

[Second Reprint]

ASSEMBLY, No. 3245

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:

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**Assemblywoman Wagner, Assemblymen L.Smith, Ramos, Chivukula,
Giblin and Assemblywoman Greenstein**

SYNOPSIS

Provides for improved structure and fiscal management of higher education in New Jersey.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 7, 2009.

(Sponsorship Updated As Of: 5/8/2009)

1 AN ACT concerning the structure ²[, financing,]² and fiscal
2 management of higher education in New Jersey, amending
3 various parts of the statutory law, and supplementing ²[chapters]
4 chapter² 3B ²[and 72A]² of the New Jersey Statutes.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. (New section) As used in this act:

10 “Commission” means the New Jersey Commission on Higher
11 Education established pursuant to section 13 of P.L.1994, c.48
12 (C.18A:3B-13);

13 “Public research university” means Rutgers, The State University
14 of New Jersey, the University of Medicine and Dentistry of New
15 Jersey, and the New Jersey Institute of Technology;

16 “State college” means the State colleges or universities
17 established pursuant to chapter 64 of Title 18A of the New Jersey
18 Statutes.
19

20 2. (New section) The Governor shall appoint, with the advice
21 and consent of the Senate, a Secretary of Higher Education who
22 shall serve at the pleasure of the Governor during the Governor’s
23 term of office and until a successor is appointed and qualified. The
24 appointment shall be made after consultation with and
25 recommendations from the New Jersey Commission on Higher
26 Education ¹and the New Jersey Presidents’ Council¹ except that the
27 person holding the office of executive director of the commission
28 on the effective date of this act shall be the initial Secretary of
29 Higher Education. The secretary shall hold cabinet-level rank and
30 shall serve as executive director of the commission.
31

32 ¹[3. (New section) a. In addition to the authority granted to the
33 New Jersey Commission on Higher Education pursuant to section
34 14 of P.L.1994, c.48 (C.18A:3B-14), the commission shall design,
35 administer, and enforce financial accountability standards for the
36 operation of public research universities and State colleges. The
37 commission shall review the standards of the Financial Accounting
38 Standards Board and the Government Accounting Standards Board
39 and shall design standards that are relevant to the operations of
40 publicly-funded institutions of higher education.

41 b. In accordance with the standards established pursuant to
42 subsection a. of this section, the commission shall establish internal
43 control standards for each public research university and State

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHI committee amendments adopted January 15, 2008.

²Assembly floor amendments adopted December 7, 2009.

1 college.]¹

2

3 '[4.] 3.¹ (New section) a. The governing board of a public
4 research university or a State college shall establish an audit
5 committee '[composed of a minimum of five voting members of
6 the board]¹. The chairman of the committee '[shall be financially
7 literate as that qualification is determined by the commission. At
8 least one member of the committee]¹ shall have accounting or
9 related financial management expertise and the governing board
10 shall make efforts to ensure that a majority of the members of the
11 committee have such expertise.

12 b. The audit committee shall have a written charter that
13 addresses the committee's purpose and responsibilities which shall
14 include, but not be limited to:

15 (1) assisting the board in ensuring and safeguarding the integrity
16 of the institution's financial statements;

17 (2) assisting the board in '[establishing and ensuring the
18 independence] overseeing and evaluating the performance¹ of
19 outside auditors retained by the institution;

20 (3) assisting the board in overseeing and evaluating the
21 performance of the institution's internal audit function;

22 (4) '[evaluating and investigating] ensuring that¹ allegations of
23 misconduct or conflict of interest 'are evaluated and investigated¹;
24 and

25 (5) ensuring the institution's compliance with all relevant legal
26 and regulatory requirements.

27 c. The audit committee shall prepare an annual audit committee
28 report for submission to the institution's governing board.

29 d. The '[deliberations of the audit committee shall be recorded
30 through the preparation of committee meeting minutes] committee
31 shall keep minutes of its meetings¹.

32

33 '[5.] 4.¹ (New section) The governing board of a public
34 research university or a State college shall '[directly employ]
35 approve the appointment of¹ an internal '[audit staff to] auditor,
36 who shall have a direct reporting relationship to the board, the
37 president, and the chief financial officer. The internal auditor shall¹
38 periodically test and report on the institution's internal controls to
39 the audit committee, the institution's president, chief financial
40 officer, and other senior members of the institution's administrative
41 staff.

42

43 '[6.] 5.¹ (New section) a. The governing board of a public
44 research university or a State college shall retain an independent
45 outside auditor who is a certified public accountant to conduct 'an¹
46 annual '[audits] audit¹ of the institution's financial accounts in

1 accordance with 'nationally recognized auditing and accounting'
2 standards **'[established] adopted'** by the commission. The
3 independent auditor shall be selected by a majority vote of the
4 **'[full membership of the board] members of the board present'**
5 upon the recommendation of the audit committee.

6 The governing board of the institution shall not retain an
7 independent auditor that employed the president, chief financial
8 officer, controller, chief accounting officer, or any person holding
9 an equivalent position at the institution during the one-year period
10 preceding the audit or that fails to meet any other limitations or
11 restrictions established by the commission. 'The governing board
12 shall ensure the independence of the auditor.'

13 b. The independent outside auditor shall report his findings to
14 the audit committee. The audit committee shall review the
15 problems identified through the audit with the institution's
16 president, chief financial officer, and other senior members of the
17 institution's administrative staff who shall evaluate the independent
18 auditor's findings and file comments in response to those findings
19 with the audit committee.

20 c. The audit committee shall report the findings of the
21 independent auditor and the evaluation of those findings by the
22 institution's senior staff to the governing board of the institution.
23 The audit committee shall recommend actions it deems necessary to
24 rectify any identified deficiencies in internal controls.

25
26 **'[7.] 6.'** (New section) a. The president and chief financial
27 officer of a public research university or a State college shall
28 'submit the annual audit to the commission and shall' certify 'that
29 they have reviewed the' financial statements **'[submitted to the**
30 **commission] and that, based on their knowledge, the financial**
31 **statements do not contain any untrue statement of a material fact or**
32 **omission of a material fact that makes the statements misleading**
33 **and that, based on their knowledge, the financial statements present**
34 **in all material respects the financial condition and results of**
35 **operations of the institution'**.

36 b. **'[The governing board of a] A'** public research university or
37 a State college shall retain institutional financial **'[records]**
38 **statements'** for a minimum period of time **'[as established by the**
39 **commission] in accordance with accounting principles of the**
40 **Governmental Accounting Standards Board'**.

41
42 **'[8. (New section) The governing board of a public research**
43 **university or a State college shall require a criminal history record**
44 **check of any person initially employed on or after the effective date**
45 **of this act. The check shall be conducted in accordance with**
46 **procedures established by the commission. The Secretary of Higher**

1 Education is authorized to receive criminal history record
2 information from the State Bureau of Identification in the Division
3 of State Police and the Federal Bureau of Investigation consistent
4 with applicable State and federal laws, rules, and regulations.】¹

5
6 **‘[9.] 7.’** (New section) In accordance with standards
7 established by the **‘[commission] Attorney General’**¹, the governing
8 board of a public research university or State college shall establish
9 written policies and procedures that provide confidentiality in the
10 reporting of alleged wrongdoing at the institution and protect
11 employees from retaliatory action in accordance with the provisions
12 of the “Conscientious Employee Protection Act,” P.L.1986, c.105
13 (C.34:19-1 et seq.).

14
15 **‘[10.] 8.’** (New section) The commission shall submit to the
16 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
17 c.164 (C.52:14-19.1), recommendations for the establishment of
18 penalties for noncompliance with the provisions of sections **‘[5] 4’**¹
19 through **‘[9] 7’**¹ of this act ¹, unless such penalties are otherwise
20 established by law,¹ including, but not limited to, fines and
21 disciplinary action to be imposed upon a public research university
22 or a State college or a member of the governing board or an
23 employee of the institution.

24
25 **‘[11.] 9.’** (New section) a. In addition to the authority granted
26 to the Commission on Higher Education pursuant to section 14 of
27 P.L.1994, c.48 (C.18A:3B-14), the commission shall develop and
28 enforce a code of standards to define and regulate the types of
29 activities in which a governmental affairs agent is permitted to
30 engage on behalf of a public research university or a State college.

31 b. Under the code of standards established pursuant to
32 subsection a. of this section, a governmental affairs agent, whether
33 employed directly or retained under contract by the institution, shall
34 be prohibited from using the position as an agent of the institution
35 to:

36 (1) solicit political campaign contributions from the institution
37 directly or through personnel on behalf of the institution;

38 (2) engage in or recommend on behalf of the institution any
39 involvement in the partisan activities of specific political parties or
40 candidates; or

41 (3) support or promote directly or indirectly on behalf of the
42 institution any specific political party or individual for election or
43 re-election.

44 Under the code of standards, the commission shall not prohibit a
45 governmental affairs agent from engaging on behalf of a public
46 research university or a State college concerning legitimate
47 nonpartisan and bipartisan activities that are vital to the election

1 process including, but not limited to, the scheduling and holding of
2 on-campus political debates, voter-registration drives, and similar
3 nonpartisan and bipartisan events and activities.

4
5 **'[12.] 10.'** (New section) a. Notwithstanding any law, rule or
6 regulation to the contrary, a governmental affairs agent who is
7 retained by a governing board of a public research university or a
8 State college shall file a notice of representation pursuant to section
9 4 of P.L.1971, c.183 (C.52:13C-21), quarterly reports specific to
10 that representation pursuant to section 5 of P.L.1971, c.183
11 (C.52:13C-22), and annual reports specific to that representation
12 pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1). This
13 requirement shall not be deemed to require filings by any person
14 performing services as an employee of the public research
15 university or State college.

16 b. The Election Law Enforcement Commission shall transmit to
17 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
18 19.1), a copy of an annual report filed by a governmental affairs
19 agent pursuant to subsection a. of this section within 30 days
20 following the filing of the report.

21
22 **'[13.] 11.'** (New section) Any proposed contract to retain the
23 services of a governmental affairs agent shall be considered by the
24 governing board of a public research university or a State college at
25 a public meeting and approval of the contract shall require the
26 adoption of a resolution by a majority of the board members
27 'present at the meeting'.

28
29 **'[14.] 12.'** (New section) a. The governing board of a public
30 research university or a State college shall establish **'[a**
31 **professional services committee composed of a minimum of five**
32 **voting members of the board. The professional services committee**
33 **shall have a written charter that addresses the committee's purpose**
34 **and responsibilities]** policies concerning professional services
35 contracts' which, at a minimum, shall include **'[**:

36 (1) evaluating and recommending board action concerning
37 professional services contracts; and

38 (2) reviewing] procedures for the review of' proposed
39 professional services contracts to verify the need for the proposed
40 services, determine whether conflicts of interest exist between the
41 vendor and the institution, ensure appropriate procurement
42 procedures are utilized, determine whether the proposed
43 compensation is reasonable, and monitor the services delivered by
44 the vendor.

45 b. The **'[professional services committee]** institution' shall
46 prepare an annual **'[professional services committee]'** report 'on

1 professional services contracts¹ for submission to the institution's
2 governing board.

3
4 ¹[15.] 13.¹ (New section) The governing board of a public
5 research university or a State college shall establish an executive
6 committee composed of the chairman of the governing board, the
7 vice-chairman, and the chairmen of any committees established by
8 he board, and such other voting members as may be appointed by
9 the board. The executive committee shall have a written charter
10 that defines the committee's purpose, responsibilities, and its
11 authority to act on behalf of the governing board between meetings
12 of the full board.

13 The ¹[deliberations of the executive committee shall be recorded
14 through the preparation of committee meeting minutes] committee
15 shall keep minutes of its meetings¹.

16
17 ¹[16.] 14.¹ (New section) a. The governing board of a public
18 research university or a State college shall establish a compensation
19 committee ¹[composed of a minimum of five voting members of
20 the board]¹ . The compensation committee shall have a written
21 charter that addresses the committee's purpose and responsibilities
22 which shall include, but not be limited to:

23 (1) establishing and evaluating the compensation for the
24 president, vice-presidents, and other senior administrators of the
25 institution; and

26 (2) making recommendations to the board on issues relating to
27 the compensation of the president, vice-presidents, and other senior
28 administrators including the amounts, types, and components of
29 compensation plans, and the performance measures and targets
30 upon which institutional administrators shall be evaluated for
31 purposes of calculating incentive awards.

32 b. The recommendations of the compensation committee shall
33 be voted upon by the committee ¹[and the committee's
34 deliberations shall be recorded through the preparation of
35 committee meeting minutes] . The committee shall keep minutes
36 of its meetings¹ .

37
38 ¹[17.] 15.¹ (New section) a. The governing board of a public
39 research university or a State college shall establish a nominations
40 and governance committee ¹[composed of a minimum of five
41 voting members of the board]¹ . The nominations and¹
42 governance committee shall have a written charter that defines the
43 committee's purpose and responsibilities which shall include, but
44 need not limited to:

45 (1) ¹[monitoring and reporting all] overseeing¹ matters directly
46 affecting the governance of the institution;

1 (2) periodically reviewing and updating '[institutional] board'
2 by-laws;

3 (3) identifying and screening candidates for membership on the
4 governing board; and

5 (4) referring candidates to the governing board for the
6 consideration of the board in making its recommendations to the
7 Governor on potential new members '[pursuant to N.J.S.18A:64-
8 3]' .

9 b. In identifying candidates for appointment to the governing
10 board, the committee shall seek individuals with skills that are
11 appropriate to the mission of the institution and which compliment
12 the range of expertise contributed to the governing board by its
13 existing members. The committee shall seek candidates of diverse
14 background and experience, as well as those with ties to the
15 institution.

16 The recommendations of the nominations and governance
17 committee shall be voted upon by the committee '[and the
18 committee's deliberations shall be recorded through the preparation
19 of committee meeting minutes] . The committee shall keep
20 minutes of its meetings' .

