to be held in a separate  
8 fund and to be deposited with such depositories as may be selected  
9 by him to the credit of the separate fund to be known as the  
10 "Long-Term Care Facilities Loan Guarantee Fund."

1 15. a. The moneys in the "Public Purpose Buildings Construction  
2 Fund" are specifically dedicated and shall be applied to the cost  
3 of the purposes set forth in section 5 of this act, provided that the  
4 moneys segregated in the "Long-Term Care Facilities Loan  
5 Guarantee Fund" shall be pledged as security for obligations issued  
6 by public authorities as herein defined pursuant to agreements  
7 between the Commissioner of Human Services and the public  
8 authorities, and all such moneys are hereby appropriated for  
9 such purposes, and no such moneys shall be expended for such  
10 purpose (except as otherwise hereinbelow authorized) without the

11 specific appropriation thereof by the Legislature, but bonds may  
12 be issued as herein provided notwithstanding that the Legislature  
13 shall not have then adopted an act making specific appropriation  
14 of any of the moneys.

15 b. At any time prior to the issuance and sale of bonds under this  
16 act, the State Treasurer is authorized to transfer from any avail-  
17 able money in the treasury of the State to the credit of the  
18 "Public Purpose Buildings Construction Fund" such sum as he  
19 may deem necessary. The sum transferred shall be returned to the  
20 treasury of this State by the Treasurer thereof from the proceeds  
21 of the sale of the first issue of bonds.

22 c. Pending their application to the purpose provided in this  
23 act, moneys in the "Public Purpose Buildings Construction Fund"  
24 may be invested and reinvested as other trust funds in the custody  
25 of the State Treasurer in the manner provided by law. Net earnings  
26 received from the investment or deposit of such fund shall be paid  
27 into the General State Fund.

1 16. In case any coupon bonds or coupons thereunto appertaining  
2 or any registered bond shall become lost, mutilated or destroyed, a  
3 new bond shall be executed and delivered of like tenor, in substitu-  
4 tion for the lost, mutilated or destroyed bonds or coupons, upon the  
5 owner furnishing to the issuing officials evidence satisfactory to  
6 them of loss, mutilation or destruction, proof of ownership and  
7 such security and indemnity and reimbursement for expenses as  
8 the issuing officials may require.

1 17. Accrued interest received upon the sale of bonds shall be  
2 applied to the discharge of a like amount of interest upon said  
3 bonds when due. Any expense incurred by the issuing officials for  
4 advertising, engraving, printing, clerical, legal or other services  
5 necessary to carry out the duties imposed upon them by the pro-  
6 visions of this act shall be paid from the proceeds of the sale of  
7 bonds, by the State Treasurer upon warrant of the Comptroller  
8 of the Treasury, in the same manner as other obligations of the  
9 State are paid.

1 18. Bonds of each series issued hereunder shall mature in annual  
2 installments commencing not later than the tenth year and ending  
3 not later than the thirty-fifth year from the date of issue of such  
4 series, and in amounts as shall be determined by the issuing officials,  
5 and the issuing officials may reserve to the State by appropri-  
6 ate provision in the bonds of any series the power to redeem all  
7 or any of such bonds prior to maturity at such price or prices and  
8 upon such terms and conditions as may be provided in such bonds.

1 19. The issuing officials may at any time and from time to time  
2 issue refunding bonds for the purpose of refunding in whole or in  
3 part an equal principal amount of the bonds of any series issued  
4 and outstanding hereunder, which by their terms are subject to  
5 redemption prior to maturity, provided such refunding bonds shall  
6 mature at any time or times not later than the latest maturity date  
7 of such series, and the aggregate amount of interest to be paid on  
8 the refunding bonds, plus the premium, if any, to be paid on the  
9 bonds refunded, shall not exceed the aggregate amount of interest  
10 which would be paid on the bonds refunded if such bonds were not  
11 so refunded. Refunding bonds shall constitute direct obligations of  
12 the State of New Jersey, and the faith and credit of the State are  
13 pledged for the payment of the principal thereof and the interest  
14 thereon. The proceeds received from the sale of refunding bonds  
15 shall be held in trust and applied to the payment of the bonds re-  
16 funded thereby. Refunding bonds shall be entitled to all the bene-  
17 fits of this act and subject to all its limitations except as to the  
18 maturities thereof and to the extent herein otherwise expressly  
19 provided.

1 20. To provide funds to meet the interest and principal payment  
2 requirements for the bonds issued under this act and outstanding,  
3 there is hereby appropriated in the order following:

4 a. Revenue derived from the collection of taxes as provided by  
5 the "Sales and Use Tax Act" (P. L. 1966, c. 30), or so much thereof  
6 as may be required; and

7 b. If in any year or at any time funds, as hereinabove appro-  
8 priated, necessary to meet interest and principal payments upon  
9 outstanding bonds issued under this act, be insufficient or not  
10 available then and in that case there shall be assessed, levied and  
11 collected annually in each of the municipalities of the counties of  
12 this State a tax on real and personal property upon which munici-  
13 pal taxes are or shall be assessed, levied and collected, sufficient to  
14 meet the interest on all outstanding bonds issued hereunder and  
15 on such bonds as it is proposed to issue under this act in the  
16 calendar year in which such tax is to be raised and for the payment  
17 of bonds falling due in the year following the year for which the  
18 tax is levied. The tax thus imposed shall be assessed, levied and  
19 collected in the same manner and at the same time as other taxes  
20 upon real and personal property are assessed, levied and collected.  
21 The governing body of each municipality shall cause to be paid to  
22 the county treasurer of the county in which such municipality is  
23 located, on or before December 15 in each year, the amount of tax  
24 herein directed to be assessed and levied, and the county treasurer

25 shall pay the amount of said tax to the State Treasurer on or  
26 before December 20 in each year.

27 If on or before December 31 in any year the issuing officials shall  
28 determine that there are moneys in the General State Fund beyond  
29 the needs of the State, sufficient to meet the principal of bonds  
30 falling due and all interest payable in the ensuing calendar year.  
31 then and in the event such issuing officials shall by resolution so  
32 find and shall file the same in the office of the State Treasurer,  
33 whereupon the State Treasurer shall transfer such moneys to a  
34 separate fund to be designated by him, and shall pay the principal  
35 and interest out of said fund as the same shall become due and  
36 payable, and the other sources of payment of said principal and  
37 interest provided for in this section shall not then be available, and  
38 the receipts for said year from the tax specified in subsection a.  
39 of this section shall thereon be considered and treated as part of  
40 the General State Fund, available for general purposes.

1 21. Should the State Treasurer, by December 31 of any year,  
2 deem it necessary, because of insufficiency of funds to be collected  
3 from the sources of revenues as hereinabove provided, to meet the  
4 interest and principal payments for the year after the ensuing  
5 year, then the treasurer shall certify to the Comptroller of the  
6 Treasury the amount necessary to be raised by taxation for such  
7 purposes, the same to be assessed, levied and collected for and in  
8 the ensuing calendar year. In such case the Comptroller of the  
9 Treasury shall, on or before March 1 following, calculate the  
10 amount in dollars to be assessed, levied and collected as herein  
11 set forth in each county. Such calculation shall be based upon the  
12 corrected assessed valuation of such county for the year preceding  
13 the year in which such tax is to be assessed, but such tax shall be  
14 assessed, levied and collected upon the assessed valuation of the  
15 year in which the tax is assessed and levied. The Comptroller of  
16 the Treasury shall certify said amount to the county board of taxa-  
17 tion and the county treasurer of each county. The said county  
18 board of taxation shall include the proper amount in the current  
19 tax levy of the several taxing districts of the county in proportion  
20 to the ratables as ascertained for the current year.

1 22. For the purpose of complying with the provisions of the  
2 State Constitution this act shall, at the general election to be held  
3 in the month of November, 1980 be submitted to the people. In  
4 order to inform the people of the contents of this act it shall be  
5 the duty of the Secretary of State, after this section shall take  
6 effect, and at least 15 days prior to the said election, to cause this  
7 act to be published in at least 10 newspapers published in the State

8 and to notify the clerk of each county of this State of the passage  
 9 of this act, and the said clerks respectively, in accordance with the  
 10 instructions of the Secretary of State, shall cause to be printed  
 11 on each of the said ballots, the following:

12 If you approve the act entitled below, make a cross (X), plus  
 13 (+), or check (✓) mark in the square opposite the word "Yes."

14 If you disapprove the act entitled below, make a cross (X), plus  
 15 (+), or check (✓) mark in the square opposite the word "No."

16 If voting machines are used, a vote of "Yes" or "No" shall be  
 17 equivalent to such markings respectively.

	Yes.	<p style="text-align: center;">PUBLIC PURPOSE BUILDINGS CONSTRUCTION BOND ISSUE</p> <p>Should the "Public Purpose Buildings Construction Bond Act of 1980" which authorizes the State to issue bonds in the amount of \$125,000,000.00 for construction and improvement of facilities serving the mentally retarded, mentally ill and children in need of supervision; for construction and improvement of correctional institutions; for construction of long-term care facilities for disabled veterans; and for the creation of a fund to encourage the construction of long-term care facilities for the aged; and to provide means to pay the principal and interest on these bonds, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act will authorize sale of \$125,000,000.00 in bonds to be used (1) to provide facilities for the mentally retarded and mentally ill which will improve the quality of care and allow the State to receive partial Federal reimbursement for such services; (2) for construction and improvement of correctional facilities to provide safe and humane conditions; (3) for improvements and additions to facilities for children in need of supervision; (4) for construction of additional nursing homes for disabled veterans; and (5) for the establishment of a loan guarantee fund to encourage the construction of nursing homes for the aged, including additional Medicaid beds.</p>

18 The fact and date of the approval or passage of this act, as the  
 19 case may be, may be inserted in the appropriate place after the  
 20 title in said ballot. No other requirements of law of any kind or  
 21 character as to notice or procedure except as herein provided need  
 22 be adhered to.

23 The said votes so cast for and against the approval of this act,  
24 by ballot or voting machine, shall be counted and the result thereof  
25 returned by the election officer, and a canvass of such election had  
26 in the same manner as is provided for by law in the case of this  
27 election of a Governor, and the approval or disapproval of this  
28 act so determined shall be declared in the same manner as the re-  
29 sult of an election for a Governor, and if there shall be a majority  
30 of all the votes cast for and against it at such election in favor  
31 of the approval of this act, then all the provisions of this act not  
32 made effective theretofore shall take effect forthwith.

1 23. There is hereby appropriated the sum of \$5,000.00 to the  
2 Department of State for expenses in connection with the publica-  
3 tion of notice pursuant to section 22.

1 24. The chief executive officers of departments designated pur-  
2 suant to section 5 of this act to implement construction provided  
3 for in this act shall submit to the State Treasurer and the com-  
4 mission with the department's annual budget request a plan for  
5 the expenditure of funds from the "Public Purpose Buildings Con-  
6 struction Fund" for the upcoming fiscal year. This plan shall  
7 include the following information: a performance evaluation of the  
8 expenditures made from the fund to date; a description of programs  
9 planned during the upcoming fiscal year; a copy of the regulations  
10 in force governing the operation of programs that are financed, in  
11 part or in whole, by funds from the "Public Purpose Buildings Con-  
12 struction Fund"; and an estimate of expenditures for the upcoming  
13 fiscal year.

