

CHAPTER 308

AN ACT concerning the structure and fiscal management of higher education in New Jersey, amending various parts of the statutory law, and supplementing chapter 3B of the New Jersey Statutes.

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

C.18A:3B-46 Definitions relative to structure and fiscal management of higher education.

1. As used in this act:

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

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

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

C.18A:3B-47 Secretary of Higher Education.

2. The Governor shall appoint, with the advice and consent of the Senate, a Secretary of Higher Education who shall serve at the pleasure of the Governor during the Governor’s term of office and until a successor is appointed and qualified. The appointment shall be made after consultation with and recommendations from the New Jersey Commission on Higher Education and the New Jersey Presidents’ Council except that the person holding the office of executive director of the commission on the effective date of this act shall be the initial Secretary of Higher Education. The secretary shall hold cabinet-level rank and shall serve as executive director of the commission.

C.18A:3B-48 Audit committee.

3. a. The governing board of a public research university or a State college shall establish an audit committee. The chairman of the committee shall have accounting or related financial management expertise and the governing board shall make efforts to ensure that a majority of the members of the committee have such expertise.

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

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

(2) assisting the board in overseeing and evaluating the performance of outside auditors retained by the institution;

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

(4) ensuring that allegations of misconduct or conflict of interest are evaluated and investigated; and

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

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

d. The committee shall keep minutes of its meetings.

C.18A:3B-49 Internal auditor.

4. The governing board of a public research university or a State college shall approve the appointment of an internal auditor, who shall have a direct reporting relationship to the board, the president, and the chief financial officer. The internal auditor shall periodically test and report on the institution's internal controls to the audit committee, the institution's president, chief financial officer, and other senior members of the institution's administrative staff.

C.18A:3B-50 Independent outside auditor.

5. a. The governing board of a public research university or a State college shall retain an independent outside auditor who is a certified public accountant to conduct an annual audit of the institution's financial accounts in accordance with nationally recognized auditing and accounting standards adopted by the commission. The independent auditor shall be selected by a majority vote of the members of the board present upon the recommendation of the audit committee.

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

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

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

C.18A:3B-51 Submission of audit to commission.

6. a. The president and chief financial officer of a public research university or a State college shall submit the annual audit to the commission and shall certify that they have reviewed the financial statements and that, based on their knowledge, the financial statements do not contain any untrue statement of a material fact or omission of a material fact that makes the statements misleading and that, based on their knowledge, the financial statements present in all material respects the financial condition and results of operations of the institution.

b. A public research university or a State college shall retain institutional financial statements for a minimum period of time in accordance with accounting principles of the Governmental Accounting Standards Board.

C.18A:3B-52 Policies, procedures for reports of wrongdoing, confidentiality.

7. In accordance with standards established by the Attorney General, the governing board of a public research university or State college shall establish written policies and procedures that provide confidentiality in the reporting of alleged wrongdoing at the institution and protect employees from retaliatory action in accordance with the provisions of the "Conscientious Employee Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.).

C.18A:3B-53 Recommendations for penalties for noncompliance.

8. The commission shall submit to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), recommendations for the establishment of penalties for noncompliance with the provisions of sections 4 through 7 of this act, unless such penalties are otherwise established by law, including, but not limited to, fines and disciplinary action to be imposed upon a public research university or a State college or a member of the governing board or an employee of the institution.

C.18A:3B-54 Additional authority of commission.

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

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

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

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

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

Under the code of standards, the commission shall not prohibit a governmental affairs agent from engaging on behalf of a public research university or a State college concerning legitimate nonpartisan and bipartisan activities that are vital to the election process including, but not limited to, the scheduling and holding of on-campus political debates, voter-registration drives, and similar nonpartisan and bipartisan events and activities.

C.18A:3B-55 Notice of representation filed by governmental affairs agent, reports.

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

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

C.18A:3B-56 Approval of contract.

11. Any proposed contract to retain the services of a governmental affairs agent shall be considered by the governing board of a public research university or a State college at a public meeting and approval of the contract shall require the adoption of a resolution by a majority of the board members present at the meeting.

C.18A:3B-57 Policies concerning professional services contracts.

12. a. The governing board of a public research university or a State college shall establish policies concerning professional services contracts which, at a minimum, shall include procedures for the review of proposed professional services contracts to verify the need for the proposed services, determine whether conflicts of interest exist between the vendor and the institution, ensure appropriate procurement procedures are utilized, determine whether the proposed compensation is reasonable, and monitor the services delivered by the vendor.

b. The institution shall prepare an annual report on professional services contracts for submission to the institution's governing board.

C.18A:3B-58 Executive committee.

13. The governing board of a public research university or a State college shall establish an executive committee composed of the chairman of the governing board, the vice-chairman, and the chairmen of any committees established by the board, and such other voting members as may be appointed by the board. The executive committee shall have a written charter that defines the committee's purpose, responsibilities, and its authority to act on behalf of the governing board between meetings of the full board.