21 c. The governing board of a public research university or a State
22 college shall establish '[bylaws] criteria' for the identification,
23 qualification, and recommendation of prospective candidates for
24 appointment to the board. The '[bylaws] criteria' shall include
25 qualification criteria that are consistent with the statutory
26 responsibilities of the board and tailored to the institution.

27
28 '[18.] 16.' (New section) The governing board of a public
29 research university or a State college shall develop and implement
30 fundraising and development strategies that '[require] encourage'
31 the active involvement of all board members and that, as may be
32 appropriate, assist fundraising by institutional foundations.

33
34 '17. (New section) A public research university and State
35 college shall provide information, orientation, and training to each
36 of its governing board members on the legal and ethical
37 responsibilities of a member of the governing board.'

38
39 '[19.] 18.' (New section) '[A] a. When a' public '[institution
40 of higher education seeking to change] research university or a
41 State college determines to seek a change to' its programmatic
42 mission ' , the university or college' shall submit to the commission:

43 '[a. a preliminary request for approval to pursue planning
44 activities regarding a possible change in the programmatic mission
45 of the institution] (1) a notice of the intent to seek a change to the
46 institution's programmatic mission'; and

1 ~~'[b.] (2)'~~ a petition for approval for a change in the
2 programmatic mission of the institution ~~', when such petition is~~
3 ~~ready for submission~~'. The petition shall include information on
4 the long-term costs of the change in programmatic mission and a
5 cost-benefit analysis of the expected impact of the change that
6 considers the expected needs of the State and the potential impact
7 of the change on other academic programs of the institution.

8 ~~'b. The commission shall issue its response to the petition~~
9 ~~within one year of its receipt.~~'

10
11 ~~'[20.] 19.'~~ (New section) The commission shall convene a
12 meeting, at least once a year, of representatives of all public and
13 independent institutions of higher education to discuss issues
14 related to the development and implementation of new degree
15 programs.

16
17 ~~'[21.] 2[20.'~~ (New section) a. A public ~~'[institution of higher~~
18 ~~education] research university or a State college~~' shall submit a
19 long-range facilities plan ~~'on projects to be developed with State~~
20 ~~funds~~' to the commission for its review and recommendations.
21 ~~'The long range facilities plan shall be amended at least once every~~
22 ~~five years.~~' The plan shall detail the facilities needs of the
23 institution and the institution's plans to address those needs for the
24 ensuing five years.

25 b. In developing its response to the plan, the commission shall
26 consider the ~~'overall facilities needs of the institution,~~' long-term
27 fiscal implications of the ~~'[expenditure] plan~~' including the debt
28 burden of the institution, the relation of the facilities ~~'plan~~' to the
29 academic and student service programs of the institution, and the
30 extent and cost of any deferred maintenance of the institution. ~~'The~~
31 ~~commission shall issue its response to the plan within one full~~
32 ~~semester of its receipt.~~

33 c. ~~An amendment to a long-range facilities plan may be~~
34 ~~submitted at any time to the commission for its review and~~
35 ~~recommendations.~~'²

36
37 ~~'[21.] 21.'~~ (New section) a. A State college or county college may
38 ~~enter into a contract with a private entity that permits the private~~
39 ~~entity to assume full financial and administrative responsibility for~~
40 ~~the on-campus construction, reconstruction, repair, alteration,~~
41 ~~improvement or extension of a building, structure, or facility of the~~
42 ~~institution, provided that the project is financed in whole by the~~
43 ~~private entity and that the State or institution of higher education, as~~
44 ~~applicable, retains full ownership of the land upon which the project~~
45 ~~is completed and of any building, structure, or other property~~
46 ~~resulting from the project.~~

1 b. A private entity that assumes financial and administrative
 2 responsibility for a project pursuant to subsection a. of this section
 3 shall be subject to the procurement and contracting requirements of
 4 all statutes applicable to the institution of higher education at which
 5 the project is completed, including, but not limited to, the “State
 6 College Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.), and
 7 the “County College Contracts Law,” P.L.1982, c.189 (C.18A:64A-
 8 25.1 et seq.).

9 c. Each worker employed in the construction or rehabilitation of
 10 facilities by a private entity that has entered into a contract with a
 11 State or county college pursuant to subsection a. of this section
 12 shall be paid not less than the prevailing wage rate for the worker’s
 13 craft or trade as determined by the Commissioner of Labor and
 14 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
 15 56.25 et seq.).’²

16
 17 ²[22.] 20.² (New section) a. When the governing board of a
 18 public ¹[institution of higher education] research university or a
 19 State college¹, after study and investigation, determines that it is
 20 advisable for the institution to establish ¹[an extension site] a
 21 branch campus out-of-state or out-of-country¹ that will serve at least
 22 ¹[100] 500¹ students of the institution, the board shall submit the
 23 plan for the ¹[extension site] branch campus¹ to the commission for
 24 its review and recommendations. The plan shall include: a
 25 description of the higher educational needs of the country or region
 26 in which the ¹[site] branch campus¹ shall be located; a description
 27 of the proposed ¹[extension site] branch campus¹ and its proposed
 28 programs and curriculum; and an estimate of the cost of
 29 establishing and maintaining the ¹[site] branch campus¹ including
 30 the cost of any planned acquisition or construction of facilities; and
 31 any other information or data deemed necessary by the commission.

32 b. In developing its response to the plan, the commission shall
 33 consider whether there is a need for the institution to acquire ¹[an
 34 extension site] a branch campus¹ and whether the institution has the
 35 financial capacity to support the ¹[site] campus¹.

36
 37 ²[¹23. (New section) The commission shall appoint and convene
 38 a network of academics and researchers from New Jersey’s public
 39 and independent institutions of higher education to propose and
 40 develop economic development policies and programs for the
 41 higher education community. ¹]²

42
 43 ¹[23.] ²[24.] 21.² (New section) Whenever, in any law, rule,
 44 regulation, order, contract, document, judicial or administrative
 45 proceeding or otherwise, reference is made to the executive director

1 of the New Jersey Commission on Higher Education, the same shall
2 mean and refer to the Secretary of Higher Education.

3
4 ¹[24.] ²[25.¹ (New section) As required pursuant to the
5 provisions of sections 5 through 8 of P.L.2004, c.127 (C.18A:72A-
6 5.1 through 18A:72A-5.4), each worker employed in the
7 construction or rehabilitation of facilities that are constructed or
8 rehabilitated pursuant to an arrangement in which an affiliate
9 participates with the authority in undertaking the financing and
10 construction of a project, shall be paid not less than the prevailing
11 wage rate for the worker's craft or trade as determined by the
12 Commissioner of Labor and Workforce Development pursuant to
13 P.L.1963, c.150 (C.34:11-56.25 et seq.).]²

14
15 ¹[25.] ²[26.¹ (New section) ¹a.¹ An affiliate ¹that borrows
16 funds from the New Jersey Educational Facilities Authority¹ shall
17 comply with the procurement and contracting requirements of all
18 statutes applicable to the institution of higher education which the
19 affiliate is controlled by, or is under common control with,
20 including, but not limited to, the "State College Contracts Law,"
21 P.L.1986, c.43 (C.18A:64-52 et seq.), and the "County College
22 Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

23 ¹b. The tenant of an affiliate that borrows funds from the New
24 Jersey Educational Facilities Authority may, in order to improve or
25 adapt an affiliate property for its purposes, enter into construction
26 contracts, purchase orders, and other contracts with respect to the
27 commercial interior fit-out of the affiliate property and such
28 contracts and purchase orders shall be subject to the procurement
29 and contracting requirements of all statutes applicable to the
30 institution of higher education which the affiliate is controlled by,
31 or is under common control with, including, but not limited to, the
32 "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et
33 seq.), and the "County College Contracts Law," P.L.1982, c.189
34 (C.18A:64A-25.1 et seq.).

35 ¹c. As used in this section, "commercial interior fit out" means
36 the interior design and installation by tenants of new or existing
37 office, commercial, residential, or other space, typically exclusive
38 of structural components and core and shell elements.¹]²

39
40 ¹[26.] ²[27.¹ (New section) A public institution of higher
41 education and the authority may enter into a loan agreement in
42 connection with a project which includes the provision of working
43 capital to such institution. In no event shall working capital be
44 considered to be a non-revenue producing facility under chapter
45 72A of Title 18A of the New Jersey Statutes. Any loan agreement
46 entered into under the provisions of this section may contain such
47 provisions as may be agreeable to the public institution of higher

1 education and the authority and as may be necessary or desirable to
2 secure such loan including, without limitation, provisions for the
3 granting of a security interest in personal property or receivables or
4 a mortgage on all or any portion of the real property of the public
5 institution.]}²

6
7 ¹[27.] ²[28.1] 22.² (New section) The Commission on Higher
8 Education shall adopt regulations pursuant to the provisions of the
9 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
10 seq.), to implement the provisions of this act.

11
12 ¹[28.] ²[29.1] 23.² Section 13 of P.L.1994, c.48 (C.18A:3B-13)
13 is amended to read as follows:

14 13. a. There is established the New Jersey Commission on
15 Higher Education which shall consist of ~~[11]~~ 15 members: ~~[six]~~
16 10 public members, to be appointed by the Governor with the
17 advice and consent of the Senate without regard for political
18 affiliation; two public members to be appointed by the Governor,
19 one upon the recommendation of the President of the Senate and
20 one upon the recommendation of the Speaker of the General
21 Assembly; the chairperson of the New Jersey Presidents' Council,
22 ex officio; one faculty member from an institution of higher
23 education to be appointed by the Governor with the advice and
24 consent of the Senate; and the chairperson of the Board of Higher
25 Education Student Assistance Authority, ex officio, or a designee
26 from the public members of the authority. The public members
27 shall reflect the diversity of the State. Notwithstanding the above,
28 for a period of four years from July 1, 1994 the commission shall
29 consist of 16 members, as follows: 10 public members, appointed
30 by the Governor with the advice and consent of the Senate without
31 regard for political affiliation, six of whom shall have experience as
32 a current member of the governing board of an institution of higher
33 education; four public members to be appointed by the Governor,
34 two upon the recommendation of the President of the Senate and
35 two upon the recommendation of the Speaker of the General
36 Assembly; the chairperson of the New Jersey Presidents' Council,
37 ex officio; and the chairperson of the Board of the Higher Education
38 Student Assistance Authority, ex officio, or a designee from the
39 public members of the authority. The executive director of the
40 commission shall be an ex officio, non-voting member of the
41 commission. In addition, the Governor shall appoint two students
42 in attendance at public or independent institutions of higher
43 education in the State from recommendations submitted by student
44 government associations of New Jersey colleges and universities,
45 who shall serve for a one-year term on the commission as voting
46 members.

47 b. Public members who are not experienced as governing board
48 members shall serve for a term of six years from the date of their

1 appointment and until their successors are appointed and qualified;
2 except that of the initial appointees who are not serving on the
3 governing board of an institution: one shall serve a term of one
4 year; one shall serve a term of two years; one shall serve a term of
5 three years; one shall serve a term of four years; two shall serve a
6 term of five years; and two shall serve a term of six years. A public
7 member who does not have experience as a current member of a
8 governing board shall serve until the member's successor is
9 appointed and qualified.

10 In the case of the initial terms of the additional members of the
11 board appointed pursuant to P.L. ,c. (C.)(pending before the
12 Legislature as this bill), one member shall serve a term of four
13 years, one member shall serve a term of five years, and two
14 members shall serve a term of six years.

15 The faculty member of the commission shall serve for a term of
16 one year from the date of appointment and the selection of that
17 member shall be rotated among the following higher education
18 sectors although not necessarily in the order listed: the senior
19 public research universities, the State colleges/universities, the
20 county colleges, and the independent institutions. The faculty
21 member shall serve until his successor is appointed and qualified.

22 Any vacancy shall be filled in the same manner as the original
23 appointment but only for the balance of the unexpired term. The
24 commission members shall serve without compensation but shall be
25 reimbursed for necessary expenses incurred in the performance of
26 their duties. No commission member shall be appointed for more
27 than two consecutive six-year terms.

28 c. The Governor shall make the necessary appointments within
29 15 days of the effective date of this act. The commission shall hold
30 its first meeting within 30 days of the appointment and qualification
31 in office of its members, at which time the Governor shall appoint,
32 for a two-year term, the chairman of the commission from among
33 those public members not serving on the board of trustees of an
34 institution. Upon the completion of the chairman's term, and every
35 two years thereafter, the commission shall elect, from among those
36 public members who are not serving on the board of trustees of an
37 institution, a chairman who shall serve a two-year term. The
38 chairman may be removed by the Governor for cause after an
39 opportunity to be heard.

40 d. The commission shall be established in the Executive
41 Branch of the State Government and for the purposes of complying
42 with the provisions of Article V, Section IV, paragraph 1 of the
43 New Jersey Constitution, the commission is allocated in but not of
44 the Department of State, but notwithstanding this allocation, the
45 commission shall be independent of any supervision or control by
46 the department or by any board or officer thereof. The commission
47 shall submit its budget request directly to the Division of Budget
48 and Accounting in the Department of the Treasury.

1 e. The Secretary of Higher Education shall serve as executive
2 director of the commission. The commission shall appoint [an
3 executive director and] such [other] personnel as may be deemed
4 necessary. The [executive director and] professional staff shall
5 serve at the commission's pleasure and shall receive such
6 compensation as provided by law.

7 f. The Attorney General shall provide legal representation to the
8 commission.