1 25. Immediately following the submission to the Legislature of  
2 the Governor's Annual Budget Message the chief executive officer  
3 of each department designated pursuant to section 5 of this act  
4 shall submit to the relevant standing committees of the Legislature,  
5 as designated by the President of the Senate and the Speaker of  
6 the General Assembly, and to the special joint legislative committee  
7 created pursuant to Assembly Concurrent Resolution No. 66 of the  
8 1968 Legislature, as reconstituted and continued by the Legislature  
9 from time to time, a copy of the plan called for under section 24 of  
10 this act, together with such changes therein as may have been  
11 required by the Governor's budget message.

1 26. Not less than 30 days prior to entering into any contract,  
2 lease, obligation, or agreement to effectuate the purposes of this  
3 act, the chief executive officer of any department designated pur-  
4 suant to section 5 of this act shall report to and consult with the  
5 special joint legislative committee created pursuant to Assembly

6 Concurrent Resolution No. 66 of the 1968 Legislature as recon-  
7 stituted and continued from time to time by the Legislature.  
1 27. This section and sections 22 and 23 of this act shall take effect  
2 immediately and the remainder of the act shall take effect as and  
3 when provided in section 22.

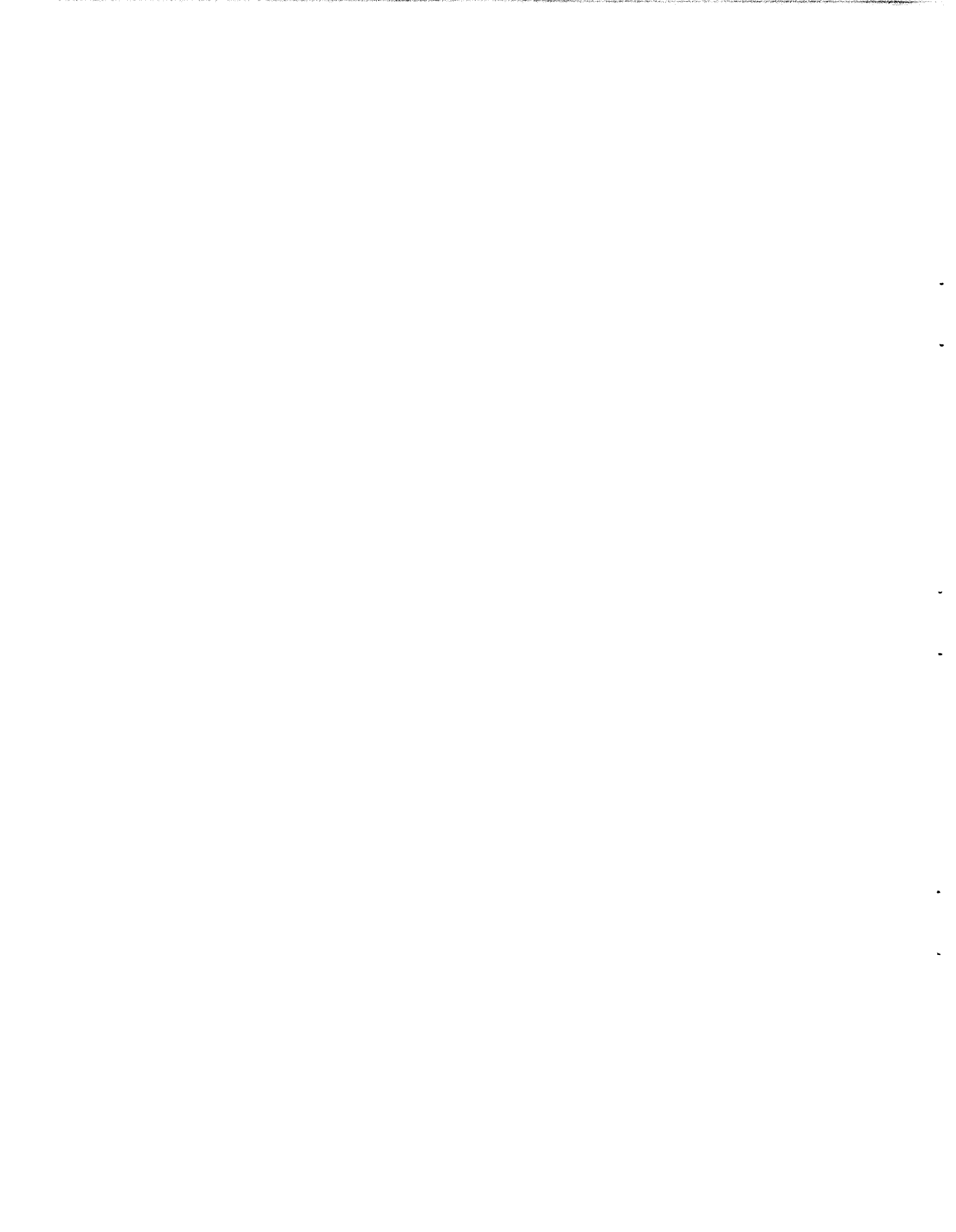
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STATEMENT

This bill would authorize the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$125,000,000.00 for buildings for public purposes, their construction, reconstruction, development, extension, improvement, rehabilitation, demolition and equipment; providing the ways and means to pay the interest of said debt, and also to pay and discharge the principal thereof; and providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

The proceeds of the sale of bonds would be used (1) to provide facilities for the mentally retarded and mentally ill which will improve the quality of care and allow the State to receive partial Federal reimbursement for such services; (2) for construction and improvement of correctional facilities to provide safe and humane conditions; (3) for improvements and additions to facilities for children in need of supervision; (4) for construction of additional nursing homes for disabled veterans; and (5) for the establishment of a loan guarantee fund to encourage the construction of nursing homes for the aged, including additional Medicaid beds.

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ASSEMBLYMAN GEORGE J. OTLOWSKI (Chairman): I would like to call this public hearing to order. For the record, I want to say that this is a hearing on the bond issue and Assembly Bill 1823 for public purpose building construction, the bond issue referendum, and anyone wishing to speak, of course, will have the opportunity today. Hopefully, the Committee will act upon this once the hearing is concluded.

If anyone has any written testimony and wishes to submit that for the record, please feel free to do so. There is an amendment also being proposed and we will talk about that later. The amendment removes the \$26 million for prisons, so that this bond issue will be primarily confined to the human services for those institutions. There is a \$7 million provision in there for prisons, for their rehabilitation, and reconstruction, and improvement. So, with that preliminary statement, we are ready to call on Fred Butler, Deputy Director of Capital Budgeting and Planning Commission.

F R E D B U T L E R: Thank you, Mr. Chairman. The Commission on Capital Budgeting and Planning has recommended a \$99 million bond referendum for public purpose buildings construction. There are two major components to that, \$92 million of the \$99 million would be for the Department of Human Services, and \$7 million is for the Department of Corrections for improvements to various existing correctional facilities. As you noted, Mr. Chairman, the provision for \$26 million for new construction for medium security beds was not recommended by the Commission at its Friday, June 13th, meeting so that will be deleted from the bill.

I would like to point out that of the \$92 million in the bond referendum for the Department of Human Services, much of this money goes to continue current programs of upgrading facilities to comply with Federal standards. The largest component - and let me point out before I begin that the Commission reviewed the various components and has agreed to the dollar amounts in these major components. Within the components, these specific projects will have to come back before the Commission for a recommendation to the Governor and the Legislature. So, with that, I will go through the major components that were agreed to by the Commission. The first is \$50 million for the Division of Mental Retardation. This is to continue the upgrade of facilities to comply with the intermediate care facilities for the mentally retarded program which, as you know, is a Federal program which certifies the mental retardation facilities and provides subsidies. The monies would assure continuation of Federal subsidies to those facilities.

The second component is for the Division of Mental Health and that component includes \$21.5 million for improvements at existing psychiatric hospitals, renovation or replacement of the Vroom Building and continuation of the community capital grant program. The Trenton projects--- Or, the psychiatric hospital improvements are agreed to, as I said earlier, in general and the specific projects with regard to specific psychiatric hospital facilities in the State will have to come back before the Commission.

Another component is for the improvements of facilities run by the Division of Youth and Family Services which brings that part of the bond issue to \$25 million. The third component is \$7 million for the State share of a new veterans' nursing home. The State would leverage Federal funds and the State would provide for 35% of the cost of this new nursing home for veterans

and the State share of \$7 million would leverage approximately \$13 million in Federal funds to build that facility.

The final component which brings the Human Services portion of this to the \$92 million that I mentioned at the outset is a \$10 million section of the bond referendum to establish a loan guarantee fund to be administered by the Department of Human Services through the Economic Development Authority and the health care facilities financing authority, and this would support the construction by the private sector of nursing home beds approximately 80% of which would be allocated to patients supported by medicaid.

I would like to add two more things before I close, and that is, to read into the record the criteria used by the Commission to determine which by referendum will be recommended, and these were used in this instance on this public purpose buildings construction bond.

First, needs must be critical and well-defined; second, careful planning must be evident in all projects and all categories requested of the Commission; third, maximum utilization must be made of Federal matching funds; and, the fourth criterion is, expenditures must be cost effective with a minimum impact on future operating budgets.

The last item is the timing of the bond bills. It is the Commission's hope that the bond bill referenda will be fully authorized for the ballot before the summer legislative recess, in order to allow sufficient time for an adequate public information campaign to acquaint the voters of the State of New Jersey with the various components of the referendum. Thank you, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Excuse me, just one question, after the referendum is submitted to the people, and assume that it passes, then the Commission at that point would become activated to determine--- No, not until specific legislation is introduced; is that it?

MR. BUTLER: That is correct, Mr. Chairman. When specific legislation is introduced to draw down the bond funds that would have been authorized this November, the Commission would review that. Those requests would also come to the Commission in the form of the capital budget requests of the Department of Human Services.

ASSEMBLYMAN OTLOWSKI: If a particular legislator, or a particular member of this Committee did not particularly agree with anything that is in this referendum, he would still have a number of shots left in his rifle to be able to shoot something down later on in the event that he was so inclined; is that correct?

MR. BUTLER: Yes, Mr. Chairman, that is correct, and the legislative representatives on the Commission are very careful of that.

ASSEMBLYMAN OTLOWSKI: But, also aside from the Commission, enabling legislation would be necessary.

MR. BUTLER: That is correct. It would have to go through both the Committees, and also through the Watchdog Committee.

ASSEMBLYMAN OTLOWSKI: Assemblyman Snedeker, do you have any questions?

ASSEMBLYMAN SNEDEKER: Yes. First of all, the \$50 million that you are asking for the ICFMR's, I guess, what have you got in your last bond issue left?

MR. BUTLER: I think the Department might be able to answer that question.

ASSEMBLYMAN SNEDEKER: Do you review what they have left?

MR. BUTLER: Yes, we do.

ASSEMBLYMAN SNEDEKER: How much more are we going to have to put in here? How long is this going to continue, \$50 million here and \$50 million there, or whatever it may be?

MR. BUTLER: I believe the \$50 million that is in this bond issue substantially completes that program.

