§ 2880. Hospital facilities development fund. 1. Establishment of fund. a. There is hereby created and established in the department of health a revolving fund to be known as the "hospital facilities development fund".

b. There shall be paid into such hospital facilities development fund (a) any monies appropriated and made available by the state for the purposes of such fund, (b) notwithstanding the provisions of the state finance law or any other provision of law, any monies which the department of health shall receive in repayment of advances made from the fund, and (c) any other monies which may be made available to the department of health for the purposes of such fund from any other source or sources.

c. Any monies held in such hospital facilities development fund not required for immediate disbursement may be invested, at the discretion of the commissioner, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government. Any income or interest earned by, or increment to, such hospital facilities development fund shall be added to the monies held in such fund for the purpose herein provided.

2. Advances; conditions; prepayment. a. The commissioner is hereby authorized to use the monies held in the hospital facilities development fund to make non-interest bearing advances to eligible borrowers providing or arranging for health services in connection with a prepaid comprehensive health care plan. Such monies shall be paid out of such fund, after audit by and upon the warrant of the comptroller, on vouchers approved by the commissioner.

b. No such advances may be made unless the commissioner reasonably anticipates that a New York state housing finance agency mortgage or a New York state medical care facilities finance agency mortgage, as the case may be, will be obtained for the hospital project and makes a finding to such effect. Such finding shall be conclusive evidence of the facts therein contained except upon proof of fraud or willful

misfeasance.

c. The proceeds of such advances shall be used only to defray the development costs of such project. The "development costs" means the costs approved by the commissioner as appropriate expenditures which may be incurred prior to the initial advance of the proceeds of a New York state housing finance agency mortgage or a New York state medical care facilities finance agency mortgage, as the case may be including but not limited to: (a) payments for options to purchase properties for the proposed hospital project or for deposits on account of contracts to purchase such properties; (b) legal and organizational expenses, including payment of attorneys' fees, project manager, administrative and clerical staff salaries, office rent and other incidental expenses; (c) payment of fees and expenses for preliminary surveys, reports and feasibility studies, advances for planning, engineering and architectural work; and (d) such other expenses incurred by such eligible borrower as the commissioner may deem appropriate to effectuate the purposes of this article.

d. If such eligible borrower obtains a mortgage loan from the New York state housing finance agency or the New York state medical care facilities finance agency, each such advance shall be repaid in full by such eligible borrower to the department of health concurrently with receipt by the eligible borrower of the first proceeds of such loan.

e. If the commissioner in his discretion shall, at any time, determine that a New York state housing finance agency mortgage loan or a New York state medical care facilities finance agency mortgage loan may not be obtained, or that any advance made pursuant to this section is in jeopardy of not being repaid or that the proposed project for which such advance was made is in jeopardy of not being constructed, then and in any such event all advances made to such eligible borrower from the hospital facilities development fund shall be deemed due and payable by the eligible borrower upon the demand of the commissioner.

3. Examination by comptroller. The comptroller, or his legally authorized representative, is hereby authorized and empowered to examine

the books and accounts of the department of health relating to the hospital facilities development fund, and from time to time, until the advances have been repaid to the hospital facilities development fund, to examine the books and accounts of each eligible borrower receiving such advances, including its receipts, disbursements, contracts, leases, loans, and any other monies relating to its financial operation.