9 (cf: P.L.1999, c.316)

10
11 ¹[29.] ²[30.1] 24.² Section 14 of P.L.1994, c.48 (C.18A:3B-14)
12 is amended to read as follows:

13 14. The commission shall be responsible for:

14 a. Statewide planning for higher education including research on
15 higher education issues and the development of a comprehensive
16 master plan, including, but not limited to, the establishment of new
17 institutions, closure of existing institutions, and consolidation of
18 institutions, which plan shall be long-range in nature and regularly
19 revised and updated. The council may request the commission to
20 conduct a study of a particular issue. The commission may require
21 from institutions of higher education such reports or other
22 information as may be necessary to enable the commission to
23 perform its duties;

24 b. advocacy on behalf of higher education including informing
25 the public of the needs and accomplishments of higher education in
26 New Jersey;

27 c. making recommendations to the Governor and Legislature on
28 higher education initiatives and incentive programs of Statewide
29 significance;

30 d. final administrative decisions over institutional licensure and
31 university status giving due consideration to the accreditation status
32 of the institution. The commission shall furnish the Presidents'
33 Council with any pertinent information compiled on behalf of the
34 subject institution and the council shall then make recommendations
35 to the commission concerning the licensure of the institution or
36 university status within sixty days of receipt of the information;

37 e. adopting a code of ethics applicable to institutions of higher
38 education;

39 f. final administrative decisions over new academic programs
40 that go beyond the programmatic mission of the institution and final
41 administrative decisions over a change in the programmatic mission
42 of an institution. In addition, within 60 days of referral of a
43 proposed new program determined to be unduly expensive or
44 duplicative by the council, the commission may deny approval of
45 programs which do not exceed the programmatic mission of the
46 institution, but which are determined by the New Jersey Presidents'
47 Council to be unduly duplicative or expensive;

- 1 g. reviewing requests for State support from the institutions in
2 relation to the mission of the institution and Statewide goals and
3 proposing a coordinated budget policy statement to the Governor
4 and Legislature;
- 5 h. communicating with the State Board of Education and
6 Commissioner of Education to advance public education at all
7 levels including articulation between the public schools and higher
8 education community;
- 9 i. applying for and accepting grants from the federal
10 government, or any agency thereof, or grants, gifts or other
11 contributions from any foundation, corporation, association or
12 individual, and complying with the terms, conditions and
13 limitations thereof, for the purpose of advancing higher education.
14 Any money so received may be expended by the commission upon
15 warrant of the director of the Office of Management and Budget in
16 the Department of the Treasury on vouchers certified by the
17 executive director of the commission;
- 18 j. acting as the lead agency of communication with the federal
19 government concerning higher education issues, except that the
20 Higher Education Student Assistance Authority shall act, in
21 cooperation with the commission, as the lead agency on issues of
22 student assistance;
- 23 k. exercising all of the powers and duties previously exercised
24 by the Board of Higher Education, the Department of Higher
25 Education, and the Chancellor of Higher Education, under the "New
26 Jersey Higher Education Building Construction Bond Act of 1971,"
27 P.L.1971, c.164, the "New Jersey Medical Education Facilities
28 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and
29 Technology Bond Act of 1984," P.L.1984, c.99 and the "Jobs,
30 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,
31 the "Higher Education Equipment Leasing Fund Act," P.L.1993,
32 c.136, and the "Higher Education Facilities Trust Fund Act,"
33 P.L.1993, c.375;
- 34 l. exercising any other power or responsibility necessary in
35 order to carry out the provisions of this act; **[and]**
- 36 m. consulting with the Higher Education Student Assistance
37 Authority on student assistance matters;
- 38 n. advising and making recommendations for consideration to
39 the Governor and the governing board of a public ¹ [institution of
40 higher education in the appointment of members to that governing
41 board] research university or a State college for members of that
42 governing board appointed by the Governor¹; and
- 43 o. examining and recommending to institutions of higher
44 education opportunities for joint purchasing and other joint
45 arrangements that would be advantageous to the institutions.
46 (cf: P.L.1999, c.46, s.32)

1 ¹[30.] ²[31.] ^{25.} Section 301 of P.L. 1994, c.48 (C.18A:3B-
2 34) is amended to read as follows:

3 301. a. The ¹[Chairman of the Commission on Higher
4 Education] Secretary of Higher Education ¹, ¹[at the request] with
5 the concurrence ¹ of the Governor ¹[or upon his own
6 determination] ¹, shall have authority to visit public institutions of
7 higher education to examine their manner of conducting their affairs
8 and to enforce an observance of the laws of the State.

9 b. The ¹[chairman] secretary ¹, ¹[at the request] with the
10 concurrence ¹ of the Governor ¹[or upon his own determination] ¹,
11 may administer oaths and examine witnesses under oath in any part
12 of the State with regard to any matter pertaining to higher
13 education, and may cause the examination to be reduced to writing.
14 Any person willfully giving false testimony upon being sworn or
15 affirmed to tell the truth shall be guilty of a misdemeanor.

16 c. The ¹[chairman] secretary ¹, ¹[at the request] with the
17 concurrence ¹ of the Governor ¹[or upon his own determination] ¹,
18 may issue subpoenas pursuant to this section compelling the
19 attendance of witnesses and the production of books and papers in
20 any part of the State. Any person who shall neglect or refuse to
21 obey the command of the subpoena or who, after appearing, shall
22 refuse to be sworn and testify, unless such refusal is on grounds
23 recognized by law, shall in either event be subject to a penalty of
24 \$1,000.00 for each offense to be recovered in a civil action. Such
25 penalty when recovered shall be paid into the State Treasury.

26 (cf: P.L.1994, c.48, s.301)

27

28 ¹[31.] ²[32.] ^{26.} Section 305 of P.L.1994, c.48 (C.18A:3B-
29 35) is amended to read as follows:

30 305. Each public institution of higher education shall prepare
31 and make available to the public an annual report on the condition
32 of the institution which shall include, but need not be limited to a
33 profile of the student body including graduation rates, SAT or other
34 test scores, the percentage of New Jersey residents in the student
35 body, the number of scholarship students and the number of
36 Educational Opportunity Fund students in attendance; a profile of
37 the faculty including the ratio of full to part-time faculty members,
38 and major research and public service activities; a profile of the
39 trustees or governors as applicable; and, a profile of the institution,
40 including degree and certificate programs, status of accreditation,
41 major capital projects, any new collaborative undertakings or
42 partnerships, any new programs or initiatives designed to respond to
43 specific State needs, an accounting of demonstrable efficiency and
44 quality improvements, and any other information which the
45 commission and the institution deem appropriate. The form and
46 general content of the report shall be established by the

1 Commission on Higher Education.

2 (cf: P.L.1994, c.48, s.305)

3

4 ¹[32.] ²[33.¹] 27.² N.J.S.18A:64-3 is amended to read as
5 follows:

6 18A:64-3. The composition and size of the board of trustees
7 shall be determined by the board; however, each board shall have
8 not less than seven nor more than 15 members. The members shall
9 be [citizens of the State] appointed by the Governor[; except that
10 the Governor may appoint up to three alumni of the institution who
11 are not citizens of the State to serve as members of the board.
12 Members shall be appointed] with the advice and consent of the
13 Senate. Each board of trustees shall recommend potential new
14 members to the Governor. The terms of office of appointed
15 members shall be for six years beginning on July 1 and ending on
16 June 30. Each member shall serve until his successor shall have
17 been appointed and qualified and vacancies shall be filled in the
18 same manner as the original appointments for the remainders of the
19 unexpired terms. Any member of a board of trustees may be
20 removed by the Governor for cause upon notice and opportunity to
21 be heard.

22 (cf: P.L1999, c.324)

23

24 ¹[33.] ²[34.¹] 28.² Section 6 of P.L.1995, c.400 (C.18A:64E-
25 17) is amended to read as follows:

26 6. a. Membership of the board of trustees shall consist of the
27 Governor , or his designee, and the Mayor of Newark, as ex officio
28 nonvoting members, and, as voting members, up to 15 [citizens of
29 the State] members appointed by the Governor with the advice and
30 consent of the Senate. The board shall recommend potential new
31 members to the Governor. The composition and size of the board of
32 trustees shall be determined by the board. The terms of office of
33 appointed members shall be for four years which shall commence
34 on July 1 and expire on June 30. All trustees shall serve after the
35 expiration of their terms until their successors shall have been
36 appointed and qualified. Trustees appointed by the Governor may
37 be removed from the office by the Governor, for cause, after notice
38 and opportunity to be heard. Any vacancy that may occur in the
39 board of trustees shall be filled by appointment in like manner for
40 the unexpired term only.

41 b. Members of the board as of the effective date of this act
42 shall continue in office until the expiration of their respective terms
43 and the qualification in office of their successors.

44 c. All voting members of the board of trustees, before
45 undertaking the duties of their office, shall take and subscribe an
46 oath or affirmation to support the Constitution of the State of New
47 Jersey and of the United States, to bear allegiance to the

1 government of the State, and to perform the duties of their office
2 faithfully, impartially and justly, to the best of their ability.

3 d. Members of the board of trustees shall not receive
4 compensation for their services. Each trustee shall be reimbursed
5 for actual expenses reasonably incurred in the performance of his
6 duties or in rendering service as a member of or on behalf of the
7 board or any committee of the board.

8 e. The board of trustees shall elect its chairperson from among
9 its voting members annually in July. The board shall select such
10 other officers from among its members as shall be deemed
11 necessary.

12 f. No voting member of the board of trustees shall be a salaried
13 official of the State of New Jersey, or shall receive remuneration for
14 services from the university. If any member of the board shall
15 become ineligible by reason of the foregoing, a vacancy in his
16 office as trustee shall thereby occur.

17 g. The board of trustees shall have the power to appoint and
18 regulate the duties, functions, powers and procedures of
19 committees, standing or special, from its members and such
20 advisory committees or bodies as it may deem necessary or
21 conducive to the efficient management and operation of the
22 university, consistent with this act and other applicable statutes.

23 (cf: P.L.1995, c.400, s.6)

24

25 ¹[34.] ²[35.1] 29.² Section 4 of P.L.1970, c.102 (C.18A:64G-4)
26 is amended to read as follows:

27 4. a. The government, control, conduct, management and
28 administration of the university shall be vested in the board of
29 trustees of the university. The membership of the board of trustees
30 shall consist of the Commissioner of Health and Senior Services,
31 who shall serve ex officio, without vote, and 19 voting members
32 appointed by the Governor as follows: two members shall be
33 appointed by the Governor upon recommendation of the Senate
34 President; two members shall be appointed by the Governor upon
35 recommendation of the Speaker of the General Assembly; and 15
36 members shall be appointed by the Governor with the advice and
37 consent of the Senate. A voting member shall serve for a term of
38 five years and shall serve until his successor is appointed and has
39 qualified. **【The voting members of the board shall be residents of**
40 **the State, except that the Governor may appoint up to three**
41 **members who are not residents of the State to serve as voting**
42 **members of the board. The voting members shall represent the**
43 **gender, racial, and ethnic diversity of the State. The voting**
44 **members shall include at least two members from the seven**
45 **northern counties, two members from the seven central counties,**
46 **and two members from the seven southern counties.】 No trustee**
47 **shall be appointed who is an employee or paid official of any**
48 **hospital affiliated with the university. Any vacancies in the voting**

1 membership of the board occurring other than by expiration of term
2 shall be filled in the same manner as the original appointment but
3 for the unexpired term only. Each voting member of the board of
4 trustees before entering upon his duties shall take and subscribe an
5 oath to perform the duties of his office faithfully, impartially and
6 justly to the best of his ability. A record of such oath shall be filed
7 in the office of the Secretary of State. Each voting member of the
8 board may be removed from office by the Governor, for cause, after
9 a public hearing.

10 In the case of the initial terms of the additional members of the
11 board appointed pursuant to P.L.2006, c.95, three members shall
12 serve for a term of five years, three members shall serve for a term
13 of four years, and two members shall serve for a term of three
14 years.

15 b. The members of the board of trustees shall meet at the call of
16 the Governor for purposes of organizing. The board shall thereafter
17 meet at such times and places as it shall designate.

18 c. The Governor shall designate one of the voting members as
19 chairman of the board. The board shall select such other officers
20 from among its members as shall be deemed necessary.

21 d. The board shall have the power to appoint and regulate the
22 duties, functions, powers and procedures of committees, standing or
23 special, from its members and such advisory committees or bodies,
24 as it may deem necessary or conducive to the efficient management
25 and operation of the university, consistent with this act and other
26 applicable statutes. The board shall include representatives from
27 the faculty, the appropriate bargaining unit, and the student body on
28 relevant advisory committees or bodies.