COMMISSIONER RILEY: Barring any extraordinary inflation, and any further change in the rules on this from our Federal friends, at this point, we believe the \$50 million---

ASSEMBLYMAN OTLOWSKI: I would like to suggest to Assemblyman Snedeker that when you get up here that he develop that in detail, because I think you would be in a better position to answer that than our present speaker.

ASSEMBLYMAN SNEDEKER: I don't think I can ask too much here, really, because we have to get the people up from the Department.

ASSEMBLYMAN OTLOWSKI: Thank you very much. Next we have Gerald Reilly, Deputy Commissioner of the Department of Human Services.

G E R A L D R E I L L Y: I am Gerry Reilly, Deputy Commissioner of the Department of Human Services. With me, and I will ask him to come to the table is Dave Parsons who is in charge of our capital planning unit.

ASSEMBLYMAN OTLOWSKI: Before you go on, I have a couple of questions I would like to ask. First of all, the last time that this bond issue was on the ballot there were penal and other institutions that were joined together. That was attacked. The court then held that it was proper to join them. Do you have any comment on that?

COMM'R REILLY: Arlene Gardner is here and she will speak on that.

ASSEMBLYMAN OTLOWSKI: Okay, we will question you on that later. The other thing I wanted to ask you, Commissioner Reilly, the bond issue contains \$50 million for the funding of facilities for the mentally retarded. The 1978 bond issue contained \$51 million for this purpose. Do you have any comment on that?

COMM'R REILLY: Mr. Chairman, the last time we went through this process, we had indicated that the total requirements to complete the ICFMR program would be about \$91 million. In the last bond issue we were provided \$51 million. Since that time, the cost estimates have risen to \$115.4 billion, as a consequence of inflation, and we had \$12.4 million from the '76 bond issue that we could commit to the program, plus we were looking for \$52 million in this bond issue that would have met the total needs of \$115.4 million. The Commission saw fit to recommend \$50 million in this instance, instead of \$52 million, so we are theoretically \$2 million short, but when trying to look into the future, a bond issue of this magnitude, we have to say that the Capital Needs Commission recommendation is sufficient, and that taken together some funds from '76---

ASSEMBLYMAN OTLOWSKI: Are you saying that altogether you are going to have about \$100 million to these---

COMM'R REILLY: We are going to need about \$115 million altogether. We have \$51 million in '78---

ASSEMBLYMAN OTLOWSKI: So you need this \$50 million to give you the total of \$115 million.

COMM'R REILLY: Correct, exactly.

ASSEMBLYMAN LESNIAK: But you are still going to be short, right?

COMM'R REILLY: Well, as I said, we are going to be short \$2 million, but in estimating this far into the future, in trying to predict what inflation may be at the point of construction, you really can't argue with the Capital Needs Commission feeling that it should be \$2 million less.

ASSEMBLYMAN LESNIAK: Are you saying that you will come back next year with another bond issue?

COMM'R REILLY: We hope not. We hope that this \$50 million will finish out the ICFMR commitment. Two caveats: One, extraordinary inflation that we can't anticipate, and two, if our federal friends find new deficiencies or attempt to change the rules on us, we are optimistic that that won't happen, but if it were to happen, yes, we would be back, but I would assume it would be for small finishing types of proposals.

Also, just to put it in a larger context, the notion of ICFMR was presented in this State as a way to dramatically improve the quality of care and improve the capital plan and yet have no additional costs to the State of New Jersey by virtue of bringing in the Federal funds to the system. That is still true, even though inflation has raised the capital estimates - the fact that all of these capital costs will over time be amortized on a fifty-fifty basis with the Federal Government, it is still true that the whole program can move forward with no net increased State costs. So if we had to come back for a few million more dollars, it would still be true even then.

ASSEMBLYMAN SNEDEKER: You are asking for \$50 million. Have we spent that money?

COMM'R REILLY: Dave, what portion of that is committed and under contract?

MR. PARSONS: All of it is committed, and I would say that approximately one-half is under contract. The remaining portion will be under contract according to our spending plan by December of 1980.

ASSEMBLYMAN SNEDEKER: How much money did you get from the Federal Government to match that \$51 million?

MR. PARSONS: We don't get money as a matching share. What we do is we get the cost of amortization and debt service applied to the rate at which we charge the Federal Government for medicaid. So, we will get a payback as part of our per patient rate over the next twenty-five or forty years.

ASSEMBLYMAN SNEDEKER: I was under the impression when we passed a bill on a one day notice about a year ago that the Federal Government was going to put all kinds of money in here and we were going to put up \$50 million and get large amounts. I can remember when Assemblyman Doyle came in here and talked about the match up that was going to come about with this. That was the impression I was under at the time.

ASSEMBLYMAN LESNIAK: It is a match. But, the match comes not at the time of the capital construction, but it is included in the per patient cost for reimbursement.

ASSEMBLYMAN OTLOWSKI: The match does not have anything to do with capital construction. It is for patient cost, isn't it? How much are we getting in matching funds for this capital program?

COMM'R REILLY: Fifty percent.

ASSEMBLYMAN OTLOWSKI: So, if we spend \$100 million, we get \$50 million back; that is the point that you are developing.

COMM'R REILLY: Yes. It is not a grant however. What happens is, let's say we spend \$10 million on a facility---

ASSEMBLYMAN OTLOWSKI: We would have to spend that money to get that \$50 million.

COMM'R REILLY: We spend \$10 million. Let's say that there are 500 patients in the facility and when they are ready to occupy the building, the cost per day, let's say, it is \$40 a day, well, \$10 of those costs are the capital costs, the cost to reimburse the debt service on these bonds, \$10 is capital.

ASSEMBLYMAN OTLOWSKI: The \$10 will be taken out of that for capital improvement.

COMM'R REILLY: Right, right. That \$40 is paid by medicaid and they get---

ASSEMBLYMAN OTLOWSKI: How does the Federal Government give you the \$50 million for your capital money?

COMM'R REILLY: Medicaid will pay \$40 a day, and then the Federal Government will pay us \$20 of that \$40 or they will pay half of the capital---

ASSEMBLYMAN SNEDEKER: After we are all done making all these improvements.

COMM'R REILLY: Well, even at the present time, they have given us until 1982. They have given us conditional certification---

ASSEMBLYMAN OTLOWSKI: But, they don't advance you the \$50 million. That is the point, I think.

COMM'R REILLY: No, it is not on a cash basis.

ASSEMBLYMAN SNEDEKER: Commissioner, what bothers me is Trenton Psychiatric. We keep getting unaccredited every year, and we say we are going to get matching funds, and we keep pumping money into a building that they are not getting any federal funding for at this point, even on medicaid or medicare now. And, communities are paying for this, and this bothers me. If that is a problem and that is the only one that is not accredited, then pump a lot of money in there, or abandon it, one or the other, because right now we are getting nothing for that hospital.

COMM'R REILLY: Trenton is a real dilemma; there is no question about it, but as we looked at the situation in Trenton, we feel that the State does need four psychiatric hospitals, not of the same size and scope as the present hospitals, but much smaller hospitals, and we do need four to adequately serve the State. There appears to be no real savings associated with closing Trenton, because the same population would have to be distributed to other hospitals, and our concern is, the pressure of that population of other hospitals might make more difficult the accreditation of those other hospitals. So, instead of having one hospital out of compliance, we may wind up with two, three, or four hospitals out of compliance.

We understand that there is a certain risk involved in investing in Trenton with the expectation that we can bring it into compliance, but that is our target, and that is what we expect to do.

ASSEMBLYMAN SNEDEKER: What is it going to cost, Commissioner, to bring Trenton into compliance, how much money?

COMM'R REILLY: It is hard to give the specific dollar amounts.

ASSEMBLYMAN OTLOWSKI: How much money do you have in here for Trenton now?

COMM'R REILLY: Well, originally we had asked the Capital Needs Commission to approve--- What was the amount targeted for Trenton, Dave?

MR. PARSONS: \$16,525,000 for Trenton Hospital.

ASSEMBLYMAN OTLOWSKI: Does that include the Vroom Building?

MR. PARSONS: Yes, that includes the Vroom Building.

ASSEMBLYMAN OTLOWSKI: So, it is \$16 million you are asking for Trenton?

COMM'R REILLY: We are asking \$16.5 million for Vroom, \$8 million of which is Vroom---

ASSEMBLYMAN SNEDEKER: Which has nothing to do with the accreditation of the Trenton Psychiatric Hospital.

COMM'R REILLY: We think it does. We think the presence of Vroom in its current penal mode is a drag and an anchor on the accreditation.

ASSEMBLYMAN SNEDEKER: Have they said that?

COMM'R REILLY: I think that the JCA people have indicated that to us. I was not a party to the exact meetings with them.

ASSEMBLYMAN OTLOWSKI: Well, let me ask you this: In all of the mental hospitals you might have someone in those hospitals who committed a crime and who was placed in the State Hospital; how would that affect the accreditation? Because, as a matter of fact, you could have it in every---

COMM'R REILLY: No, no, it is not a question of the nature of their commitment and the fact that they may have done something that went through the criminal process, but it is a matter of the program available for them, when they are in the hospital, and the Vroom program is---

ASSEMBLYMAN OTLOWSKI: It is a program for highly violent people; it is a program for people who are violent and those who have to be segregated from the rest of the population; isn't that so?

COMM'R REILLY: Vroom is for people who are very dangerous to themselves and others. At the point of going into Vroom, they are criminally insane. But, it is not so much the people---

ASSEMBLYMAN OTLOWSKI: As a matter of fact, all these state hospitals have sections for people who are violent or may become violent or may be dangerous to others or dangerous to themselves.

COMM'R REILLY: It is a matter of degree.

ASSEMBLYMAN OTLOWSKI: And, are you saying that in the case of the Vroom Building that the thing is so deteriorated, so run down that it is for that reason--- Or, is it just the segregation?

COMM'R REILLY: No, it is the first. It is the condition of Vroom, and the program that can be run at Vroom that is the problem. It is not the fact that people are there who are violent. That is not the problem. You are correct.

ASSEMBLYMAN SNEDEKER: Out of your new construction, you are going to put \$8 million in Vroom?

MR. PARSONS: No, as a replacement--- We are going to build a new facility.

ASSEMBLYMAN SNEDEKER: You are going to build a new, complete

building to house those people who are in the Vroom Building who are under the Mental Health jurisdiction.

COMM'R REILLY: Yes, sir.

ASSEMBLYMAN OTLOWSKI: And, what happens to the Vroom Building?

COMM'R REILLY: The Vroom Building will revert to the Department of Corrections as a correctional facility. The Vroom Building is now divided. Part of it is Corrections and part of it is Psychiatric.

ASSEMBLYMAN OTLOWSKI: You are talking \$16 million for Trenton.

COMM'R REILLY: No, that is what I wanted to go through. Of the \$16.5 million for Trenton, \$8 million was for Vroom, and \$3.5 million was for the central kitchen, so that left \$5 million of overall generalized renovations and improvements and demolitions at Trenton Hospital.

The Capital Needs Commission reduced our total request for the Mental Health system from \$34 million down to \$21 million, and in part of that reduction, that \$5 million as a separate item fell out. What they left us with instead was one item of \$11.5 million for the total system of mental hospitals of which---

ASSEMBLYMAN OTLOWSKI: How much?

COMM'R REILLY: \$11.5 million.