The committee shall keep minutes of its meetings.

C.18A:3B-59 Compensation committee.

14. a. The governing board of a public research university or a State college shall establish a compensation committee. The compensation committee shall have a written charter that addresses the committee's purpose and responsibilities which shall include, but not be limited to:

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

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

b. The recommendations of the compensation committee shall be voted upon by the committee. The committee shall keep minutes of its meetings.

C.18A:3B-60 Nominations and governance committee.

15. a. The governing board of a public research university or a State college shall establish a nominations and governance committee. The nominations and governance committee shall have a written charter that defines the committee's purpose and responsibilities which shall include, but need not be limited to:

(1) overseeing matters directly affecting the governance of the institution;

(2) periodically reviewing and updating board by-laws;

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

(4) referring candidates to the governing board for the consideration of the board in making its recommendations to the Governor on potential new members.

b. In identifying candidates for appointment to the governing board, the committee shall seek individuals with skills that are appropriate to the mission of the institution and which complement the range of expertise contributed to the governing board by its existing

members. The committee shall seek candidates of diverse background and experience, as well as those with ties to the institution.

The recommendations of the nominations and governance committee shall be voted upon by the committee. The committee shall keep minutes of its meetings.

c. The governing board of a public research university or a State college shall establish criteria for the identification, qualification, and recommendation of prospective candidates for appointment to the board. The criteria shall include qualification criteria that are consistent with the statutory responsibilities of the board and tailored to the institution.

C.18A:3B-61 Fundraising and development strategies.

16. The governing board of a public research university or a State college shall develop and implement fundraising and development strategies that encourage the active involvement of all board members and that, as may be appropriate, assist fundraising by institutional foundations.

C.18A:3B-62 Provision of information, orientation, training.

17. A public research university and State college shall provide information, orientation, and training to each of its governing board members on the legal and ethical responsibilities of a member of the governing board.

C.18A:3B-63 Procedure for change in programmatic mission.

18. a. When a public research university or a State college determines to seek a change to its programmatic mission, the university or college shall submit to the commission:

- (1) a notice of the intent to seek a change to the institution's programmatic mission; and
- (2) a petition for approval for a change in the programmatic mission of the institution, when such petition is ready for submission. The petition shall include information on the long-term costs of the change in programmatic mission and a cost-benefit analysis of the expected impact of the change that considers the expected needs of the State and the potential impact of the change on other academic programs of the institution.

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

C.18A:3B-64 Meeting convened by commission.

19. The commission shall convene a meeting, at least once a year, of representatives of all public and independent institutions of higher education to discuss issues related to the development and implementation of new degree programs.

C.18A:3B-65 Plan for branch campus.

20. a. When the governing board of a public research university or a State college, after study and investigation, determines that it is advisable for the institution to establish a branch campus out-of-State or out-of-country that will serve at least 500 students of the institution, the board shall submit the plan for the branch campus to the commission for its review and recommendations. The plan shall include: a description of the higher educational needs of the country or region in which the branch campus shall be located; a description of the proposed branch campus and its proposed programs and curriculum; and an estimate of the cost of establishing and maintaining the branch campus including the cost of any planned acquisition or construction of facilities; and any other information or data deemed necessary by the commission.

b. In developing its response to the plan, the commission shall consider whether there is a need for the institution to acquire a branch campus and whether the institution has the financial capacity to support the campus.

C.18A:3B-66 Reference to mean, refer to Secretary of Higher Education.

21. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the executive director of the New Jersey Commission on Higher Education, the same shall mean and refer to the Secretary of Higher Education.

C.18A:3B-67 Regulations.

22. The Commission on Higher Education shall adopt regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this act.

23. Section 13 of P.L.1994, c.48 (C.18A:3B-13) is amended to read as follows:

C.18A:3B-13 New Jersey Commission on Higher Education.

13. a. There is established the New Jersey Commission on Higher Education which shall consist of 15 members: 10 public members, to be appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members to be appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate; and the chairperson of the Board of Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The public members shall reflect the diversity of the State. Notwithstanding the above, for a period of four years from July 1, 1994 the commission shall consist of 16 members, as follows: 10 public members, appointed by the Governor with the advice and consent of the Senate without regard for political affiliation, six of whom shall have experience as a current member of the governing board of an institution of higher education; four public members to be appointed by the Governor, two upon the recommendation of the President of the Senate and two upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; and the chairperson of the Board of the Higher Education Student Assistance Authority, ex officio, or a designee from the public members of the authority. The executive director of the commission shall be an ex officio, non-voting member of the commission. In addition, the Governor shall appoint two students in attendance at public or independent institutions of higher education in the State from recommendations submitted by student government associations of New Jersey colleges and universities, who shall serve for a one-year term on the commission as voting members.

b. Public members who are not experienced as governing board members shall serve for a term of six years from the date of their appointment and until their successors are appointed and qualified; except that of the initial appointees who are not serving on the governing board of an institution: one shall serve a term of one year; one shall serve a term of two years; one shall serve a term of three years; one shall serve a term of four years; two shall serve a term of five years; and two shall serve a term of six years. A public member who

does not have experience as a current member of a governing board shall serve until the member's successor is appointed and qualified.