29 (cf: P.L.2006, c.95, s.1)

30

31 ¹[35.] ²[36.] N.J.S.18A:72A-1 is amended to read as follows:

32 18A:72A-1. It is hereby declared that a serious public
33 emergency exists affecting and threatening the welfare, comfort,
34 health, safety and prosperity of the people of the state and resulting
35 from the fact that financial resources are lacking with which to
36 construct required dormitory and other educational facilities at
37 public and private institutions of higher education and that there is a
38 shortage of working capital for the development, establishment, and
39 operation of public and private institutions of higher education;
40 that it is essential that this and future generations of youth be given
41 the fullest opportunity to learn and to develop their intellectual and
42 mental capacities; that it is essential that institutions for higher
43 education within the state be provided with appropriate additional
44 means to assist such youth in achieving the required levels of
45 learning and development of their intellectual and mental
46 capacities; that it is essential that all resources of the state be
47 employed in order to meet the tremendous demand for higher
48 educational opportunities; that all institutions of higher education in

1 the state, both public and private, are an integral part of the total
2 educational effort in the state for providing higher educational
3 opportunities, and that it is the purpose of this chapter to provide a
4 measure of assistance and an alternative method to enable
5 institutions of higher education in the state to provide the facilities
6 which are sorely needed to accomplish the purposes of this chapter
7 and to provide working capital to public and private institutions of
8 higher education, all to the public benefit and good, to the extent
9 and manner provided herein.
10 (cf: N.J.S.18A:72A-1)]²

11

12 '[36.]²[37.]¹ N.J.S.18A:72A-3 is amended to read as follows:

13 18A:72A-3. As used in this act, the following words and terms
14 shall have the following meanings, unless the context indicates or
15 requires another or different meaning or intent:

16 "Affiliate" means a person that directly, or indirectly through
17 one or more intermediaries, controls, or is controlled by, or is under
18 common control with, a public institution of higher education or
19 private college;

20 "Authority" means the New Jersey Educational Facilities
21 Authority created by this chapter or any board, body, commission,
22 department or officer succeeding to the principal functions thereof
23 or to whom the powers conferred upon the authority by this chapter
24 shall be given by law;

25 "Bond" means bonds or notes of the authority issued pursuant to
26 this chapter;

27 "County college capital project" means any capital project of a
28 county college certified pursuant to section 2 of P.L.1971, c.12
29 (C.18A:64A-22.2) and approved by the State Treasurer for funding
30 pursuant to the "County College Capital Projects Fund Act,"
31 P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

32 "Dormitory" means a housing unit with necessary and usual
33 attendant and related facilities and equipment, and shall include a
34 dormitory of a public or private school, or of a public or private
35 institution of higher education;

36 "Educational facility" means a structure suitable for use as a
37 dormitory, dining hall, student union, administration building,
38 academic building, library, laboratory, research facility, classroom,
39 athletic facility, health care facility, teaching hospital, and parking
40 maintenance storage or utility facility and other structures or
41 facilities related thereto or required or useful for the instruction of
42 students or the conducting of research or the operation of **[an]** a
43 participating institution **[for higher education]**, and public libraries,
44 and the necessary and usual attendant and related facilities,
45 inventory, and equipment, but shall not include any facility used or
46 to be used for sectarian instruction or as a place for religious
47 worship;

1 "Emerging needs program" means a program at one or more
2 public or private institutions of higher education directed to meeting
3 new and advanced technology needs or to supporting new academic
4 programs in science and technology;

5 "Higher education equipment" means any property consisting of,
6 or relating to, scientific, engineering, technical, computer,
7 communications or instructional equipment;

8 "Participating **[college]** institution" means a public institution of
9 higher education or private college or an affiliate of a public
10 institution of higher education or private college which, pursuant to
11 the provisions of this chapter, participates with the authority in
12 undertaking the financing and construction or acquisition of a
13 project for which a public institution of higher education or private
14 college has requested assistance from the authority;

15 "Project" means a dormitory or an educational facility or any
16 combination thereof, **[or]** a county college capital project, the
17 provision of working capital or the acquisition of any other tangible
18 or intangible assets that are necessary or useful in the development,
19 establishment or operation of a participating institution;

20 "Private college" means an institution for higher education other
21 than a public college, situated within the State and which, by virtue
22 of law or charter, is a nonprofit educational institution empowered
23 to provide a program of education beyond the high school level;

24 "Private institution of higher education" means independent
25 colleges or universities incorporated and located in New Jersey,
26 which by virtue of law or character or license, are nonprofit
27 educational institutions authorized to grant academic degrees and
28 which provide a level of education which is equivalent to the
29 education provided by the State's public institutions of higher
30 education as attested by the receipt of and continuation of regional
31 accreditation by the Middle States Association of Colleges and
32 Schools, and which are eligible to receive State aid;

33 "Public institution of higher education" means Rutgers, The State
34 University, the State colleges, the New Jersey Institute of
35 Technology, the University of Medicine and Dentistry of New
36 Jersey, the county colleges and any other public university or
37 college now or hereafter established or authorized by law;

38 "School" means a secondary school, military school, or boarding
39 school;

40 "University" means Rutgers, The State University;

41 "Working capital" means, with respect to any public institution
42 of higher education or private college situated within the State,
43 funds to be used in, or reserved for, the operation of the institution
44 'which are borrowed and repaid within the same budget year'.

45 (cf: P.L.2000, c.56, s.10)]²

1 ¹[37.] ²[38.¹] 30.² N.J.S.18A:72A-4 is amended to read as
2 follows:

3 18A:72A-4. (a) There is hereby established in but not of the
4 Department of the Treasury a public body corporate and politic,
5 with corporate succession to be known as the "New Jersey
6 educational facilities authority." Notwithstanding this allocation,
7 the authority shall be independent of any supervision or control by
8 the department or any officer thereof. The authority shall constitute
9 a political subdivision of the State established as an instrumentality
10 exercising public and essential governmental functions, and the
11 exercise by the authority of the powers conferred by this chapter
12 shall be deemed and held to be an essential governmental function
13 of the State.

14 (b) The authority shall consist of seven members, two of whom
15 shall be the chairman of the Commission on Higher Education, ex
16 officio, and the State Treasurer, ex officio, or when so designated
17 by them, their deputies and five citizens of the State to be appointed
18 by the Governor with the advice and consent of the Senate for terms
19 of five years; provided that the terms of the members first appointed
20 shall be arranged by the Governor so that one of such terms shall
21 expire on April 30 in each successive year ensuing after such
22 appointments. Each member shall hold office for the term of his
23 appointment and shall continue to serve during the term of his
24 successor unless and until his successor shall have been appointed
25 and qualified. Any vacancy among the members appointed by the
26 Governor shall be filled by appointment for the unexpired term
27 only. A member of the authority shall be eligible for
28 reappointment.

29 (c) Any member of the authority appointed by the Governor may
30 be removed from office by the Governor for cause after a public
31 hearing.

32 (d) The members of the authority shall serve without
33 compensation, but the authority may reimburse its members for
34 necessary expenses incurred in the discharge of their duties.

35 (e) The authority, upon the first appointment of its members and
36 thereafter on or after April 30 in each year, shall annually elect
37 from among its members a chairman and a vice chairman who shall
38 hold office until April 30 next ensuing and shall continue to serve
39 during the terms of their respective successors unless and until their
40 respective successors shall have been appointed and qualified. The
41 authority may also appoint, retain and employ, without regard to the
42 provisions of Title 11, Civil Service, of the Revised Statutes, such
43 officers, agents, employees and experts as it may require, and it
44 shall determine their qualifications, terms of office, duties, services
45 and compensation.

46 (f) The powers of the authority shall be vested in the members
47 thereof in office from time to time and a majority of the total
48 authorized membership of the authority shall constitute a quorum at

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

8 (g) Before the issuance of any bonds under the provisions of this
9 chapter, the members and the officer of the authority charged with
10 the handling of the authority's moneys shall be covered by a surety
11 bond or bonds in a penal sum of not less than \$25,000.00 per person
12 conditioned upon the faithful performance of the duties of their
13 respective offices, and executed by a surety company authorized to
14 transact business in the State of New Jersey as surety. Each such
15 bond shall be submitted to the Attorney General for his approval
16 and upon his approval shall be filed in the Office of the Secretary of
17 State prior to the issuance of any bonds by the authority. At all
18 times after the issuance of any bonds by the authority the officer of
19 the authority and each member charged with the handling of the
20 authority's moneys shall maintain such surety bonds in full force
21 and effect. All costs of such surety bonds shall be borne by the
22 authority.

23 (h) Notwithstanding any other law to the contrary, it shall not be
24 or constitute a conflict of interest for a trustee, director, officer or
25 employee of a participating ~~college~~ ²institution ~~college~~² to
26 serve as a member of the authority; provided such trustee, director,
27 officer or employee shall abstain from discussion, deliberation,
28 action and vote by the authority under this chapter in specific
29 respect to such participating ~~college~~ ²institution ~~college~~² of
30 which such member is a trustee, director, officer or employee.

31 (i) A true copy of the minutes of every meeting of the authority
32 shall be forthwith delivered by and under the certification of the
33 secretary thereof, to the Governor. No action taken at such meeting
34 by the authority shall have force or effect until 10 days, Saturdays,
35 Sundays and public holidays excepted, after such copy of the
36 minutes shall have been so delivered. If, in said 10-day period, the
37 Governor returns such copy of the minutes with veto of any action
38 taken by the authority or any member thereof at such meeting, such
39 action shall be null and of no effect. If the Governor shall not
40 return the minutes within said 10-day period, any action therein
41 recited shall have force and effect according to the wording thereof.
42 At any time prior to the expiration of the said 10-day period, the
43 Governor may sign a statement of approval of any such action of
44 the authority, in which case the action so approved shall not
45 thereafter be disapproved.

46 ¹Notwithstanding the foregoing provisions of this subsection
47 (i), with regard to the sale of bonds of the authority, the authority
48 shall furnish to the Governor a certified copy of the minutes of the

1 meeting at which the bonds are sold and the Governor shall indicate
2 approval or disapproval of the action prior to the issuance of the
3 bonds.]¹

4 The powers conferred in this subsection (i) upon the Governor
5 shall be exercised with due regard for the rights of the holders of
6 bonds of the authority at any time outstanding, and nothing in, or
7 done pursuant to, this subsection (i) shall in any way limit, restrict
8 or alter the obligation or powers of the authority or any
9 representative or officer of the authority to carry out and perform in
10 every detail each and every covenant, agreement or contract at any
11 time made or entered into by or on behalf of the authority with
12 respect to its bonds or for the benefit, protection or security of the
13 holders thereof.

14 (cf: P.L.1999, c.217, s.11)

15

16 ¹[38.] ²[39.]¹ N.J.S.18A:72A-5 is amended to read as follows:

17 18A:72A-5. The authority shall have power:

18 (a) To adopt bylaws for the regulation of its affairs and the
19 conduct of its business;

20 (b) To adopt and have an official common seal and alter the
21 same at pleasure;

22 (c) To maintain an office at such place or places within the State
23 as it may designate;

24 (d) To sue and be sued in its own name, and plead and be
25 impleaded;

26 (e) To borrow money and to issue bonds and notes and other
27 obligations of the authority and to provide for the rights of the
28 holders thereof as provided in this chapter;

29 (f) To acquire, lease as lessee, hold and dispose of real and
30 personal property or any interest therein, in the exercise of its
31 powers and the performance of its duties under this chapter;

32 (g) To acquire in the name of the authority by purchase or
33 otherwise, on such terms and conditions and in such manner as it
34 may deem proper, or by the exercise of the power of eminent
35 domain, any land or interest therein and other property which it may
36 determine is reasonably necessary for any project, including any
37 lands held by any county, municipality or other governmental
38 subdivision of the State; and to hold and use the same and to sell,
39 convey, lease or otherwise dispose of property so acquired, no
40 longer necessary for the authority's purposes;

41 (h) To receive and accept, from any federal or other public
42 agency or governmental entity, grants or loans for or in aid of the
43 acquisition or construction of any project, and to receive and accept
44 aid or contributions from any other source, of either money,
45 property, labor or other things of value, to be held, used and applied
46 only for the purposes for which such grants, loans and contributions
47 may be made;

1 (i) To prepare or cause to be prepared plans, specifications,
2 designs and estimates of costs for the construction and equipment of
3 projects for participating **【colleges】** institutions under the
4 provisions of this chapter, and from time to time to modify such
5 plans, specifications, designs or estimates;

6 (j) By contract or contracts or by its own employees to
7 construct, acquire, reconstruct, rehabilitate and improve, and
8 furnish and equip, projects for participating **【colleges】** institutions;
9 however, in any contract or contracts undertaken by the authority
10 for the construction, reconstruction, rehabilitation or improvement
11 of any public college project where the cost of such work will
12 exceed \$25,000, the contracting agent shall advertise for and
13 receive in the manner provided by law:

14 (1) separate bids for the following categories of work;

15 (a) the plumbing and gas fitting work;

16 (b) the heating and ventilating systems and equipment;

17 (c) the electrical work, including any electrical power plants;

18 (d) the structural steel and ornamental iron work;

19 (e) all other work and materials required for the completion of
20 the project, or

21 (2) bids for all work and materials required to complete the
22 entire project if awarded as a single contract; or

23 (3) both (1) and (2) above.

24 All bids submitted shall set forth the names and license numbers
25 of, and evidence of performance security from, all subcontractors to
26 whom the bidder will subcontract the work described in the
27 foregoing categories (1)(a) through (1)(e).

28 Contracts shall be awarded to the lowest responsible bidder
29 whose bid, conforming to the invitation for bids, will be the most
30 advantageous to the authority;

31 (k) To determine the location and character of any project to be
32 undertaken pursuant to the provisions of this chapter, and to
33 construct, reconstruct, maintain, repair, operate, lease, as lessee or
34 lessor, and regulate the same; to enter into contracts for any or all
35 such purposes; to enter into contracts for the management and
36 operation of a project, and to designate a participating **【college】**
37 institution as its agent to determine the location and character of a
38 project undertaken by such participating **【college】** institution under
39 the provisions of this chapter and, as the agent of the authority, to
40 construct, reconstruct, maintain, repair, operate, lease, as lessee or
41 lessor, and regulate the same, and, as agent of the authority, to enter
42 into contracts for any and all such purposes including contracts for
43 the management and operation of such project;

44 (l) To establish rules and regulations for the use of a project or
45 any portion thereof and to designate a participating **【college】**
46 institution as its agent to establish rules and regulations for the use
47 of a project undertaken by such participating **【college】** institution;

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

7 (n) To enter into any and all agreements or contracts, execute
8 any and all instruments, and do and perform any and all acts or
9 things necessary, convenient or desirable for the purposes of the
10 authority or to carry out any power expressly given in this chapter;

11 (o) To invest any moneys held in reserve or sinking funds, or
12 any moneys not required for immediate use or disbursement, at the
13 discretion of the authority, in such obligations as are authorized by
14 law for the investment of trust funds in the custody of the State
15 Treasurer;

16 (p) To enter into any lease relating to higher education
17 equipment with a public or private institution of higher education
18 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
19 al.);

20 (q) To enter into loan agreements with any county, to hold
21 bonds or notes of the county evidencing those loans, and to issue
22 bonds or notes of the authority to finance county college capital
23 projects pursuant to the provisions of the "County College Capital
24 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

25 (r) To issue bonds and notes and other obligations of the
26 authority under the direction of law for the purpose of providing
27 financial assistance for the installation of fire prevention and safety
28 systems in dormitories.