ASSEMBLYMAN OTLOWSKI: For the total system, or just Trenton?

COMM'R REILLY: No, the total system, of which some of those funds will be programmed into Trenton and some will be programmed elsewhere?

ASSEMBLYMAN OTLOWSKI: Well, what do you expect to program into Trenton?

COMM'R REILLY: Dave.

MR. PARSONS: Out of the \$11.5 million---

ASSEMBLYMAN SNEDEKER: Out of the \$11.5 million the elevators have nothing to do with Trenton, the four and a quarter, right?

MR. PARSONS: No, sir.

ASSEMBLYMAN SNEDEKER: The conversion of staff houses to living between Trenton and Marlboro, there is a piece of that that goes to Trenton; how much?

MR. PARSONS: Approximately \$1 million.

ASSEMBLYMAN SNEDEKER: Okay, if we take that \$1 million, has there been criticism in that report about the--- Are we using now the staff homes in Trenton for transitional living quarters?

MR. PARSONS: We are using some. We are intending to use more. I think this will include 11 houses and approximately 3 of them are used now.

ASSEMBLYMAN SNEDEKER: Have we been criticized in the report for using some?

MR. PARSONS: No, there is a desired program goal of using houses instead of wards, but the---

ASSEMBLYMAN SNEDEKER: Why don't we improve the hospital to get it accredited rather than go out into the new programs?

MR. PARSONS: It is a goal for accreditation to provide space such as these houses---

ASSEMBLYMAN OTLOWSKI: Excuse me, I would like to pick up this point that Assemblyman Snedeker is developing. If you need \$8 million for the Vroom Building, and when you ask for that \$8 million, you were asking for a package of \$16 million, you were cut down totally to \$11 million, which means ---

The question immediately arises to me, how will you get the Vroom Building out if you want it, and, secondly, how would you get accreditation when you say what is holding the hospital back from accreditation probably is the Vroom Building. How are you going to get around that one?

COMM'R REILLY: If you look on the front page of the summary sheet, the Capital Needs Commission did recommend the \$8 million for the Vroom Building. They did leave that in. What they did was take the renovation aspects of what we had requested for Trenton, and folded that into a system-wide renovation line for \$11.5 million. So, they have recommended the \$8 million for the Vroom Building. That is in there. That is a separate item.

ASSEMBLYMAN OTLOWSKI: Supposing the Legislature at a later date would want to change that money around for Trenton. What would happen under those circumstances? What would happen to the recommendations of the Planning Commission and the Budgeting Commission if the Legislature took a different position and wanted specific things and included that in enabling legislation for the expenditure of this money?

COMM'R REILLY: Well, each dollar of a bond availability must be appropriated by the Legislature through the Oversight Commission of the Legislature. I presume that the Legislature is the final arbiter in appropriating the funds. So if at some later date the Legislature in its wisdom determined that they felt the funds should go for another purpose, they would be very influential in that process.

The Capital Needs Commission itself had some of these very same concerns about Trenton, and that is why they made a specific request on Trenton that before detailed planning goes forward on Trenton that that particular item comes back before the Capital Needs Commission for its specific consideration and deliberation, because they have some of the very same questions about Trenton and it is a hard question. It is a tough, close call, and at this point in time, we think the way to proceed is to try to get Trenton accredited.

You know, we are in a bit of a double bind here, because you are saying, "Why don't we put in enough money to get the job done." Well, we agree with that, but within the confines of a bond appropriation or a bond recommendation, many other competing demands come to bear upon it, and the Capital Needs Commission in its wisdom decided what was a proper amount to recommend, and we suffer some erosion in that. We would prefer to have the original request, and then I could be more confident and say to you, "Yes, I think that if we do this, we will get accreditation." But, I can't be that confident. I can be hopeful, but I can't be 100% confident, because we are not getting all we need. But, you see, we are in a little bit of a double bind.

ASSEMBLYMAN SNEDEKER: I understand what the intent of the Department and the future goal is, the transitional living facilities; however, you can't convince me that is one of the reasons Trenton Psychiatric has been turned down, because we don't have all those facilities at Marlboro. We have some, but not all. We don't have them at Greystone and others, so that is not a clear case as to why you need to put that money in there to get accredited.

When they come and knock you off the accreditation list, do they give you a check mark and say, "Your kitchen is bad. You need a completely new kitchen. The Vroom Building is completely outdated, or you have to get

rid of the whole building." Or, do they just say, "You are not accredited, but we are not going to tell you why."

MR. PARSONS: Well, the answer to that question, Assemblyman, is they go through a list, which accreditation is divided into four different subjects, and one is facility. And, the prime---

ASSEMBLYMAN SNEDEKER: That is the one thing I want to talk about, the facility, not the staff, not the number of doctors, not the treatment that is going on. That is not in this bond issue. What I want to hear about is how much money you have in this bond issue that is going to answer the defects that you have in Trenton State Hospital?

MR. PARSONS: The prime objective they have is life safety compliance, and the next objective is environmental conditions, whether the place is a halfway decent hospital facility to live in. The comments that are derived from that are, yes or no, this does not meet our life safety goal, or our environmental condition goal.

In respect to the previous question you had related to the use of the staff housing, one of the prime concerns is not only that it provides a better location of programs, but it is a more cost effective way of improving service to Trenton. Eighty-eight people are going to be served there. We can provide \$1 million for eighty-eight people and get a much better environment than renovating one of the old wards, which may cost us \$2 million or \$3 million to serve the same eighty-eight.

ASSEMBLYMAN SNEDEKER: Okay, now, are you going to close the old ward?

MR. PARSONS: The old ward of eighty-eight people will then be abandoned and closed in the east or west main building.

ASSEMBLYMAN SNEDEKER: And that ward will be taken off at the point they go looking when they come back to accredit you.

MR. PARSONS: That will not be part of the hospital, and our goal will be eventually to demolish that unproductive part of the facility.

ASSEMBLYMAN LESNIAK: I am not sure that your question was answered, Assemblyman.

ASSEMBLYMAN SNEDEKER: It wasn't. I am not an attorney, but I can tell that.

ASSEMBLYMAN LESNIAK: There is a checklist of things that you have to do to get accredited, or just objections that lead to non-accreditation?

COMM'R REILLY: You have touched on one of our problems with JCAH, and we have argued with them and criticized the nature of their inspection, that in some cases they are vague. They will tell you that a whole lot of things don't make them happy, but they fail to differentiate with what makes them most unhappy and what is just minor and what is serious. The only way you get at that is through subsequent meetings with them. The Commissioner has gone out to Chicago at least once and maybe twice, and sat down with them, and she voiced the very same objection. I can't solve a problem if you tell me it is all a problem. I have to have some more precision to know what is most important and what is next most important.

It is out of that discussion that we get a feeling toward their point of view on the facilities. It is not in black and white and at one point we went to court when we first lost accreditation and we had some

concerns about this agency. It was not a governmental entity, and they had this type of authority and power, and so forth, but we are tilting at a windmill on that one. It is there, and we have to deal with it, and you have to be a little bit careful to the degree to which you are willing to publicly criticize the folks who are going to come in and inspect you next week. So, it is a bit of a bind.

We think, through the Commissioner's visits to Chicago, we have gotten a better feel for what it is they are looking for and have tried to tailor our program in planning and capital planning in that direction. But I am not going to kid you and tell you that they have given us these specific objectives and if we achieve them, we are home free.

Another phenomena we think we observed is a constant toughening up of standards. What was okay in 1978 was not okay in 1980, and what is okay in 1980 is not okay in 1982. I think in general there is going to be a backlash against that, because in the whole environment of governmental prudence, we simply cannot constantly have to keep up with escalating standards. We have to have some fixed benchmark and say, "Look, this is what we can do, and when we get it you have to be fair." This is not only a problem in New Jersey. I have discussed this with colleagues all around the country, and the same problems are being raised with the JCAH, the issue of constantly rising expectations. Once you lose accreditation, it is damn difficult to get it back. That is why people say, "Why does this hospital have it and this one not have it, and when you walk through the hospital without it, it looks pretty good." It doesn't look much different than the hospital who has it. The difficulty is once you lose it, there is a lot of inertia to overcome to get it back, and that is the problem we are in.

But, we see that we need Trenton in the system. We see that if we close Trenton that we are afraid we will jeopardize accreditation in the other facilities and then we will be in a bigger fix than we are now.

ASSEMBLYMAN SNEDEKER: The object, Commissioner, is to get the people who are really there being stored out into the community, out into homes again ---

COMM'R REILLY: Some.

ASSEMBLYMAN SNEDEKER: Many of them. We were going to lighten the load up tremendously, if I remember correctly, from 10,000 down to 3,000 or less ---

COMM'R REILLY: Well, that---

ASSEMBLYMAN SNEDEKER: And we are sending along more money as we go along to do this, you know, to take care of 10,000 and now we are spending another \$50,000 on top of the \$51,000 and you sit here and tell me you are not quite sure that this is really going to do it. Are we going to dump more money into Trenton State next year again because their standards may get tougher?

COMM'R REILLY: Assemblyman, I am being honest and direct with you in laying that out, that that may happen. I also have the sense that that ballgame is beginning to change. We are not going to be subjected to that kind of one-upmanship, as we move through this next decade, because it is a different decade. I think it has to penetrate the regulatory agencies so that the Treasury is finite, and, sure, we have to provide decent care, but

the best way to get that is to have some concensus as to what it is, and to go get it and then keep it. We can't constantly run from behind.

We have reduced the populations in the hospitals. The hospitals today have a lot of people who should not be there, and mostly in the geriatric categories. That relates to a problem we will talk about later, which is the nursing home situation and the boarding home situation, which prevents their placement now. But, for the most part, the hospitals are now turning into therapeutic environments where people come in for shorter stays, are treated and then are discharged. You don't now have new people coming in for the long-term admission. That is not the pattern. That was the pattern for fifty years, and that is how we got into the situation we had ten or fifteen years ago. That is not the pattern now. People who come into the hospital now are there for a relatively short stay and then are out. They may come back, but for the most part they are being cared for in the community with some episodes in the hospital.

Once we clear the backlog of the chronic patients, then we will be able to reduce the size of the hospitals if some---

ASSEMBLYMAN SNEDEKER: I really think you are waving at windmills with the money you are putting in here. I don't think that the group that inspects this is going to get any easier on you at all. I don't think they are going to disappear and go away. I just can't see the Federal Government saying, "Lay off of Trenton State; approve it." I don't see that coming; I really don't. As you say, I see harder things coming along. I see tougher standards coming along.

I see certainly those in the field of mental health and so on getting tougher. I think the Federal Government--- And, they have a right to get tougher. It has a right to give those people better treatment, those who are in those facilities who are outmoded and outdated. I think that Trenton Psychiatric is an outdated facility that we are dumping money into and can do a lot more for those individuals than dump that kind of money into a facility that is never going to be accredited.

COMM'R REILLY: Well, I don't agree with you, although I understand the reasonableness of the statements from your point of view. It is a hard choice, and our choice, and we think the correct one, is that it is worth the investment. I wish it were more, but I don't have any control over that. I have a sense that the whole regulatory system is going to be somewhat, if not in retreat, stalled in the next few years.

ASSEMBLYMAN SNEDEKER: Tell me, Commissioner, how much money were we asking the communities to pay last year because we couldn't collect the money from the Federal Government?

COMM'R REILLY: I don't know the specific amount.

ASSEMBLYMAN SNEDEKER: Somebody knows the figure because you went to court in a lawsuit for Mercer and a couple of others. Was it \$22 million? What was it?

ASSEMBLYMAN LESNIAK: I don't think it was that high.

ASSEMBLYMAN SNEDEKER: We waived a considerable amount of money in this Committee at one time because of Trenton State. We had a special meeting, I remember, and Senator Merlino put a bill in.

COMM'R REILLY: You did give some relief. There is a long history behind that.

ASSEMBLYMAN SNEDEKER: What I am saying is, with that money you are requiring the communities to pay on top of this money that we are putting in there---

COMM'R REILLY: Well, we would have preferred that you had not waived that.

ASSEMBLYMAN SNEDEKER: I know.

COMM'R REILLY: We wish you would have given us that money to invest in the hospital. But, you have choices to make. We understand that. We could have used that money to upgrade.

I am not going to kid you and tell you I can guarantee you accreditation. I can guarantee you a damn good try at it. But, that is all I can guarantee you. I think every time we look at the whole system of mental health the need for the four hospitals emerges. I know it is attractive to say to close it. But, if you really scrutinize that, it just doesn't work out.

ASSEMBLYMAN SNEDEKER: Well, what bothers me is, I am going down the list here and I see air conditioning. Is that a requirement in any of the facilities outside of convenience? Is the air conditioning going into the rooms of the patients?

COMM'R REILLY: Patient areas, yes, sir.

ASSEMBLYMAN SNEDEKER: Is that a requirement of the joint committee---

MR. PARSONS: There is no Federal or Joint Committee requirement that it must be provided, but it is a program requirement of the Division of Mental Health and Hospitals that we provide that especially for geriatrics.

COMM'R REILLY: It contributes to the environmental issue, too.

ASSEMBLYMAN SNEDEKER: Don't you think it would be nice to take that \$1.6 million and throw it into a building that is not improved, that is not accredited? You could take the same amount of money and put it in Trenton State and get it done if you need it there.

I don't understand why the Capital Needs says you can air condition, but we are not going to give you all the money you need to run the place.

COMM'R REILLY: Well, we don't consider air conditioning a nicety in a psychiatric facility. In July and August it is really a necessity. The shame of it is, we have not had it earlier. I don't think there is a specific JCAH standard that says air conditioning, but if the inspection happens to occur in the summer months, it certainly has a large impact on the environment.

We face this problem in our Department all the time. We make Hopson's choices among alternatives that are not attractive. We take a little bit of money and we invest it over a whole variety of very legitimate needs, and we would be happy to have the money we need to do the job right. But, we don't have the money, so we do the best we can.

ASSEMBLYMAN SNEDEKER: I can understand that. I will withdraw the word "niceties." But, you are not going to air condition Trenton Psychiatric Hospital out of the \$1.6 million?

MR. PARSONS: No, that allocation is not going to Trenton Hospital.

ASSEMBLYMAN SNEDEKER: Well, don't you think those patients in there certainly could use the same amount of air conditioning as the patients in Marlboro or Greystone?

MR. PARSONS: We have a renovation program going on at Trenton Hospital which includes air conditioning in two major buildings.

ASSEMBLYMAN SNEDEKER: In the other bond issue.

MR. PARSONS: In the previous 1976-1978 bond issues. When they are completed---

ASSEMBLYMAN SNEDEKER: Again, why don't you guys put the money where the Feds. tell you you have to put it to get accredited? I don't understand that.

MR. PARSONS: I think we are. Let me explain. As an example, we are renovating now the Raycroft Building. It has a capacity of 145 people. We have no one in there now. It is vacant because of renovations. That will be done hopefully this September. That will meet all the code requirements of the Federal Government and JCAH. It will be air conditioned also.

ASSEMBLYMAN SNEDEKER: They will let you open that building?

MR. PARSONS: That will be open in September and October and then we will commence renovations of the Drake Building. That will have a capacity of approximately 125, and we have the resources to complete that out of previous capital bond issues.

Our next step --- We have the children's unit already existing, and that will take care of a major portion of the population plan at Trenton. The next step is the Vroom Building, and then the transitional living units, and we will have only one building left to handle, and that would be---

ASSEMBLYMAN OTLOWSKI: Let's get this back into focus again on this Trenton thing. That Planning and Budgeting Commission knocked you down but they did not knock down the Vroom Building, so you have \$8 million to do the Vroom Building. You have a balance for Trenton of how much?

MR. PARSONS: A portion of the \$11 million; approximately \$3 million.

ASSEMBLYMAN OTLOWSKI: So, for that \$3 million now you are proposing to do what?

MR. PARSONS: Transitional living units approximately \$1 million. We have a life safety improvement program for the Annex Building for \$2 million and we have a new kitchen facility of \$3.5 million. I guess that adds up to six and a half million dollars.

ASSEMBLYMAN OTLOWSKI: Gee, if we could get some Greek to take that over, we could save a lot of money on that kitchen. (Laughter)

ASSEMBLYMAN SNEDEKER: If we could get some casino operator, he could build you a whole new building for \$11.5 million.

ASSEMBLYMAN OTLOWSKI: And you feel this whole thing is important to the total use of the facility and ultimately to the accreditation?

COMM'R REILLY: Critically important. When we complete the program that Dave outlined, there is no reasonable reason that facilities should stand in the way of JCAH. We may still have problems on staff and programs, but there is no reason a facility should be a barrier. I can't read their minds, but I don't think there will still be a problem.

ASSEMBLYMAN OTLOWSKI: I am going to leave that for the moment, and I am going to go into the question of the nursing home proposal here. You are talking about how much money for those nursing home facilities? Are you talking about long-term care facilities for nursing homes?

COMM'R REILLY: The concept is the State would issue bonds for \$10 million that would sit in a fund and from that fund, the health care facilities authority - or in the case of voluntary operators, and the Economic Development

Authority in case of proprietary operators - would use that fund to guarantee loans. A nursing home operator would propose to build a building for \$10 million. They would be required to have 10% equity, \$1 million of their own money, and it would be ---

ASSEMBLYMAN OTLOWSKI: This is the plan you have for that \$10 million.

COMM'R REILLY: Yes. So, there would be \$9 million to be borrowed---

ASSEMBLYMAN OTLOWSKI: And essentially the plan for that--- Because you are asking for money and you are not showing us really what you are doing with it. You are not showing us any buildings or any facilities. What you are saying is you have the \$10 million in there as a back up and as a guarantee for other agencies. Is that what you are saying?

COMM'R REILLY: Correct. The expectation is that that \$10 million would at least turn in to \$40 million conservatively of private construction in the nursing home area where we would be guaranteed 80% of the beds, and the \$10 million would be the key ingredient to make the deal work, to get the commercial investment into the process.

The other thing it would do is, it would make sure that the financing was done through the authority which would save us money over the long haul, because we are going to pay a lower interest rate through the authority mechanism than we would through a commercially placed loan.

ASSEMBLYMAN OTLOWSKI: And you are saying that \$10 million and this particular plan that you are talking about is necessary if you are going to meet the needs that exist in the nursing home area; is that what you are saying?

COMM'R REILLY: Exactly. At the current time, there are about 2600 people waiting on a Medicaid waiting list. In the next twenty years, we are going to need at least 16,000 additional nursing homes.

ASSEMBLYMAN OTLOWSKI: Would you have any kind of guarantee that those people going into those places - that would be made available - that \$10 million would help to trigger--- Our medicaid patients would be guaranteed to get in there?

COMM'R REILLY: They would be required as a condition of the loan to guarantee that we would get 80% of the admissions. Eighty percent of the patients would have to be on medical assistance.

ASSEMBLYMAN OTLOWSKI: You can almost do that now by regulation; can't you?

COMM'R REILLY: No. There is a Health Department regulation that says a nursing home must provide services to indigent patients, but the percentage---

ASSEMBLYMAN OTLOWSKI: About 20%?

COMM'R REILLY: No. It is very much less than that. It is down around 5% which is the ball park figure that is accepted. That was challenged in the courts. The regulation was upheld just several weeks ago by the New Jersey Supreme Court, but that would only provide in the area of 5% participation in medicaid on a mandatory basis.

In order to get into this loan guarantee program, you would have to agree to give us 80% of the beds.

ASSEMBLYMAN OTLOWSKI: They would have to guarantee you 80% of the beds?

COMM'R REILLY: Yes.

ASSEMBLYMAN OTLOWSKI: How are they going to run a place if they are going to give you 80% of the beds?

COMM'R REILLY: We are going to pay for them.

ASSEMBLYMAN OTLOWSKI: The problem now is nursing homes. The reason they don't want to make medicaid is they can't make a go of it on medicaid monies.

COMM'R REILLY: Well, I don't agree with that. I know it is said a lot, and if we brought 100 nursing home operators in here today, 90 of them would tell you that. What I say is the true situation is that the medicaid rate is adequate to run a decent home and make a decent living. The problem is that since there is such a demand you could always charge \$5 more and get a person to come in on a private basis, because there is such a shortage of nursing home beds. If you are a proprietary business, certainly you are going to charge the \$5 more. So, it can be more profitable taking private paying patients.

The medicaid rate, in my judgement, is adequate to run a decent home and to make it decent living. I know that you hear contrary to that from every nursing home operator in the State, or almost every one, but I don't think that is true.

That is one reason why we didn't say 100% medicaid. We said 80% and spokesmen for the industry have said they think that is fair.

ASSEMBLYMAN OTLOWSKI: Let me ask you this: The costs keep going up for nursing home beds. Will we have to abandon nursing homes as a luxury that nobody will be able to afford?

COMM'R REILLY: I know the costs are going to be a problem. But, the elderly population in New Jersey will grow by 25% by 1990, by 56% by the year 2000.

ASSEMBLYMAN OTLOWSKI: They may grow, but how about their pocketbooks?

COMM'R REILLY: I don't know what the alternative is. If we want to move ahead with developing a system of community alternatives, to have people cared for in the least restrictive, most appropriate cost effective environment, it is easy to say and hard to do. That means we have to do a lot of other things in public policy to provide for that continual care, and keep down the number of nursing home beds we have to build for. Because, they are very expensive to build, and very expensive to operate.

But, I see as a minimum in the next twenty years, we are going to have to build about 16,000 beds. Even if we are tremendously successful in emphasizing the community alternative, this will still be true.

ASSEMBLYMAN OTLOWSKI: This \$10 million actually is a revolving guarantee, isn't it?

COMM'R REILLY: Absolutely.

ASSEMBLYMAN OTLOWSKI: But it won't revolve if those guys get into financial trouble. It would be wiped out.

COMM'R REILLY: No. The expectation is that we were going to have a very, very low rate of default. The EDA in a loan guarantee program has a 3% rate of default. Now, EDA by its nature is involved in much more risky propositions than long-term care. Long-term care facilities will rely upon us as the paying agent, and it is not likely that we are going to let a facility get to the stage where it is actually going to default.

We are now developing enabling legislation to structure the loan guarantee program that would have within it provisions for authority intervention in a financially troubled home to see to it that it is properly managed and it won't get into a default situation. We don't expect that we would exhaust those funds.