29 (cf: P.L.2000, c.56, s.11)]²

30
31 ¹[39.] ²[40.]¹ N.J.S.18A:72A-11 is amended to read as follows:

32 18A:72A-11. The authority is authorized to fix, revise, charge
33 and collect rates, rents, fees and charges for the use of and for the
34 services furnished or to be furnished by each project and to
35 contract with any person, partnership, association or corporation, or
36 other body, public or private, in respect thereof. Such rates, rents,
37 fees and charges shall be fixed and adjusted in respect of the
38 aggregate of rents, rates, fees and charges from such project so as to
39 provide funds sufficient with other revenues or moneys, if any:

40 (a) to pay the cost of maintaining, repairing and operating the
41 project and each and every portion thereof, to the extent that the
42 payment of such cost has not otherwise been adequately provided
43 for;

44 (b) to pay the principal of and the interest on outstanding bonds
45 of the authority issued in respect of such project as the same shall
46 become due and payable; and

1 (c) to create and maintain reserves required or provided for in
2 any resolution authorizing, or trust agreement securing, such bonds
3 of the authority.

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

45 (cf: N.J.S.18A:72A-11)]²

46
47 ¹[40.] ²[41.¹] 31.² Section 1 of P.L.1980, c.31 (C.18A:72A-
48 11.1) is amended to read as follows:

1 1. In addition to other powers and duties which have been
2 granted to the authority, whenever any **[public or private college]**
3 ²**[participating institution] public or private college²** has
4 constructed or acquired any work or improvement which would
5 otherwise qualify under this act except for the fact that such
6 construction or acquisition was undertaken and financed without
7 assistance from the authority, the authority may purchase such work
8 or improvement, and lease the same to such **[college]**
9 ²**[participating institution] college²**, or may lend funds to such
10 **[college] ²[participating institution] college²** for the purpose of
11 enabling the latter to retire obligations incurred for such
12 construction or acquisition; except that the amount of any such
13 price or loan shall not exceed the original project cost ¹and
14 administrative costs, reserves, and other costs associated with the
15 retirement of such obligations¹. All powers, rights, obligations and
16 duties granted to or imposed upon the authority, **[colleges]**
17 ²**[participating institutions] colleges²**, State departments and
18 agencies or others by this chapter in respect to projects shall apply
19 to the same extent with respect to transactions pursuant to this
20 section; except that any action otherwise required to be taken at a
21 particular time in the progression of a project may, where the
22 circumstances are so required in connection with a transaction
23 under this section, be taken with the same effect as if taken at that
24 particular time.

25 (cf: P.L.1980, c.31, s.1)

26

27 ¹**[41.]** ²**[42.]** N.J.S.18A:72A-19 is amended to read as follows:

28 18A:72A-19. The state of New Jersey does pledge to and agree
29 with the holders of the bonds, notes and other obligations issued
30 pursuant to authority contained in this chapter, and with those
31 parties who may enter into contracts with the authority pursuant to
32 the provisions of this chapter, that the state will not limit, alter or
33 restrict the rights hereby vested in the authority and the
34 participating **[colleges] institutions** to maintain, construct,
35 reconstruct and operate any project as defined in this chapter or to
36 establish and collect such rents, fees, receipts or other charges as
37 may be convenient or necessary to produce sufficient revenues to
38 meet the expenses of maintenance and operation thereof and to
39 fulfill the terms of any agreements made with the holders of bonds
40 authorized by this chapter, and with the parties who may enter into
41 contracts with the authority pursuant to the provisions of this
42 chapter, or in any way impair the rights or remedies of the holders
43 of such bonds or such parties until the bonds, together with interest
44 thereon, are fully paid and discharged and such contracts are fully
45 performed on the part of the authority. The authority as a public
46 body corporate and politic shall have the right to include the pledge

1 herein made in its bonds and contracts.

2 (cf: N.J.S.18A:72A-19)]²

3

4 ¹[42.] ²[43.]¹ N.J.S.18A:72A-26 is amended to read as follows:

5 18A:72A-26. In order to provide new dormitories and to enable
6 the construction and financing thereof, to refinance indebtedness
7 hereafter created by the authority for the purpose of providing a
8 dormitory or dormitories or additions or improvements thereto, or
9 for any one or more of said purposes, but for no other purpose
10 unless authorized by law, each of the following bodies shall have
11 the powers hereafter enumerated to be exercised upon such terms
12 and conditions, including the fixing of any consideration or rental to
13 be paid or received, as it shall determine by resolution as to such
14 property and each shall be subject to the performance of the duties
15 hereafter enumerated, that is to say, the treasurer as to such as are
16 located on land owned by the State or by the authority, the board of
17 governors of the university, the board of trustees of the New Jersey
18 Institute of Technology or the University of Medicine and Dentistry
19 of New Jersey, the board of trustees of a State college [or] , the
20 board of trustees of a county college , or the governing body of an
21 affiliate of a public institution of higher education as to such as are
22 located on land owned by the university or by the particular
23 [college] public institution of higher education respectively,
24 namely:

25 a. The power to sell and to convey to the authority or any other
26 entity which is a participating institution title in fee simple in any
27 such land and any existing dormitories thereon owned by the State
28 or owned by the board of trustees of a county college or the power
29 to sell and to convey to the authority or any other entity which is a
30 participating institution such title as the university or the college
31 respectively may have in any such land and any existing dormitories
32 thereon.

33 b. The power to lease to the authority or any other entity which
34 is a participating institution any such land and any existing
35 dormitories thereon [so] owned for a term or terms not exceeding
36 50 years each.

37 c. The power to lease or sublease from the authority or any
38 other entity which is a participating institution, and to make
39 available, any such land and existing dormitories conveyed or
40 leased to the authority or any other entity which is a participating
41 institution under subsections a. and b. of this section, and any new
42 dormitories erected upon such land or upon any other land owned
43 by the authority or any other entity which is a participating
44 institution, any rentals to be payable, as to the university or as to
45 any such college from available funds other than moneys
46 appropriated to it by the State.

1 d. The power and duty, upon receipt of notice of any
2 assignment by the authority or any other entity which is a
3 participating institution of any lease or sublease made under
4 subsection c. of this section, or of any of its rights under any such
5 lease or sublease, to recognize and give effect to such assignment,
6 and to pay to the assignee thereof rentals or other payments then
7 due or which may become due under any such lease or sublease
8 which has been so assigned by the authority or any other entity
9 which is a participating institution.

10 (cf: P.L.1994, c.48, s.238)]²

11
12 ¹[43.] ²[44.]¹ N.J.S.18A:72A-27.1 is amended to read as
13 follows:

14 18A:72A-27.1. In addition to the powers and duties with respect
15 to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the
16 treasurer, the board of governors of the university, the board of
17 trustees of the New Jersey Institute of Technology, the board of
18 trustees of a State college, the board of trustees of a county college
19 **[and]** , the board of trustees of the University of Medicine and
20 Dentistry of New Jersey and the governing body of an affiliate of a
21 public institution of higher education shall also have the same
22 power and be subject to the same duties in relation to any
23 conveyance, lease or sublease made under subsection a., b., or c. of
24 section 18A:72A-26, with respect to revenue producing facilities;
25 that is to say, structures or facilities which produce revenues
26 sufficient to pay the rentals due and to become due under any lease
27 or sublease made under subsection c. of section 18A:72A-26
28 including, without limitation, student unions and parking facilities.

29 (cf: P.L.1994, c.48, s.239)]²

30
31 ¹[44.] ²[45.]¹ N.J.S.18A:72A-29 is amended to read as follows:

32 18A:72A-29. All lands and other assets real or personal
33 presently titled in the name of the State Board of Higher Education
34 or the State Department of Higher Education, which are occupied
35 by a public institution of higher education shall be titled in the
36 name of the State of New Jersey only. All conveyances, leases and
37 subleases, pursuant to this chapter shall be made, executed and
38 delivered in the name of the State and shall be signed by the State
39 Treasurer and sealed with the seal of the State.

40 To the extent not otherwise expressly provided under existing
41 law, all powers and duties conferred upon the university or an
42 affiliate pursuant to this chapter shall be exercised and performed
43 by resolution of its board of governors and all powers and duties
44 conferred upon any of said colleges pursuant to this chapter shall be
45 exercised and performed by resolution of its board of trustees.

46 All conveyances, leases and subleases made pursuant to this
47 chapter, when duly authorized by the university, shall be made,

1 executed and delivered in the name of the university and shall be
2 signed by its president or a vice president and sealed with the seal
3 of the university and all conveyances, leases and subleases made
4 pursuant to this chapter, when duly authorized by any of said
5 colleges, shall be made, executed and delivered in the name of the
6 college and shall be signed by the president or a vice president and
7 sealed with the seal of the college.

8 (cf: P.L.1999, c.46, s.50)]²

9

10 ¹[45.] ²[46.]¹ N.J.S.18A:72A-30 is amended to read as follows:

11 18A:72A-30. In addition to the foregoing powers, the authority
12 with respect to private colleges, shall have power:

13 (a) upon application of the [participating college] private
14 college to construct, acquire or otherwise provide projects for the
15 use and benefit of the [participating college] private college and
16 the students, faculty and staff of such [participating college]
17 private college. The [participating college] private college for
18 which such a project is undertaken by the authority shall approve
19 the plans and specifications and location of such project;

20 (b) to operate and manage any project provided pursuant to this
21 section, or the authority may lease any such project to the
22 [participating college] private college for which such project is
23 provided. At such time as the liabilities of the authority incurred
24 for any such project have been met and the bonds of the authority
25 issued therefor have been paid, or such liabilities and bonds have
26 otherwise been discharged, the authority shall transfer title to all the
27 real and personal property of such project vested in the authority, to
28 the [participating college] private college in connection with which
29 such project is then being operated, or to which such project is then
30 leased; provided, however, that if at any time prior thereto such
31 [participating college] private college ceases to offer educational
32 facilities, then such title shall vest in the state of New Jersey.

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

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

41 (ii) the rates, rentals, fees and other charges to be fixed and
42 collected by the lessee, the amounts to be raised in each year
43 thereby, and the use and disposition of such moneys, earnings,
44 income and revenues;

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

1 (iv) the procedure, if any, by which the terms of such lease may
2 be amended, the amount of bonds the holders of which must
3 consent thereto, and the manner in which such consent may be
4 given;

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

9 (vi) the obligations of the lessee with respect to the replacement,
10 reconstruction, maintenance, operation, repairs and insurance of
11 such project;

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

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

19 (cf: N.J.S.18A:72A-30)]²

20
21 ¹[46.] ²[47.¹] 32.² Section 2 of P.L.1993, c.136 (C.18A:72A-
22 41) is amended to read as follows:

23 2. The Legislature finds and declares that:

24 a. Higher education plays a vital role in the economic
25 development of the nation and the State by providing the education
26 and training of the work force of the future and by advancing
27 science and technology through research;

28 b. The rapid technological changes occurring throughout the
29 world have a considerable impact on the quality of teaching,
30 learning, and research at colleges and universities;

31 c. The current inventory of instructional and research
32 equipment at the colleges and universities within the State is aging,
33 both chronologically and technologically, and much of it has been
34 rendered obsolete; and

35 d. The [State Board of] Commission on Higher Education,
36 which is statutorily responsible for the coordination and planning of
37 higher education in New Jersey, has identified a crucial need to
38 establish a regular financing mechanism for scientific, engineering,
39 technical, computer, communications, and instructional equipment
40 at New Jersey's public and private institutions of higher education.

41 (cf: P.L.1993, c.136, s.2)

42
43 ²[¹48.] 33.² Section 5 of P.L.1993, c.136 (C.18A:72A-42) is
44 amended to read as follows:

45 5. a. There is created within the New Jersey Educational
46 Facilities Authority, established pursuant to chapter 72A of Title
47 18A of the New Jersey Statutes, hereinafter referred to as the
48 "authority," a higher education equipment leasing fund to finance

1 the purchase of higher education equipment at public and private
2 institutions of higher education. The authority shall issue bonds to
3 finance the purchase of higher education equipment for lease to
4 public and private institutions of higher education and to finance the
5 administrative costs associated with the approval process and the
6 issuance of bonds provided that the total outstanding principal
7 amount of the bonds shall not exceed \$100,000,000, except that all
8 administrative costs associated with the approval process and the
9 issuance of bonds shall not be included within the total aggregate
10 principal amount of bonds issued, and the term of any bond issued
11 shall not exceed 10 years. In computing the foregoing limitation as
12 to amount, there shall be excluded all bonds which shall be issued
13 for refunding purposes, provided that the refunding shall be
14 determined by the authority to result in a debt service savings. The
15 State Treasurer is hereby authorized to enter into a contract with the
16 authority pursuant to which the State Treasurer, subject to available
17 appropriation, shall pay the amount necessary to pay the principal
18 and interest on bonds and notes of the authority issued pursuant to
19 this section. In entering into a lease agreement with a public or
20 private institution of higher education, the authority shall include
21 such lease provisions as may be necessary to insure that the
22 institution shall pay an amount equal to 25% of the amount
23 necessary to pay the principal and interest on the bonds and notes of
24 the authority issued pursuant to this section to finance the purchase
25 of higher education equipment at that institution. Upon receipt of
26 such moneys from the public or private institution of higher
27 education, the authority shall remit the moneys immediately to the
28 State Treasurer.

29 b. The authority shall from time to time issue bonds or notes in
30 an amount sufficient to finance the purchase of higher education
31 equipment pursuant to lease agreements with public and private
32 institutions of higher education and which shall also finance the
33 administrative costs associated with the issuance of bonds or notes.
34 The authority shall issue the bonds or notes in such manner as it
35 shall determine in accordance with the provisions of P.L.1993,
36 c.136 (C.18A:72A-40 et al.) and the "New Jersey educational
37 facilities authority law," N.J.S.18A:72A-1 et seq. The authority
38 shall not issue any bonds or notes pursuant to this section without
39 the prior written consent of the State Treasurer.

40 c. Bonds or notes issued pursuant to this act shall not be in any
41 way a debt or liability of the State or of any political subdivision
42 thereof other than the authority and shall not create or constitute
43 any indebtedness, liability or obligation of the State or of any
44 political subdivision thereof, or be or constitute a pledge of the faith
45 and credit of the State or of any political subdivision thereof, but all
46 bonds or notes, unless funded or refunded by the bonds or notes of
47 the authority, shall be payable solely from revenues of funds
48 pledged or available for their payment as authorized by this act.