ASSEMBLYMAN OTLOWSKI: Let me see if Assemblyman Snedeker has any questions in this particular area.

ASSEMBLYMAN SNEDEKER: Commissioner, the figures that you told me here on the shortage of nursing homes and the figures I hear from the Health Department don't seem to come together for some reason. The Health Department says we have nursing beds available throughout the State, and there isn't that need for them. At least that is the last report that we have, and to get a certificate of need you have to do various things that are very difficult for nursing home operators to get certificates of need.

COMM'R REILLY: The Health Department is in accord with this proposal and Assistant Commissioner Vladeck has so written to that effect.

ASSEMBLYMAN OTLOWSKI: The Health Department has changed their position now? They are saying there is a need for nursing homes? At one time, they said there wasn't any need.

COMM'R REILLY: I don't know in what context you got your information.

ASSEMBLYMAN SNEDEKER: We got it in testimony at one of our meetings here. I can show it to you. I think I have a letter from Commissioner Finley's Office.

COMM'R REILLY: Well---

MR. KOHLER: They are not built, but they are counted as built once the certificate of need is allocated. That is the problem.

COMM'R REILLY: Yes. At the present time, since 1972, certificates of need have been granted for 10,663 beds. Of that total, 1401 have been voided, because they could not get zoning, and they could not get financing, or what have you. That left 9,262. Of that remainder, only 2567 have actually been constructed.

ASSEMBLYMAN SNEDEKER: Why?

COMM'R REILLY: Why? Because of difficulties in obtaining financing, which this loan guarantee fund is attempting to meet because of problems in zoning and in some cases just lack of ability of people who are putting the proposal together.

ASSEMBLYMAN SNEDEKER: They can't because the certificate of need is so hard to get.

COMM'R REILLY: Well, listen, I will comment on that in a minute. I serve on the State Health Planning Council, and that is a perception, but it is not really true. An additional 1500 beds are in the pipeline, okay, so that means that there are about 6500 beds out there now approved. So, if you look at a model and say, "Do we need any more beds in Burlington County," the model may say no, because there are all these beds in the pipeline, but nobody can sleep in a paper bed.

Part of the concept of the loan guarantee fund is to begin to remove financing as a barrier to getting these beds constructed.

ASSEMBLYMAN SNEDEKER: Are you talking about an additional 1000 or 1500 beds over what has already been approved, or are you talking about non-approved beds?

COMM'R REILLY: That is within the approved number.

ASSEMBLYMAN SNEDEKER: You are talking about financing approved--- Why don't you go out and finance the 6500 approved and you will not have a problem.

COMM'R REILLY: Well, that is exactly what it is, to finance part of those 6500 approved, but it is not true that you won't have a problem.

Well, number one, the Health Department has just now come out with 1985 projections for need, and C of N's will then be approved on the basis of those projections, that facilities can now come in. The Health Department is in the process of promulgating new regulations, or guidelines for long-term care planning which we support that say, if you want to come in for a long-term care facility, we want you to do some other things as well. We want you to be planning medical day care. We want you to be planning community alternatives, and a lot of the industry is reacting to that, because they are uncomfortable with the change. But we at the Health Department are together on the strategy of meeting the minimum needs we would have for beds, plus developing the community alternatives that are appropriate, but it simply is not true that there is no absolute need for beds in the State of New Jersey today.

The planning model would indicate that we are 6500 short that we can help get on line, and further than that, I think the planning model is flawed in that it is a little bit too conservative. But, this is an ongoing problem we have had. You say, you can't get a C of N, well, every month at the State Health Planning Council we approve several C of N's for long-term care facilities.

ASSEMBLYMAN SNEDEKER: You approve them without the knowledge of whether they have the approval from the town or the money available and so on to do this.

COMM'R REILLY: Sometimes it is a chicken-egg problem. I think that we have to be more tough at the outset, before approving C of N's that more of these ducks are in a row. You can't ask for all the ducks to be in a row, because then they will never get started. Sometimes they will come to the Planning Board - I used to serve on one - and the Board will ask if they have their C of N, and they will say, no; and when you go for your C of N, they say, well, do you have your zoning, and they say, no; You have to be a little bit flexible.

We also do attempt to retire C of N's that appear to have no probability of being approved.

ASSEMBLYMAN SNEDEKER: When.

COMM'R REILLY: Annually they are reviewed, but I am speaking of the Health Department now, because they handle this. But, as I understand it, annually they are reviewed, and the operator or the developer is asked, why haven't you built; what is the probability of you building, and so forth, and there is a tendency, if they have a reasonable argument, to continue it, rather than start the whole process over.

But, they have retired 1400 through this process.

ASSEMBLYMAN SNEDEKER: Out of 10,000.

COMM'R REILLY: But, the bottom line is, that this State--- I can take you within five miles of this room, and have you meet people who are

laying in their living rooms in hospital beds awaiting placement, four, or five or six months, having a home health aide come in half a day, and having children make great sacrifices for parents who are living alone. I have seen them myself and visited them myself. It is a tragic situation. Public policy has to begin to respond to this. It is going to sweep over us. It is going to happen anyway.

ASSEMBLYMAN SNEDEKER: If you come up with this \$10 million, and I want to build a nursing home and it is going to cost me \$1 million, I have to have \$10,000 that I can put up front - 10% is a lot of money. I am going to have a \$1 million nursing home. I am going to need \$100,000 to put up front for the money.

COMM'R REILLY: Yes, right.

ASSEMBLYMAN SNEDEKER: From there, to get any money from you now, to get the \$900,000 from you, I'm going to have to commit that I'm going to give you 80 out of 100 beds.

MR. REILLY: Correct.

ASSEMBLYMAN SNEDEKER: You're going to pay me, under the rate today, what per bed?

MR. REILLY: It would depend on what your reasonable costs are. The average rate is perhaps \$36 or \$37.

ASSEMBLYMAN LESNIAK: Cliff, could I mention just one thing? There is going to have to be enabling legislation that is going to be thoroughly discussed by this Committee to implement this proposal. All this is saying is that we're going to have \$10 million for a pot so that legislation can be drafted to implement the whole program.

ASSEMBLYMAN SNEDEKER: My question here is, do we need the \$10 million to start with or should the \$10 million go to EDA and let them come out with the same rules and regulations. That's what they are in business for.

ASSEMBLYMAN LESNIAK: They're still going to need \$10 million.

ASSEMBLYMAN SNEDEKER: Not in this budget, not in this bond issue, if it goes to the Economic Development Committee.

MR. REILLY: It will come to the Department. In fact, it will probably never leave the treasury and EDA and Health Care Facilities Authority will be able to draw upon it. It cannot be diverted for other purposes. That was a specific concern of the Capital Needs Commission, that if this money were not used for this purpose, if the enabling legislation were not successful, would this money be allocatable for other projects, and the stipulation of the Commission is that it would not be. It is for this purpose and this purpose alone.

ASSEMBLYMAN SNEDEKER: Well, the object of EDA, and correct me if I am wrong, is for that individual who can supply and provide jobs both at construction and building, and provide permanent jobs later on, a certain minimum of jobs. Then, he or she can go and apply for an EDA loan. Now, your objective is not going to be jobs so much as it is going to be aids, beds, percentage of beds in that facility. As the owner or developer of that nursing home, my objective is going to be to make money. I'm going to want to make a profit. There's no question about that. Nobody is going to go into that and not make a profit. We're going to guarantee 90% of his loan?

MR. REILLY: Up to, probably not that high. The financial people tell me that it would range from thirty to ninety percent, depending upon what was needed to entice the commercial lender to provide the money.

ASSEMBLYMAN SNEDEKER: And you're going to give me a lower rate than I can go get at the bank?

MR. REILLY: Absolutely.

ASSEMBLYMAN SNEDEKER: You're going to give me a lower rate to pay?

MR. REILLY: That is for two reasons. The principal reason that you're going to get the lower rate is that you are using the Authority and the bank then lends you the money and the interest that they get is tax free. So, that is worth two or three points. The second reason that you will get a lower rate is, not only is it an Authority, but it is guaranteed and your risk is reduced by either thirty to ninety percent, depending upon what the financial people say is necessary to make the deal go. You see, we don't lend State money. The EDA doesn't lend its

own money. It guarantees a private investment and that is what this would do too.

ASSEMBLYMAN OTLOWSKI: Just one other thing. I think we have developed that sufficiently, so that that was brought into focus. What is the purpose of that \$6.5 million for a halfway house? I understand it will only be 160 beds.

MR. KOHLER: I think that's the Menlo Academy.

ASSEMBLYMAN OTLOWSKI: What is that?

MR. REILLY: That is an ICFMR renovation of the former Menlo Diagnostic Center.

ASSEMBLYMAN OTLOWSKI: I remember we spent a lot of time on that whole business and we thought that Academy was operating and you are telling me it is not operating because you never had the money?

MR. PARSONS: It is now being used by Woodbridge State School as a day school for students from Woodbridge.

ASSEMBLYMAN OTLOWSKI: It is being used?

MR. PARSONS: It has a residential portion and a school portion. The school portion of that building is being used by the Woodbridge State School.

ASSEMBLYMAN OTLOWSKI: And now you are proposing to spend \$6.5 million there and to have beds there?

MR. PARSONS: The residential portion, which is the old diagnostic center--

ASSEMBLYMAN OTLOWSKI: And this would be for the retarded?

MR. REILLY: This would be for the ICFMR retarded people. It will have a capacity of approximately 160 persons.

ASSEMBLYMAN LESNIAK: This comes under that program too?

MR. REILLY: Yes, it comes under that \$50 million ICFMR program.

MR. KOHLER: So, in essence, is this going to be a new state school for the retarded that you are opening? What is the goal of this? Is it going to be like, for example, New Lisbon State School?

MR. PARSONS: It will be a separate institution, but the operational philosophy of that place will be to accelerate transition into the community. It will be more for the higher level patient and the most functionally operational.

ASSEMBLYMAN OTLOWSKI: Let me ask you this. I think we have brought a number of things into focus, and that is the purpose of this hearing. Before I go back to the girl from the Attorney General--is that young lady here from the Attorney General's office?

MR. KOHLER: She's from the Governor's office.

ASSEMBLYMAN OTLOWSKI: Yes. In any event, is there anything you want to say now in summary?

MR. REILLY: I never got to give my statement, but that's fine. I think in the context of our discussion, everything I wanted to say has been said. I appreciate your attention very much.

ASSEMBLYMAN OTLOWSKI: Let me ask you this. From your statement, is there anything that you feel that you left out that is pertinent and relevant?

MR. REILLY: I think it was pretty well covered in the questions and answers.

ASSEMBLYMAN OTLOWSKI: All right, thank you very much. I'm going to ask the young lady from the Attorney General's office to come up here, if she would.

A R L E N E G A R D N E R: My name is Arlene Gardner, an assistant counsel to the Governor. I really didn't prepare testimony. I just want to answer your questions.

ASSEMBLYMAN OTLOWSKI: Let me ask you some questions and then the committee could ask you some questions. With the last bond issue, where the penal institutions and penal services and mental institutions were joined, it was challenged in the court. But, the court, of course, upheld that decision. Have you any comment? Are we going to run into any kind of problem with this thing here because we still have \$7 million in this thing? As a matter fact, there is an amendment here that is being proposed to take out \$27 million for the penal institutions. Have you any comment on that generally?