1 Each bond shall contain on its face a statement to the effect that the
2 authority is obligated to pay the principal thereof, redemption
3 premium, if any, or the interest thereon only from revenue or funds
4 of the authority and that neither the State nor any political
5 subdivision thereof is obligated to pay the principal thereof,
6 redemption premium, if any, or interest thereon and that neither the
7 faith and credit nor the taxing power of the State or of any political
8 subdivision thereof is pledged to the payment of the principal of,
9 redemption premium, if any, or the interest on the bonds.

10 d. The State of New Jersey does hereby pledge to and covenant
11 and agree with the holders of any bonds or notes issued pursuant to
12 authorization of P.L.1993, c.136 (C.18A:72A-40 et al.) that the
13 State shall not limit or alter the rights or powers hereby vested in
14 the authority to perform and fulfill the terms of any agreement made
15 with the holders of the bonds or notes, or to fix, establish, charge
16 and collect such rents, fees, rates, payments, or other charges as
17 may be convenient or necessary to produce sufficient revenues to
18 meet all expenses of the authority and to fulfill the terms of any
19 agreement made with the holders of the bonds and notes, together
20 with interest thereon, with interest on any unpaid installments of
21 interest, and all costs and expenses in connection with any action or
22 proceedings by or on behalf of the holders, until the bonds and
23 notes, together with interest thereon, are fully met and discharged or
24 provided for.¹

25 (cf: P.L.1993, c.136, s.5)

26

27 ¹[47.] ²[49.¹] 34.² Section 6 of P.L.1993,c.136 (C.18A:72A-
28 43) is amended to read as follows:

29 6. The moneys deposited into the fund created pursuant to
30 section 5 of P.L.1993, c.136 (C.18A:72A-42) shall be allocated in
31 the following manner:

32 a. A minimum of \$24,000,000 for the leasing of higher
33 education equipment at the State colleges;

34 b. A minimum of \$19,440,000 for the leasing of higher
35 education equipment at Rutgers, The State University;

36 c. A minimum of \$10,080,000 for the leasing of higher
37 education equipment at the University of Medicine and Dentistry of
38 New Jersey;

39 d. A minimum of \$6,480,000 for the leasing of higher
40 education equipment at the New Jersey Institute of Technology;

41 e. A minimum of \$22,000,000 for the leasing of higher
42 education equipment at the county colleges;

43 f. A minimum of \$10,500,000 for the leasing of higher
44 education equipment at private institutions of higher education; and

45 g. A minimum of \$7,500,000 for the leasing of higher
46 education equipment for emerging needs programs at public and
47 private institutions of higher education.

1 The **[State Board of]** Commission on Higher Education may
2 apportion the amounts authorized in subsection g. among any other
3 amounts authorized in subsections a. through f.

4 The **[State Board of]** Commission on Higher Education may
5 reallocate any balance in the amounts authorized in subsections a.
6 through g. of this section which have not been fully committed
7 within 18 months of the effective date of this act.

8 The **[State Board of]** Commission on Higher Education shall
9 determine the allocation of moneys deposited into the fund resulting
10 from the issuance by the authority of new bonds because of the
11 retirement of bonds previously issued by the authority.

12 (cf: P.L.1993, c.136, s.6)

13

14 ¹[48.] ²[50.¹] 35.² Section 8 of P.L.1993, c.136 (C.18A:72A-
15 45) is amended to read as follows:

16 8. The authority shall not enter into a lease agreement with an
17 institution of higher education unless the **[State Board of]**
18 Commission on Higher Education has adopted a resolution which
19 approves the purchase of the higher education equipment by the
20 institution. The **[State board]** commission shall forward a copy of
21 the resolution along with the amount of the approved purchase to
22 the authority.

23 (cf: P.L.1993, c.136, s.8)

24

25 ¹[49.] ²[51.¹] 36.² Section 10 of P.L.1993, c.136 (C.18A:72A-
26 47) is amended to read as follows:

27 10. The **[State Board of]** Commission on Higher Education
28 shall annually submit a report to the Governor and the Legislature
29 on the higher education equipment purchases at public and private
30 institutions of higher education which have been approved by the
31 **[State board]** commission and financed by the New Jersey
32 Educational Facilities Authority pursuant to lease agreements with
33 the institutions.

34 (cf: P.L.1993, c.136, s.10)

35

36 ¹[50.] ²[52.¹] 37.² Section 11 of P.L.1993, c.136 (C.18A:72A-
37 48) is amended to read as follows:

38 11. The **[State Board of]** Commission on Higher Education, in
39 consultation with the New Jersey Educational Facilities Authority,
40 shall adopt, pursuant to the "Administrative Procedure Act,"
41 P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations
42 necessary to carry out the provisions of this act.

43 (cf: P.L.1993, c.136, s.11)

44

45 ¹[51.] ²[53.¹] 38.² Section 5 of P.L. 1993, c.375 (C.18A:72A-
46 53) is amended to read as follows:

- 1 5. The initial grants from the trust fund shall be allocated as
2 follows:
- 3 a. \$48,000,000 for facilities at the State Colleges;
4 b. \$38,880,000 for facilities at Rutgers, The State University;
5 c. \$20,160,000 for facilities at the University of Medicine and
6 Dentistry of New Jersey;
7 d. \$12,960,000 for facilities at the New Jersey Institute of
8 Technology;
9 e. \$44,000,000 for facilities at the county colleges;
10 f. \$21,000,000 for facilities at the private institutions of higher
11 education;
12 g. \$15,000,000 for South Jersey multi-institutional economic
13 development facilities. As used in this section, "South Jersey multi-
14 institutional economic development facilities" means facilities
15 which would promote economic development in the eight
16 southernmost counties of the State and which involve more than one
17 public or private institution of higher education; and
18 h. \$20,000,000 for a new facility for Rutgers, The State
19 University, School of Law, Newark.

20 The amount authorized in subsection g. may be apportioned
21 among any other amounts authorized in subsections a. through f. of
22 this section.

23 The **【Board of】** Commission on Higher Education may
24 reallocate any balance in an amount authorized in subsections a.
25 through h. of this section which has not been approved by the
26 **【board】** commission for a grant within 18 months of the effective
27 date of this act.

28 The **【Board of】** Commission on Higher Education shall
29 determine the allocation of moneys deposited into the trust fund
30 resulting from the issuance by the authority of new bonds because
31 of the retirement of bonds previously issued by the authority.

32 The facilities funded by grants from the trust fund shall follow
33 the principles of affirmative action and equal opportunity
34 employment. In furtherance of these principles, the **【Board of】**
35 Commission on Higher Education shall continue its policy of
36 encouraging institutions to solicit bids from, and award contracts to,
37 minority and women-owned businesses.

38 (cf: P.L.1993, c.375, s.5)

39

40 ¹~~【52.】~~ ²~~【54.1】~~ ³~~39.2~~ Section 6 of P.L.1993, c.375 (C.18A:72A-
41 54) is amended to read as follows:

42 6. a. The governing board of a public or private institution of
43 higher education may determine, by resolution, to apply for a grant
44 from the trust fund. Upon adoption of the resolution, the board
45 shall file an application with the **【Board of】** Commission on Higher
46 Education, which application shall include a complete description

1 of the project to be financed and an identification of any additional
2 sources of revenue to be used.

3 b. The **【Board of】** Commission on Higher Education shall
4 review the application and, by resolution, approve or disapprove the
5 grant. For each grant which is approved, the **【board】** commission
6 shall establish the amount and shall forward a copy of the resolution
7 along with the amount of the grant to the authority.

8 c. The **【Board of】** Commission on Higher Education shall
9 submit to the Legislature a copy of the resolution approving the
10 grant along with the amount of the grant. If the Legislature does
11 not disapprove the grant by the adoption of a concurrent resolution
12 within 60 days, the grant shall be deemed to be authorized. In
13 addition, the resolution approving the grant for the new
14 instructional and research facility for Rutgers, The State University,
15 School of Law, Newark, shall be submitted by the **【board】**
16 commission to the Joint Budget Oversight Committee for its
17 approval prior to the **【board's】** commission's submission of the
18 resolution to the Legislature. The **【board】** commission shall
19 provide to the committee such information concerning the grant as
20 the committee may require for its consideration.

21 d. Each grant awarded under this act shall be contingent upon
22 the recipient governing board entering into a contract or contracts
23 for the commencement of the construction, reconstruction,
24 development, extension, or improvement of the facility within one
25 year of the date on which the funds of the grant are made available.
26 (cf: P.L.1993, c.375, s.6)

27
28 ¹~~【53.】~~ ²~~【55.1】~~ 40.² Section 7 of P.L.1993, c.375 (C.18A:72A-
29 55) is amended to read as follows:

30 7. In order to ensure the most effective utilization of the moneys
31 in the trust fund and to guide governing boards which elect to apply
32 for a grant, the **【Board of】** Commission on Higher Education shall
33 establish a list of selection criteria and shall specify the information
34 to be included in a grant application.

35 (cf: P.L.1993, c.375, s.7)

36
37 ¹~~【54.】~~ ²~~【56.1】~~ 41.² Section 8 of P.L.1993, c.375 (C.18A:72A-
38 56) is amended to read as follows:

39 8. In order to ensure proper oversight and review, there is
40 created the "Higher Education Facilities Trust Fund Board" which
41 shall consist of **【six】** five members as follows: the Chair and Vice
42 Chair of the **【Board of】** Commission on Higher Education; the
43 State Treasurer or a designee; the President of the Senate or a
44 designee; and the Speaker of the General Assembly or a designee[;
45 and the Chancellor of Higher Education who shall serve ex officio
46 without vote]. The board shall ensure that the revenue provided to
47 the trust fund is adequate to support the grants approved by the

1 **【Board of】** Commission on Higher Education. At the end of each
2 three-year period following the approval of this act, the board shall
3 review, in consultation with the **【Board of】** Commission on Higher
4 Education, the physical plant needs of public and private
5 institutions of higher education in the State and shall recommend to
6 the Governor and the Legislature a plan to increase, as necessary,
7 the availability and uses of grants made from the trust fund.

8 (cf: P.L.1993, c.375, s.8)

9
10 ²**【'57.】** 42.² Section 9 of P.L.1993, c.375 (C.18A:72A-57) is
11 amended to read as follows:

12 9. a. The authority shall from time to time issue bonds or notes
13 in an amount sufficient to finance the grants provided under this act
14 and to finance the administrative costs associated with the approval
15 process and the issuance of the bonds or notes, **【except】** provided
16 that the total outstanding principal amount of the bonds or notes
17 shall not exceed \$220,000,000, except that all administrative costs
18 associated with the approval process and the issuance of bonds shall
19 not be included within the total aggregate principal amount of
20 bonds issued, and the term of any bond issued shall not exceed 15
21 years. In computing the foregoing limitation as to amount, there
22 shall be excluded all bonds which shall be issued for refunding
23 purposes, provided that the refunding shall be determined by the
24 authority to result in a debt service savings. The authority shall
25 issue the bonds or notes in such manner as it shall determine in
26 accordance with the provisions of P.L.1993, c.375 (C.18A:72A-49
27 et al.) and the "New Jersey educational facilities authority law,"
28 N.J.S.18A:72A-1 et seq., provided that no bonds or notes shall be
29 issued pursuant to this section without the prior written consent of
30 the State Treasurer. Notwithstanding any other provision of law to
31 the contrary, the State Treasurer shall not consent to the issuance of
32 any bonds or notes unless the amount scheduled for the annual debt
33 service payments for each series of bonds or notes, consisting of the
34 payment of interest and principal on the bonds or notes, are, as far
35 as may be practicable, level for each fiscal year that any bonds or
36 notes of the series are outstanding, except for a fiscal year in which
37 the first or last payment on a series is the only payment made for
38 that series during that fiscal year.

39 b. Bonds or notes issued pursuant to this act shall not be in any
40 way a debt or liability of the State or of any political subdivision
41 thereof other than the authority and shall not create or constitute
42 any indebtedness, liability or obligation of the State or of any
43 political subdivision thereof, or be or constitute a pledge of the faith
44 and credit of the State or of any political subdivision thereof, but all
45 bonds or notes, unless funded or refunded by the bonds or notes of
46 the authority, shall be payable solely from revenues of funds
47 pledged or available for their payment as authorized by this act.
48 Each bond shall contain on its face a statement to the effect that the

1 authority is obligated to pay the principal thereof, redemption
2 premium, if any, or the interest thereon only from revenue or funds
3 of the authority and that neither the State nor any political
4 subdivision thereof is obligated to pay the principal thereof,
5 redemption premium, if any, or interest thereon and that neither the
6 faith and credit nor the taxing power of the State or of any political
7 subdivision thereof is pledged to the payment of the principal of,
8 redemption premium, if any, or the interest on the bonds.

9 c. The State of New Jersey does hereby pledge to and covenant
10 and agree with the holders of any bonds or notes issued pursuant to
11 the authorization of P.L.1993, c.375 (C.18A:72A-49 et al.) that the
12 State shall not limit or alter the rights or powers hereby vested in
13 the authority to perform and fulfill the terms of any agreement made
14 with the holders of the bonds or notes, or to fix, establish, charge
15 and collect such rents, fees, rates, payments, or other charges as
16 may be convenient or necessary to produce sufficient revenues to
17 meet all expenses of the authority and to fulfill the terms of any
18 agreement made with the holders of the bonds and notes, together
19 with interest thereon, with interest on any unpaid installments of
20 interest, and all costs and expenses in connection with any action or
21 proceedings by or on behalf of the holders, until the bonds and
22 notes, together with interest thereon, are fully met and discharged or
23 provided for.¹

24 (cf: P.L.1995, c.146)

25

26 ¹[55.] ²[58.1] 43.² Section 11 of P.L.1993, c.375 (C.18A:72A-
27 58) is amended to read as follows:

28 11. The **【Board of】** Commission on Higher Education, in
29 consultation with the New Jersey Educational Facilities Authority,
30 shall adopt, pursuant to the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations
32 necessary to carry out the provisions of this act.