MS. GARDNER: I don't think there will be any problem. We did ask the Attorney General's office for an opinion. We don't believe there are going to be any problem with the six items, once you make your amendment, that are included in this bond bill. We asked for an opinion from the Attorney General, which I would be glad to share with you.

ASSEMBLYMAN OTLOWSKI: Well, can you share it with us so it becomes part of the record?

MS. GARDNER: Okay. We asked the same question that you are asking me and the answer was, no, there wouldn't be a problem. We had initially proposed the name, Public Buildings Construction Act, and we have changed that to Public Purposes.

ASSEMBLYMAN OTLOWSKI: That's being changed in the amendment, right?

MS. GARDNER: Well, we've already done that. The question was asked before the bill was introduced, when it was just a thought. Anyway, two years ago, with the '78 Institutional Bond Fund, although the correctional people brought the suit, the court's concern appeared to be more with the fact that we had a piece of money for the medical examiners, a piece of money for a record storage facility; it was a variety of state facilities. The singularity of purpose in this bill is much clearer. It is all, really, different types of facilities for people who need, basically, institutional care.

ASSEMBLYMAN LESNIAK: Why are we taking out the \$27 million? Is there no need for additional corrections? Did we hear from Corrections or did I miss that?

MS. GARDNER: You may want to ask that question of the Commissioner.

ASSEMBLYMAN OTLOWSKI: The Capital Budget Committee took that out and just to be on the same tract with them, we are amending that out.

ASSEMBLYMAN LESNIAK: Is somebody from Corrections here?

MS. GARDNER: No.

ASSEMBLYMAN LESNIAK: Well, then, I guess we don't need it or at least they don't think we do.

ASSEMBLYMAN OTLOWSKI: The point of it is this, I don't think that for this Committee to get into this at this moment would help us with this main bond issue. I think that that probably is a separate question and should be treated separately. For us, I think it is important just to act on the bond issue itself.

ASSEMBLYMAN LESNIAK: I am concerned with that. We, as a Legislature, are moving and want move in that direction of stricter laws and here we are knocking out additional money for corrections.

ASSEMBLYMAN OTLOWSKI: I think we're all in agreement with your position. I don't think there is any argument about your position. However, from a practical point of view and from the public's point of view, I think it is important to separate them because of the fact--

ASSEMBLYMAN LESNIAK: I don't have any problem separating them, but it's not going to get on the ballot. If Corrections told me that they can't spend the money and they feel that they can't--

ASSEMBLYMAN OTLOWSKI: I'm just wondering why Corrections isn't here today, at least to voice their opinion.

MS. GARDNER: I think Commissioner Fauver will be speaking to you in the future about the need for a new facility.

ASSEMBLYMAN OTLOWSKI: Let me ask you, just to develop this question, and I don't even know if you are in a position to speak about it, but there is a question raised here and it is a legitimate question and I think members of the Committee would want answers this morning. Namely, why aren't the people from Corrections here to talk? We're talking about amending \$27 million of their money out of here. You would think they would be here with Kentucky rifles. In any event, what is your reaction to that?

MS. GARDNER: They have graciously given into the fact that there is not a consensus about the need for a new prison. So, they are not here.

ASSEMBLYMAN OTLOWSKI: I think that the reason--excuse me, but you just refreshed my memory. Not that your answer is correct, but you refreshed my memory. What happened here, as I remember this, that high class Budget and Planning Commission-- it is a very high class commission--but in any event, the reason that they took that \$27 million out was the fact that there is a great debate in that Commission about where to put this. Everybody that is on that commission comes from a particular county.

ASSEMBLYMAN SNEDEKER: The argument was where they were going to put this prison.

ASSEMBLYMAN LESNIAK: Who is acting on this legislation, that commission or this Committee? Obviously, it is that Commission.

ASSEMBLYMAN OTLOWSKI: In my own mind, I have no question about that. I think it is a legislative function and a legislative function that cannot be delegated. But, if they want to have fun, that's all right with me.

ASSEMBLYMAN SNEDEKER: We have a member of that Commission here, Mr. Chairman.

ASSEMBLYMAN OTLOWSKI: Well, the Assemblyman asked a question and I just wanted to clear up that thing. We'll go back to that.

ASSEMBLYMAN LESNIAK: Mr. Chairman, if they are backing down from a particularly ticklish or difficult problem, then they are not fulfilling their role. They are supposed to give to us what the capital needs of the State are. We're supposed to handle the political problems of the State and if we can't take the heat on that, then we're not supposed to be here. That's what our role is. They seem to be usurping our role in terms of being elected officials. If we have somebody from the Commission here, I would like to hear from him.

ASSEMBLYMAN OTLOWSKI: Well, first, let's finish with our witness here. We'll get into that before we finish. Your role here, of course, was primarily for the legal question and the other question arose about the amendment. I think we ought to get to the Commission because I said that you refreshed my memory about that and that was taken out because the Commission couldn't agree about where to put the facility. But, in any event, from the legal point of view, as far as you are concerned, there aren't any questions about this thing that is being proposed now, with the \$7 million remaining in there for the rehabilitation and rebuilding of prison facilities? You have no problem with that, from the legal point of view?

MS. GARDNER: Correct.

MR. KOHLER: Could we have a copy for the record of the Attorney General's opinion?

MS. GARDNER: Yes.

ASSEMBLYMAN SNEDEKER: From the legal point of view, can you tell me what the responsibility of that Commission is, compared to the responsibility of this Committee?

MS. GARDNER: I'm really not prepared to answer that.

ASSEMBLYMAN OTLOWSKI: I don't think that's her bag. If there is somebody here from the Commission who want to answer that question, that's fine. Thank you very much. Mr. Butler? Again, for the record, would you just identify yourself?

MR. BUTLER: Yes, I am Fred Butler and I am Deputy Director of the Commission staff.

ASSEMBLYMAN OTLOWSKI: Now, what is the question that you had Assemblyman?

ASSEMBLYMAN SNEDEKER: What I am trying to get at is, where do you start with your responsibility in these bond requests and what is your authority as compared to what finally comes down to us as the Legislature?

MR. BUTLER: The Commission receives requests for bond referenda and it is charged with recommending bond issues to the Legislature and to the Governor. We received requests starting before March 1 of this year. We had a deadline of March 1. We analyzed those requests and put them all on the agenda for the June 9 meeting. Included on the agenda were the Department of Correction's two components. The two requests from the Department of Corrections were \$26 million for a medium security facility or additional medium security beds. The second component was \$8 million for renovations to existing facilities. The recommendation of the Commission at the June 9 meeting was to recommend \$7 million for renovations to existing facilities and to request more information on the \$26 million medium security bed proposal. Because of the desire of everyone involved to have these bond issues fully authorized to go on the ballot before the summer, so that we would have enough time for a public information campaign, Commission staff reluctantly agreed to have the bill introduced with all of the components in, with the understanding that the components could be amended out if the Commission's recommendation went counter to those. Again, that is the purview of the Legislature, but that \$26 million component would never have been in our recommendation and, therefore, the bill, had we been able to vote at the June 9 meeting.

ASSEMBLYMAN LESNIAK: Why?

MR. BUTLER: Because the bill would have come over with our recommendations--

ASSEMBLYMAN LESNIAK: No, no; on a factual basis, why don't you want that in there?

ASSEMBLYMAN OTLOWSKI: They wouldn't support the Jamesburg facility, isn't that correct?

MR. BUTLER: There were two components, Mr. Chairman. There was the need and the planning process which focused, in the discussion, on siting. The Commission was sensitive to the arguments of the Department of Corrections on need, but was not, I don't think, fully convinced of the inability of the Department to accomodate medium security prisoners in other existing facilities. We have only a few months under the new penal code and under the new parole bill. The information that has come to us from that has not been conclusive that there is going to be the kind of increase in bed space--

ASSEMBLYMAN OTLOWSKI: Just for the record here, because I think it is important, Senator Hamilton, who is a member of that Commission, made it known and it was part of the testimony that the entire Middlesex delegation, the entire Middlesex legislative delegation was opposed to having that facility placed in Jamesburg and as a matter of fact, that was the first point he made. The second point he made was that the entire Middlesex delegation felt that we had enough penal institutions in Middlesex County, namely Rahway Prison in Woodbridge, a facility in Jamesburg at the present time, and that would pose a problem in the Legislature because of the fact that the Middlesex delegation was solidly apposed to it. As a result of that, I suppose this amendment now is part of that business to avoid that kind of conflict in the whole legislative process because if that \$27 million was in there and it was designated for Jamesburg, it would never get out of this Committee.

ASSEMBLYMAN LESNIAK: Mr. Chairman, being a member of the Middlesex delegation, I get your message. However, there is no designation here and I'm sorry because I don't think I have ever taken a position like this in reference to one of your amendments. It is just not a need as it is constituted by statute. It is a need within the system as it actually operates in practice. Prisoners, in fact, are given lighter sentences. They are kept in county institutions. They are released into the community on the basis of the fact that there is overcrowding. I know it. I practiced law and I know what happens. The hazardous waste problem is the same thing. We're not willing and able to tackle the siting problem. So what do we do? We don't want a facility in one particular place, so we dump the stuff in the neighborhoods anyway. It is the same thing with the criminal problem. We don't want a facility in one particular place, so we keep the criminals in the neighborhoods where they can commit more crimes. I think it is a problem, Mr. Chairman, that we have to resolve and we can't just keep kicking it around and then grandstand as far as tougher laws, as far as violent criminals and then not provide the facilities to put them in.

ASSEMBLYMAN OTLOWSKI: Are you concerned about the time table here for that \$27 million?

MR. BUTLER: Yes.

ASSEMBLYMAN LESNIAK: If Corrections thinks we need it--

ASSEMBLYMAN OTLOWSKI: I'm sorry that Corrections is not here, so that we can be talking to them about how we could fit it into the time table.

ASSEMBLYMAN BASSANO: This was under Governor Cahill and we never took any action.

ASSEMBLYMAN SNEDEKER: Mr. Chairman, I would like to comment on Assemblyman Lesniak's comment. I really don't think it is the responsibility of your Commission to eliminate something because it has to go in a certain location or take any part of that wait and eliminate it because of that. I think it is up to the Legislature to make a decision as to where it is finally going to go. If the Department comes up and says that they need a new prison and you ask him where, he could say, "Well possibly here or possibly there." It doesn't mean it is going to be built there. The land has to be acquired. If it is State land, it has to be approved by the Watchdog Committee anyway and all the legislators have to agree or there is going to be a problem. I agree with the Assemblyman. If there is the need for a facility, we should take no weight at all from the recommendation of where the location was going to be. That has not been decided, as far as I'm concerned. That is not going to be a question on the ballot. The question on the ballot is whether or not you

need a correctional facility in this state, not where, but whether or not you need it. Was there a consensus that they needed it?

MR. BUTLER: There was a consensus that the Commission members were sensitive to the arguments on need. They were not convinced that the data that was coming substantiated that need. Secondly, they were not satisfied, or the majority was not satisfied with the planning process that resulted in the site selection.

ASSEMBLYMAN SNEDEKER: As far as I am concerned, that should be completely ignored. That should be the consideration of the Department coming in to make recommendations to this Committee and the Senate Committee later on as to where it is going to be located at. No one wants a prison in their community, I'm sure. Trenton doesn't want the one that you are building down here now, but you're building it and that passed. There is a need for that facility and I think it ought to stay in the bond issue. I think we ought to hear from the Department of Corrections before we vote on it.

ASSEMBLYMAN OTLOWSKI: I think that as far as you are concerned, that brought the thing into focus now, but there is an important question now about the time table now for that \$27 million. Thank you.

Ms. Gardner, there is a question that is being asked here on this amendment, where we are amending out the \$27 million for the prison. The question, of course, is a very important question and the question that I would want answered is, if we vote on this amendment to take out the \$27 million, are we still in time to consider that \$27 million by the Department of Corrections in a separate proposal, a separate ballot proposal.

MS. GARDNER: You mean this November?

ASSEMBLYMAN OTLOWSKI: Right.

MS. GARDNER: Sure, if you act real fast.

ASSEMBLYMAN SNEDEKER: We're not in time, Mr. Chairman. That is why we were called here today.

MS. GARDNER: I don't think it would be impossible.

ASSEMBLYMAN OTLOWSKI: It would be difficult.

MS. GARDNER: It would be very difficult.

ASSEMBLYMAN BASSANO: On its own, a proposal of that nature would go down. It has to be included in an issue of this type.

MS. GARDNER: You are seeing all the discussion that is taking place on this one subject. Since there wasn't a consensus, you could put in a future bond issue.

ASSEMBLYMAN LESNIAK: We could put it in 20 years from now too. But, if we need it now, it should go in now.

ASSEMBLYMAN OTLOWSKI: All right, that answers my question. Thank you very much.

ASSEMBLYMAN SNEDEKER: Mr. Chairman, I think there a lot of things that are in here right now, in the statement that I have, and Jerry could probably tell me the locations of them, but nobody has questioned them. Where, really, are we going to put all of these community grants into group homes? We really don't know yet because they haven't been applied for and that town may not want one, but that is not the reason that we are voting it in or out. We are voting it in or out because there is either a need or not a need for it, not because of the location that it may go, next to my house and I might not like it in that particular neighborhood.

I think this faces the same way with that facility. I don't think anybody asked about the Veterans' Home. Where is that going?

MR. REILLY: Probably in the Northeastern part of the State.

ASSEMBLYMAN SNEDEKER: Do you have a site of land that you have purchased already? Someone might want that in another area. Again, nobody has really put an argument for or against that because you are putting it not in my county, in that case, but in another county. I don't think that is a good reason not to vote for it or not to include it.

ASSEMBLYMAN OTLOWSKI: Is there anyone else here that wants to be heard? I'm going to suggest--as a matter of fact, what I'm going to do is adjourn the hearing until Monday morning. I'm going to adjourn the hearing until 10:00 Monday so that we can hear from the Commissioner of Corrections at that time and then we will be in a position to vote on the motion and on the amendment. Mr. Reilly, you better have someone here because the Committee, of course, is anxious to hear from the Commissioner of Corrections and the decision, of course, whatever it is going to be, will be made. All right, may I have a motion on that adjournment please?

ASSEMBLYMAN LESNIAK: So moved.

ASSEMBLYMAN SNEDEKER: One problem, Mr. Chairman. After this is over, you have to have a regular meeting. Can we legally do that?

MR. KOHLER: We can get away with a five day notice.

ASSEMBLYMAN OTLOWSKI: Will you make sure that we are in the right posture on that?

MR. KOHLER: Sure.

ASSEMBLYMAN LESNIAK: Mr. Chairman, we don't have to have another public hearing, do we?

ASSEMBLYMAN OTLOWSKI: No. We're extending the public hearing until 10:00 Monday. It hasn't been formally closed. The hearing is being continued and when we conclude the hearing on Monday, the Committee can then act. As a matter of fact, the proper word is not "adjourning". We are recessing the hearing until Monday. All right. we have the motion. Do we have a second?

ASSEMBLYMAN SNEDEKER: Second.

ASSEMBLYMAN OTLOWSKI: No questions on the motion? All those in favor please signify by saying Aye. It is so ordered.

(Hearing Recessed)



11 v

State of New Jersey  
DEPARTMENT OF LAW AND PUBLIC SAFETY

JOHN J. DEGNAN  
ATTORNEY GENERAL

DIVISION OF LAW  
LABOR, INDUSTRY AND HEALTH SECTION  
STATE HOUSE ANNEX  
TRENTON 08625

STEPHEN SKILLMAN  
ASSISTANT ATTORNEY GENERAL  
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DEPUTY ATTORNEY GENERAL  
SECTION CHIEF

TELEPHONE 609-292-4776

June 9, 1980

Daniel O'Hern,  
Counsel to the Governor  
State House  
Trenton, New Jersey 08625

Re: AAA No. M80-4479

Dear Mr. O'Hern:

You asked our opinion whether certain bond proposals to be introduced in the Legislature would be in violation of the provisions of Article VIII, §2, par. 3 of the New Jersey Constitution. That provision provides:

"The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State ... unless the same shall be authorized by a law for some single object or work distinctly specified therein ... [and] until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon."

This provision serves to assure that the Legislature and the public have notice of the subject of a proposal in order to enhance informed participation in the law-making process. New Jersey Ass'n on Correction v. Lan, 80 N.J. 199, 208 (1979). It is also designed to avoid the improper practice of joining diverse measures into an omnibus act so as to facilitate passage of the act through the combined votes of various interest groups who favor different parts of the bill. Id. 80 N.J. at 209; see also State v. Czarnicki, 124 N.J.L. 43, 45 (Sup. Ct. 1940). These purposes are

satisfied, and the constitutional requirement thereby met, when the "leading" or general subject of the act is fairly expressed in the title and all the provisions of the enactment are "reasonably connected therewith, and appropriate to the achievement of the legislative object." Jersey City v. Martin, 126 N.J.L. 353, 363 (E. & A. 1941); accord, Painter v. Painter, 65 N.J. 196, 207 (1974); Wilson v. City of Long Branch, 27 N.J. 360, 373 (1958), cert. denied, 358 U.S. 873, 79 S.Ct. 113, 3 L.Ed. 104 (1958).

The first proposal, entitled the "Public Buildings Construction Act," would authorize the issuance of bonds in the total amount of \$125 million for several programs to be administered by the Department of Human Services and by the Department of Corrections. The proposal includes \$7 million for deferred maintenance of prisons; \$26 million for the construction of a new medium security prison; \$10 million to establish a reserve fund to guarantee loans made by the Economic Development Authority and the Health Care Facilities Financing Authority for the construction of nursing homes serving Medicaid-eligible patients; \$21.5 million for improvements to psychiatric hospitals and construction of new facilities for the mentally ill; \$50 million for renovations, improvements and new construction of schools for the mentally retarded and community grants; \$7 million towards the construction of a new nursing home for New Jersey veterans; and \$3.5 million for renovations and improvements of residential buildings operated by the Division of Youth and Family Services.

This proposal is similar to a number of previous bond referenda dedicated to the construction and development of State charitable, hospital, relief and correctional institutions (see, e.g., L. 1930, c. 227; L. 1949, c. 3; L. 1961, c. 73; L. 1964, c. 144; L. 1976, c. 93). It is particularly similar to the "Institutional Construction Bond Act of 1978" (L. 1978, c. 79), which was upheld in New Jersey Ass'n on Correction v. Lan, *supra*. The specific program components of the bond questions here, as in that case, are all designed to serve a special population, either institutionalized or handicapped, who are in need of State care, protection and rehabilitation. This proposal is intended to continue the State's commitment to upgrade its facilities for those individuals requiring treatment or custody in an institutional setting and to promote the development of additional facilities in the community for the mentally ill, the mentally retarded and for the elderly poor and veterans in need of nursing home care. While the programs encompassed by the bond proposal employ different mechanisms of implementation, the purpose of all is to assist substantial segments of New Jersey's population who need special care and attention. Each program component is sufficiently related to fulfilling this single general objective so as to satisfy the constitutional requirement of unity of subject matter. New Jersey Ass'n on Correction v. Lan, *supra*, 80 N.J. at 216-218. Accordingly, the seven programs you have identified as part of a

proposed "Public Buildings Construction Act" may properly be incorporated in a single act.

A second bond proposal would authorize the issuance of \$50 million in bonds for the purpose of surveying buildings owned or leased by the State and renovating those buildings in order to conserve energy resources. Energy audits and renovations would be made in various types of State buildings, including correctional facilities, institutions for the mentally handicapped, educational facilities and State offices. This variety in the types of State buildings affected is not of significance in this particular instance, for the purpose of all the energy audits and modernization of all buildings of whatever type is to accomplish a net reduction in the consumption of energy resources in buildings owned or leased by the State. Therefore this bond proposal, which would be entitled the "Energy Conservation Bond Act," also has a single, general object conformable with the constitutional rule.

Combining this bond proposal with the other one to form a "Public Buildings Construction and Energy Conservation Bond Act," however, does raise a substantial constitutional question. Although the Supreme Court of New Jersey in New Jersey Ass'n on Correction v. Lan, *supra*, adopted a liberal approach in judging an act's compliance with the constitutional "single object" provision, it expressly found an interrelationship among each major project mentioned in the Institutional Construction Bond Act of 1978 in serving the needs of special segments of the population. 80 N.J. at 216-217. That interrelationship, which is present in your first bond proposal, would become very doubtful with the addition of the numerous building modernization projects of the second proposal, which entails a substantial capital investment and has a different emphasis in purpose.

You also have asked us to re-examine our earlier advice to the Department of Environmental Protection concerning a separate bond proposal for that Department's capital needs. In a letter dated April 25, 1980, directed to Betty Wilson, Deputy Commissioner of Environmental Protection, we indicated that five program requests which she submitted to the Commission on Capital Budgeting and Planning could be incorporated in a single bond question since each individual program, including a \$50 million request for resource recovery or solid waste management facilities, had the same basic objective of protecting the surface and ground water resources of this State. We have specifically considered the inclusion of the Department's resource recovery grant program in the single bond proposal, as you suggested, and see no reason for changing or modifying our previous advice.

Finally, it should be noted that the proposal to authorize bonds for the several programs to be administered by Departments of Human Services and Corrections is entitled

the "Public Buildings Construction Bond Act." The proposal makes provision for a reserve fund to guarantee loans made by the Economic Development Authority and the Health Care Facilities Authority for the construction of privately operated nursing homes serving Medicaid-eligible patients, and for community grants to provide for facilities for the mentally retarded. Since these objects are designed to aid the construction or improvement of privately owned and/or operated facilities, "Public Buildings Construction Bond Act" would not be an accurate reflection of the overall object of the Act. Art. 4, §7, ¶4 of the N.J. Constitution states that "every law shall embrace but one object and that shall be expressed in the title." As a result, the proposed title should be amended. A recommended revised title may be "Institutional Care Construction Bond Act.

Very truly yours,

JOHN J. DEGNAN  
Attorney General of New Jersey

By   
Charlotte Kitler  
Deputy Attorney General

vk  
cc: Arlene Gardner  
Assistant Counsel to the Governor