33 (cf: P.L.1993, c.375, s.11)

34

35 ²[159.] 44.² Section 7 of P.L.1997, c.238 (C.18A:72A-65) is
36 amended to read as follows:

37 7. a. The authority shall from time to time issue bonds or notes
38 in an amount sufficient to finance the grants provided under this act
39 and to finance the administrative costs associated with the approval
40 process and the issuance of the bonds and notes for the purchase of
41 higher education technology infrastructure for public and private
42 institutions of higher education, provided that the total outstanding
43 principal amount of the bonds and notes shall not exceed
44 \$55,000,000, except that all administrative costs associated with the
45 approval process and the issuance of bonds shall not be included
46 within the total aggregate principal amount of bonds issued, and the
47 term of any bond issued shall not exceed 15 years. In computing
48 the foregoing limitation as to amount, there shall be excluded all

1 bonds or notes which shall be issued for refunding purposes,
2 provided that the refunding shall be determined by the authority to
3 result in a debt service savings. The State Treasurer is hereby
4 authorized to enter into a contract with the authority pursuant to
5 which the State Treasurer, subject to available appropriation, shall
6 pay the amount necessary to pay the principal and interest on bonds
7 and notes of the authority issued pursuant to this section.

8 b. Bonds or notes issued pursuant to this act shall not be in any
9 way a debt or liability of the State or of any political subdivision
10 thereof other than the authority and shall not create or constitute
11 any indebtedness, liability or obligation of the State or of any
12 political subdivision thereof, or be or constitute a pledge of the faith
13 and credit of the State or of any political subdivision thereof, but all
14 bonds or notes, unless funded or refunded by the bonds or notes of
15 the authority, shall be payable solely from revenues of funds
16 pledged or available for their payment as authorized by this act.
17 Each bond or note shall contain on its face a statement to the effect
18 that the authority is obligated to pay the principal thereof,
19 redemption premium, if any, or the interest thereon only from
20 revenue or funds of the authority and that neither the State nor any
21 political subdivision thereof is obligated to pay the principal
22 thereof, redemption premium, if any, or interest thereon and that
23 neither the faith and credit nor the taxing power of the State or of
24 any political subdivision thereof is pledged to the payment of the
25 principal of, redemption premium, if any, or the interest on the
26 bonds.

27 c. The State of New Jersey does hereby pledge to and covenant
28 and agree with the holders of any bonds or notes issued pursuant to
29 P.L.1997, c.238 (C.18A:72A-59 et seq.) that the State shall not limit
30 or alter the rights or powers hereby vested in the authority to
31 perform and fulfill the terms of any agreement made with the
32 holders of the bonds or notes, or to fix, establish, charge and collect
33 such rents, fees, rates, payments, or other charges as may be
34 convenient or necessary to produce sufficient revenues to meet all
35 expenses of the authority and to fulfill the terms of any agreement
36 made with the holders of the bonds and notes, together with interest
37 thereon, with interest on any unpaid installments of interest, and all
38 costs and expenses in connection with any action or proceedings by
39 or on behalf of the holders, until the bonds and notes, together with
40 interest thereon, are fully met and discharged or provided for.¹

41 (cf: P.L.1997, c.238, s.7)

42

43 ²[¹60.] 45.² Section 7 of P.L.1999, c.217 (C.18A:72A-78) is
44 amended to read as follows:

45 7. a. The authority shall from time to time issue bonds, notes or
46 other obligations in an amount sufficient to finance the grants
47 provided under this act and to finance the administrative costs
48 associated with the approval process and the issuance of the bonds,

1 notes, or other obligations, **[except]** provided that the total
2 outstanding principal amount of the bonds, notes or other
3 obligations shall not exceed \$550,000,000, except that all
4 administrative costs associated with the approval process and the
5 issuance of bonds shall not be included within the total aggregate
6 principal amount of bonds issued, and the term of any bond, note, or
7 other obligation issued shall not exceed 30 years. In computing the
8 foregoing limitation as to amount, there shall be excluded all bonds,
9 notes or other obligations which have been retired or which shall be
10 issued for refunding purposes, provided that the refunding is
11 determined by the authority to result in a debt service savings. The
12 authority shall issue the bonds, notes or other obligations in such
13 manner as it shall determine in accordance with the provisions of
14 P.L.1999, c.217 (C.18A:72A-72 et al.) and the "New Jersey
15 educational facilities law," N.J.S.18A:72A-1 et seq., provided that
16 no bonds, notes or other obligations shall be issued pursuant to this
17 section without the prior written consent of the State Treasurer.

18 b. The State Treasurer is hereby authorized to enter into a
19 contract with the authority pursuant to which the State Treasurer,
20 subject to available appropriations, shall pay the amount necessary
21 to pay the principal and interest on bonds, notes and other
22 obligations of the authority issued pursuant to this act plus any
23 amounts payable in connection with an agreement authorized under
24 subsection e. of this section. The authority shall enter into a
25 contractual agreement with each institution receiving a capital
26 improvement fund grant, and the agreements shall be approved by a
27 resolution of the authority. All agreements with the four-year
28 public institutions of higher education shall include provisions as
29 may be necessary to insure that each institution pays an amount
30 equal to one-third of the amount necessary to pay the principal and
31 interest on the bonds, notes and other obligations of the authority
32 issued pursuant to this section to finance the projects approved at
33 the institution plus its share of any amounts payable in connection
34 with an agreement authorized under subsection e. of this section.
35 All agreements with the four-year private institutions of higher
36 education shall include provisions as may be necessary to insure
37 that each institution pays an amount equal to one-half of the amount
38 necessary to pay the principal and interest on the bonds, notes and
39 other obligations of the authority issued pursuant to this section to
40 finance the projects approved at the institution plus its share of any
41 amounts payable in connection with an agreement authorized under
42 subsection e. of this section. Upon receipt of the moneys from the
43 public or private institutions of higher education, the authority shall
44 apply the moneys in a manner specified in the contract with the
45 State Treasurer.

46 c. Bonds, notes or other obligations issued pursuant to this act
47 shall not be in any way a debt or liability of the State or of any
48 political subdivision thereof other than the authority and shall not

1 create or constitute any indebtedness, liability or obligation of the
2 State or of any political subdivision thereof, or be or constitute a
3 pledge of the faith and credit of the State or of any political
4 subdivision thereof, but all bonds, notes or other obligations, unless
5 funded or refunded by the bonds, notes or other obligations of the
6 authority, shall be payable solely from revenues of funds pledged or
7 available for their payment as authorized by this act. Each bond,
8 note or other obligation shall contain on its face a statement to the
9 effect that the authority is obligated to pay the principal thereof,
10 redemption premium, if any, or the interest thereon only from
11 revenue or funds of the authority, and that neither the State nor any
12 political subdivision thereof is obligated to pay the principal
13 thereof, redemption premium, if any, or interest thereon, and that
14 neither the faith and credit nor the taxing power of the State or of
15 any political subdivision thereof is pledged to the payment of the
16 principal of, redemption premium, if any, or the interest on the
17 bonds, notes or other obligations.

18 d. The State of New Jersey does hereby pledge to and covenant
19 and agree with the holders of any bonds, notes or other obligations
20 issued pursuant to the authorization of P.L.1999, c.217
21 (C.18A:72A-72 et al.) that the State shall not limit or alter the rights
22 or powers hereby vested in the authority to perform and fulfill the
23 terms of any agreement made with the holders of the bonds, notes
24 or other obligations, or to fix, establish, charge and collect such
25 rents, fees, rates, payments, or other charges as may be convenient
26 or necessary to produce sufficient revenues to meet all expenses of
27 the authority and to fulfill the terms of any agreement made with
28 the holders of the bonds, notes and other obligations together with
29 interest thereon, with interest on any unpaid installments of interest,
30 and all costs and expenses in connection with any action or
31 proceedings by or on behalf of the holders, until the bonds, notes
32 and other obligations, together with interest thereon, are fully met
33 and discharged or provided for.

34 e. In connection with any bonds or refunding of bonds issued
35 pursuant to this section, the authority may also enter into any
36 revolving credit agreement; agreement establishing a line of credit
37 or letter of credit; reimbursement agreement; interest rate exchange
38 agreement; currency exchange agreement; interest rate floor cap,
39 option, put or call to hedge payment, currency, rate, spread or
40 similar exposure, or similar agreement; float agreement; forward
41 agreement; insurance contract; surety bond; commitment to
42 purchase or sell bonds; purchase or sale agreement; or commitment
43 or other contract or agreement or other security agreement approved
44 by the authority.¹

45 (cf: P.L.1999, c.217, s.7)

46

47 ²[¹61.] 46.² Section 5 of P.L.1999, c.184 (C.18A:74-28) is
48 amended to read as follows:

1 5. a. The authority shall from time to time issue bonds, notes or
2 other obligations in an amount sufficient to finance the grants
3 provided under P.L.1999, c.184 (C.18A:74-24 et al.) and to finance
4 the administrative costs associated with the approval process and
5 the issuance of the bonds, notes, or other obligations, provided
6 **[however]** that the aggregate principal amount of the bonds, notes
7 or other obligations shall not exceed \$45,000,000, except that all
8 administrative costs associated with the approval process and the
9 issuance of bonds shall not be included within the total aggregate
10 principal amount of bonds issued, and the term of any bond, note, or
11 other obligation issued shall not exceed 30 years. In computing the
12 foregoing limitation as to amount, there shall be excluded all bonds,
13 notes or other obligations which have been retired or which shall be
14 issued for refunding purposes, provided that the refunding is
15 determined by the authority to result in a debt service savings.
16 The authority shall issue the bonds, notes or other obligations in
17 such manner as it shall determine in accordance with the provisions
18 of P.L.1999, c.184 (C.18A:74-24 et al.) and the "New Jersey
19 educational facilities authority law," N.J.S.18A:72A-1 et seq.,
20 provided that no bonds, notes or other obligations shall be issued
21 pursuant to this section without the prior written consent of the
22 State Treasurer.

23 b. The State Treasurer is hereby authorized to enter into a
24 contract with the authority pursuant to which the State Treasurer,
25 subject to available appropriations, shall pay the amount necessary
26 to pay the principal and interest on bonds, notes and other
27 obligations of the authority issued pursuant to P.L.1999, c.184
28 (C.18A:74-24 et al.) plus any amounts payable in connection with
29 an agreement authorized under subsection f. of this section.

30 c. The authority shall enter into a contractual agreement with
31 the appropriate local governing entity in the area served by the
32 public library, and the agreement shall be approved by a resolution
33 of the authority. Each agreement with an appropriate entity shall
34 include provisions as may be necessary to ensure that the entity
35 shall provide an amount equal to 300% of the grant amount.

36 The authority may enter into a loan agreement with the
37 appropriate local governing entity in the area served by the public
38 library to finance the entity's matching amounts for the project
39 including, but not limited to, the payment of principal and interest
40 on the bonds, notes and other obligations of the authority issued
41 pursuant to this section or its share of any amount payable in
42 connection with an agreement authorized pursuant to this section or
43 the entity's share of any amount payable in connection with an
44 agreement authorized under subsection f. of this section. The loan
45 may be secured by the entity's guarantee or the issuance of county
46 or municipal bonds to the authority in a private sale.

47 d. Bonds, notes or other obligations issued pursuant to
48 P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt

1 or liability of the State or of any political subdivision thereof other
2 than the authority and shall not create or constitute any
3 indebtedness, liability or obligation of the State or of any political
4 subdivision thereof, or be or constitute a pledge of the faith and
5 credit of the State or of any political subdivision thereof, but all
6 bonds, notes or other obligations, unless funded or refunded by the
7 bonds, notes or other obligations of the authority, shall be payable
8 solely from revenues of funds pledged or available for their
9 payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.).
10 Each bond, note or other obligation shall contain on its face a
11 statement to the effect that the authority is obligated to pay the
12 principal thereof, redemption premium, if any, or the interest
13 thereon only from revenue or funds of the authority, and that
14 neither the State nor any political subdivision thereof is obligated to
15 pay the principal thereof, redemption premium, if any, or interest
16 thereon, and that neither the faith and credit nor the taxing power of
17 the State or of any political subdivision thereof is pledged to the
18 payment of the principal of, redemption premium, if any, or the
19 interest on the bonds, notes or other obligations.

20 e. The State of New Jersey does hereby pledge to and covenant
21 and agree with the holders of any bonds, notes or other obligations
22 issued pursuant to the authorization of P.L.1999, c.184 (C.18A:74-
23 24 et al.) that the State shall not limit or alter the rights or powers
24 hereby vested in the authority to perform and fulfill the terms of any
25 agreement made with the holders of the bonds, notes or other
26 obligations, or to fix, establish, charge and collect such rents, fees,
27 rates, payments, or other charges as may be convenient or necessary
28 to produce sufficient revenues to meet all expenses of the authority
29 and to fulfill the terms of any agreement made with the holders of
30 the bonds, notes and other obligations together with interest
31 thereon, with interest on any unpaid installments of interest, and all
32 costs and expenses in connection with any action or proceedings by
33 or on behalf of the holders, until the bonds, notes and other
34 obligations, together with interest thereon, are fully met and
35 discharged or provided for.

36 f. In connection with any bonds or refunding of bonds issued
37 pursuant to this section, the authority may also enter into any
38 revolving credit agreement; agreement establishing a line of credit
39 or letter of credit; reimbursement agreement; interest rate exchange
40 agreement; currency exchange agreement; interest rate floor cap,
41 option, put or call to hedge payment, currency, rate, spread or
42 similar exposure, or similar agreement; float agreement; forward
43 agreement; insurance contract; surety bond; commitment to
44 purchase or sell bonds; purchase or sale agreement; or commitment
45 or other contract or agreement or other security agreement approved
46 by the authority.¹

47 (cf: P.L.1999, c.184, s.5)

- 1 ¹[56.] ²[62.] ¹ 47.² Section 10 of P.L.1971, c.183 (C.52:13C-
2 27) is amended to read as follows:
- 3 10. This act shall not apply to the following activities:
- 4 a. the publication or dissemination, in the ordinary course of
5 business, of news items, advertising which does not constitute
6 communication with the general public, editorials or other
7 comments by a newspaper, book publisher, regularly published
8 periodical, or radio or television station, including an owner, editor
9 or employee thereof;
- 10 b. acts of an officer or employee of the Government of this State
11 or any of its political subdivisions, or of the Government of the
12 United States or of any State or territory thereof or any of their
13 political subdivisions, in carrying out the duties of their public
14 office or employment, except as provided in section ¹[12] 10¹ of
15 P.L. .c. (C.)(pending before the Legislature as this bill);
- 16 c. acts of bona fide religious groups acting solely for the
17 purpose of protecting the public right to practice the doctrines of
18 such religious groups;
- 19 d. acts of a duly organized national, State or local committee of
20 a political party;
- 21 e. acts of a person in testifying before a legislative committee or
22 commission, at a public hearing duly called by the Governor on
23 legislative proposals or on legislation passed and pending his
24 approval, or before any officer or body empowered by law to issue,
25 promulgate or adopt administrative rules and regulations in behalf
26 of a nonprofit organization incorporated as such in this State who
27 receives no compensation therefor beyond the reimbursement of
28 necessary and actual expenses, and who makes no other
29 communication with a member of the Legislature, legislative staff,
30 the Governor, the Governor's staff, or an officer or staff member of
31 the Executive Branch in connection with the subject of his
32 testimony;
- 33 f. acts of a person in communicating with or providing benefits
34 to a member of the Legislature, legislative staff, the Governor, the
35 Governor's staff, or an officer or staff member of the Executive
36 Branch if such communication or provision of benefits is
37 undertaken by him as a personal expression and not incident to his
38 employment, even if it is upon a matter relevant to the interests of a
39 person by whom or which he is employed, and if he receives no
40 additional compensation or reward, in money or otherwise, for or as
41 a result of such communication or provision of benefits;
- 42 g. with regard to influencing governmental processes as defined
43 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
44 20) any communications, matters or acts of an attorney falling
45 within the attorney-client privilege while engaging in the practice of
46 law to the extent that confidentiality is required in order for the
47 attorney to exercise his ethical duties as a lawyer; and

1 h. with regard to influencing governmental processes as defined
2 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
3 20) any communications, matters or acts involving collective
4 negotiations, or the interpretation or violation of collective
5 negotiation agreements, of a labor organization of any kind which
6 exists or is constituted for the purpose, in whole or in part, of
7 collective bargaining, or of dealing with employers concerning the
8 grievances, terms or conditions of employment, or of other mutual
9 aid or protection in connection with employment.

10 (cf: 2004, c.27, s.18)

11
12 ²[¹63. Section 28 of P.L.1986, c.43 (C.18A:64-79) is amended
13 to read as follows:

14 28. A State college may only enter a contract exceeding 36
15 consecutive months for the:

16 a. Supplying of fuel and oil for heating and other purposes and
17 utilities for any term not exceeding in the aggregate five years; or

18 b. Plowing and removal of snow and ice for any term not
19 exceeding in the aggregate five years; or

20 c. Collection and disposal of garbage and refuse for any term
21 not exceeding in the aggregate five years; or

22 d. Purchase, lease or servicing of information technology for
23 any term of not more than five years; or

24 e. Insurance for any term of not more than five years; or

25 f. Leasing or service of automobiles, motor vehicles,
26 machinery and equipment of every nature and kind for any term not
27 exceeding in the aggregate five years; or

28 g. (Deleted by amendment, P.L.2005, c.369).

29 h. Providing of food supplies and services, including food
30 supplies and management contracts for student centers, dining
31 rooms, vending operations, and cafeterias, for a term not exceeding
32 **[five]** 30 years; or

33 i. Performance of work or services or the furnishing of
34 materials or supplies for the purpose of conserving energy in
35 buildings owned by, or operations conducted by, the contracting
36 unit, the entire price of which is to be established as a percentage of
37 the resultant savings in energy costs, for a term not exceeding 10
38 years; provided that a contract is entered into only subject to and in
39 accordance with rules and regulations adopted and guidelines
40 promulgated by the Board of Public Utilities establishing a
41 methodology for computing energy cost savings; or

42 j. Any single project for the construction, reconstruction or
43 rehabilitation of a public building, structure or facility, or a public
44 works project, including the retention of the services of an architect,
45 engineer, construction manager, or other consultant in connection
46 with the project, for the length of time necessary for the completion
47 of the actual construction; or

1 k. The management and operation of bookstores, performing
2 arts centers, residence halls, parking facilities and building
3 operations for a term not exceeding ~~five~~ 30 years; or

4 l. The provision of banking, financial services, and e-
5 commerce services for a term not exceeding five years; or

6 m. The provision of services for maintenance and repair of
7 building systems, including, but not limited to, fire alarms, fire
8 suppression systems, security systems, and heating, ventilation, and
9 air conditioning systems for a term not exceeding five years; or

10 n. Purchase of alternative energy or the purchase or lease of
11 alternative energy services or equipment for conservation or cost
12 saving purposes for a term not exceeding 10 years.

13 All multiyear leases and contracts entered into pursuant to this
14 section, except contracts and agreements for the provision of work
15 or the supplying of equipment to promote energy conservation and
16 authorized pursuant to subsection i. of this section, shall contain a
17 clause making them subject to the availability and appropriation
18 annually of sufficient funds to meet the extended obligation or
19 contain an annual cancellation clause.¹

20 (cf: P.L.2005, c.369, s.16)]²

21

22 ²[¹64.] 48.² Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is
23 amended to read as follows:

24 1. Whenever the funds appropriated are insufficient to satisfy
25 the State's share of capital projects for county colleges pursuant to
26 N.J.S.18A:64A-22, additional State support for such projects shall
27 be made available to counties in which county colleges are located
28 for the payment of interest and principal on bonds and notes entitled
29 to the benefits of this act and interest on notes issued in anticipation
30 thereof and entitled to the benefits of the "County College Capital
31 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.),
32 provided that the total principal amount of such bonds and notes
33 shall not exceed \$265,000,000, except that all administrative costs
34 associated with the approval process and the issuance of bonds shall
35 not be included within the total aggregate principal amount of
36 bonds issued.¹

37 (cf: P.L.2004, c.100)

38

39 ²[¹65. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is
40 amended to read as follows:

41 28. Duration of certain contracts. A county college may only
42 enter into a contract exceeding 24 consecutive months for the:

43 a. Supplying of:

44 (1) Fuel for heating purposes for any term not exceeding in the
45 aggregate three years; or

- 1 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles
2 or equipment for any term not exceeding in the aggregate three
3 years; or
- 4 b. Plowing and removal of snow and ice for any term not
5 exceeding in the aggregate three years; or
- 6 c. Collection and disposal of garbage and refuse for any term
7 not exceeding in the aggregate three years; or
- 8 d. Providing goods or services for the use, support or
9 maintenance of proprietary computer hardware, software
10 peripherals and system development for the hardware for any term
11 of not more than five years; or
- 12 e. Insurance, including the purchase of insurance coverages,
13 insurance consultant or administrative services, and including
14 participation in a joint self-insurance fund, risk management
15 programs or related services provided by a county college insurance
16 group, or participation in an insurance fund established by a county
17 pursuant to N.J.S.40A:10-6, for any term of not more than three
18 years; or
- 19 f. Leasing or service of automobiles, motor vehicles, electronic
20 communications equipment, machinery and equipment of every
21 nature and kind for any term not exceeding in the aggregate five
22 years; or
- 23 g. Supplying of any product or rendering of any service by a
24 company providing voice, data, transmission or switching services,
25 for a term not exceeding five years; or
- 26 h. The providing of food supplies and services, including food
27 supplies and management contracts for student centers, dining
28 rooms and cafeterias, for a term not exceeding **[three]** 30 years; or
- 29 i. The performance of work or services or the furnishing of
30 materials or supplies for the purpose of conserving energy through
31 energy efficiency equipment or demand response equipment,
32 including combined heat and power facilities, in, at, or adjacent to,
33 buildings owned by, or operations conducted by, the contracting
34 unit, the entire price of which is to be established as a percentage of
35 the resultant savings in energy costs, for a term not exceeding 15
36 years; provided that a contract is entered into only subject to and in
37 accordance with guidelines promulgated by the Board of Public
38 Utilities establishing a methodology for computing energy cost
39 savings. As used in this subsection, "combined heat and power
40 facilities" means facilities designed to produce both heat and
41 electricity from a single heat source; or
- 42 j. Any single project for the construction, reconstruction or
43 rehabilitation of a public building, structure or facility, or a public
44 works project including the retention of the services of an architect
45 or engineer in connection with the project, for the length of time
46 necessary for the completion of the actual construction; or
- 47 k. The management and operation of bookstores for a term not
48 exceeding **[five]** 30 years; or

- 1 l. Custodial or janitorial services for any term not exceeding in
2 the aggregate three years; or
- 3 m. Child care services for a term not exceeding three years; or
- 4 n. Security services for a term not exceeding three years; or
- 5 o. Ground maintenance services for a term not exceeding three
6 years; or
- 7 p. Laundering, dry-cleaning or rental of uniforms for a term not
8 exceeding three years; or
- 9 q. The performance of work or services or the furnishing of
10 materials and supplies for the purpose of producing class I
11 renewable energy, as that term is defined in section 3 of P.L.1999,
12 c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or
13 operations conducted by, the contracting unit, the entire price of
14 which is to be established as a percentage of the resultant savings in
15 energy costs, for a term not to exceed 15 years; provided, however,
16 that these contracts shall be entered into only subject to and in
17 accordance with guidelines promulgated by the Board of Public
18 Utilities establishing a methodology for computing energy cost
19 savings and energy generation costs.

20 All multi-year leases and contracts entered into pursuant to this
21 section, except contracts and agreements for the provision of work
22 or the supplying of equipment to promote energy conservation
23 through energy efficiency equipment or demand response
24 equipment, including combined heat and power facilities, and
25 authorized pursuant to subsection i. of this section, or the
26 production of class I renewable energy and authorized pursuant to
27 subsection q. of this section, and except contracts for insurance
28 coverages, insurance consultant or administrative services,
29 participation or membership in a joint self-insurance fund, risk
30 management programs or related services of a county college
31 insurance group, and participation in an insurance fund established
32 by a county pursuant to N.J.S.40A:10-6 or a joint insurance fund
33 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), shall
34 contain a clause making them subject to the availability and
35 appropriation annually of sufficient funds to meet the extended
36 obligation or contain an annual cancellation clause.¹

37 (cf: P.L. 2008, c.83, s.2)]²

38

39 ²[¹66. (New section) Sections 66 through 68 of P.L. , c.
40 (C.) (pending before the Legislature as this bill) shall be known
41 and may be cited as the "Higher Education Partnership Agreements
42 Act."]²

43

44 ²[¹67. (New section) As used in sections 66 through 68 of
45 P.L. , c. (C.) (pending before the Legislature as this bill):

1 "Board" means the Local Finance Board established in the
2 Division of Local Government Services in the Department of
3 Community Affairs.

4 "Bonds" mean bonds, notes or other obligations issued to finance
5 or refinance higher education projects by a municipality, or on
6 behalf of a municipality by a county improvement authority created
7 pursuant to the "county improvement authorities law," P.L.1960,
8 c.183 (C.40:37A-44 et seq.).

9 "Higher education partnership agreement" means an agreement
10 between a municipality and an institution of higher education
11 providing for the issuance of bonds by the municipality, a county
12 improvement authority or a redevelopment entity, and the pledge of
13 payments by the institution of higher education to secure those
14 bonds to finance a higher education project, or part thereof.

15 "Higher education project" means the establishment and
16 construction of higher education buildings and the expansion and
17 construction of additional facilities at, and the acquisition of
18 additional and upgraded equipment for existing higher education
19 buildings, including but not limited to the planning, erecting,
20 purchasing, improving, developing, constructing, reconstructing,
21 extending, rehabilitating, renovating, upgrading, demolishing and
22 equipping of facilities at institutions of higher education.

23 "Institution of higher education" means: Rutgers, The State
24 University; a State college or university established pursuant to
25 chapter 64 of Title 18A of the New Jersey Statutes; the New Jersey
26 Institute of Technology; the University of Medicine and Dentistry
27 of New Jersey; a county college and any other public university or
28 college now or hereafter established or authorized by State law; and
29 any college or university incorporated and located in New Jersey,
30 which by virtue of law or character or license is a nonprofit
31 educational institution authorized to grant academic degrees and
32 which provides a level of education which is equivalent to the
33 education provided by the State's public institutions of higher
34 education, as attested by the receipt of and continuation of regional
35 accreditation by the Middle States Association of Colleges and
36 Schools, and which is eligible to receive State aid under the
37 provisions of the Constitution of the United States and the
38 Constitution of the State of New Jersey, but does not include any
39 educational institution dedicated primarily to the education or
40 training of ministers, priests, rabbis or other professional persons in
41 the field of religion.

42 "Municipality" means the municipal governing body or an entity
43 acting on behalf of the municipality if permitted by the federal
44 Internal Revenue Code of 1986, or, if a redevelopment agency or
45 redevelopment entity is established in the municipality pursuant to
46 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
47 provides, the redevelopment agency or entity so established.¹²

1 ²[¹68. (New section) A municipality and an institution of higher
2 education may enter into a higher education partnership agreement
3 for the development of a higher education project. The board shall
4 promulgate rules and regulations, modeled after the procedures and
5 protections set forth in the “Redevelopment Area Bond Financing
6 Law,” sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et
7 seq.), within 120 days following the adoption of P.L. _____, c.
8 (C. _____) (pending before the Legislature as this bill) in order to
9 effectuate the purposes of this section.¹]²

10

11 ¹[^{57.}]²[^{69.}¹]^{49.}² This act shall take effect on the 180th day
12 after the date of enactment, but the Commission on Higher
13 Education may take such anticipatory administrative action in
14 advance thereof as shall be necessary for the implementation of this
15 act.