In the case of the initial terms of the additional members of the board appointed pursuant to P.L.2009, c.308 (C.18A:3B-46 et al.), one member shall serve a term of four years, one member shall serve a term of five years, and two members shall serve a term of six years.

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

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

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

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

e. The Secretary of Higher Education shall serve as executive director of the commission. The commission shall appoint such personnel as may be deemed necessary. The professional staff shall serve at the commission's pleasure and shall receive such compensation as provided by law.

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

24. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to read as follows:

C.18A:3B-14 Responsibilities of commission.

14. The commission shall be responsible for:

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

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

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

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

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

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

g. reviewing requests for State support from the institutions in relation to the mission of the institution and Statewide goals and proposing a coordinated budget policy statement to the Governor and Legislature;

h. communicating with the State Board of Education and Commissioner of Education to advance public education at all levels including articulation between the public schools and higher education community;

i. applying for and accepting grants from the federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, and complying with the terms, conditions and limitations thereof, for the purpose of advancing higher education. Any money so received may be expended by the commission upon warrant of the director of the Office of Management and Budget in the Department of the Treasury on vouchers certified by the executive director of the commission;

j. acting as the lead agency of communication with the federal government concerning higher education issues, except that the Higher Education Student Assistance Authority shall act, in cooperation with the commission, as the lead agency on issues of student assistance;

k. exercising all of the powers and duties previously exercised by the Board of Higher Education, the Department of Higher Education, and the Chancellor of Higher Education, under the "New Jersey Higher Education Building Construction Bond Act of 1971," P.L.1971, c.164, the "New Jersey Medical Education Facilities Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and Technology Bond Act of 1984," P.L.1984, c.99 and the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the "Higher Education Equipment Leasing Fund Act," P.L.1993, c.136, and the "Higher Education Facilities Trust Fund Act," P.L.1993, c.375;

l. exercising any other power or responsibility necessary in order to carry out the provisions of this act;

m. consulting with the Higher Education Student Assistance Authority on student assistance matters;

n. advising and making recommendations for consideration to the Governor and the governing board of a public research university or a State college for members of that governing board appointed by the Governor; and

o. examining and recommending to institutions of higher education opportunities for joint purchasing and other joint arrangements that would be advantageous to the institutions.

25. Section 301 of P.L.1994, c.48 (C.18A:3B-34) is amended to read as follows:

C.18A:3B-34 Powers of Secretary of Higher Education.

301. a. The Secretary of Higher Education, with the concurrence of the Governor, shall have authority to visit public institutions of higher education to examine their manner of conducting their affairs and to enforce an observance of the laws of the State.

b. The secretary, with the concurrence of the Governor, may administer oaths and examine witnesses under oath in any part of the State with regard to any matter pertaining to higher education, and may cause the examination to be reduced to writing. Any person willfully giving false testimony upon being sworn or affirmed to tell the truth shall be guilty of a misdemeanor.

c. The secretary, with the concurrence of the Governor, may issue subpoenas pursuant to this section compelling the attendance of witnesses and the production of books and papers in any part of the State. Any person who shall neglect or refuse to obey the command of the subpoena or who, after appearing, shall refuse to be sworn and testify, unless such refusal is on grounds recognized by law, shall in either event be subject to a penalty of \$1,000.00 for each offense to be recovered in a civil action. Such penalty when recovered shall be paid into the State Treasury.

26. Section 305 of P.L.1994, c.48 (C.18A:3B-35) is amended to read as follows:

C.18A:3B-35 Annual report by institution of higher education.

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

27. N.J.S.18A:64-3 is amended to read as follows:

Board of trustees.

18A:64-3. The composition and size of the board of trustees shall be determined by the board; however, each board shall have not less than seven nor more than 15 members. The members shall be appointed by the Governor with the advice and consent of the Senate. Each board of trustees shall recommend potential new members to the Governor. The terms of office of appointed members shall be for six years beginning on July 1 and ending on June 30. Each member shall serve until his successor shall have been appointed and qualified and

vacancies shall be filled in the same manner as the original appointments for the remainders of the unexpired terms. Any member of a board of trustees may be removed by the Governor for cause upon notice and opportunity to be heard.

28. Section 6 of P.L.1995, c.400 (C.18A:64E-17) is amended to read as follows:

C.18A:64E-17 Membership of board of trustees; organization.

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

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

c. All voting members of the board of trustees, before undertaking the duties of their office, shall take and subscribe an oath or affirmation to support the Constitution of the State of New Jersey and of the United States, to bear allegiance to the government of the State, and to perform the duties of their office faithfully, impartially and justly, to the best of their ability.

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

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

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

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

29. Section 4 of P.L.1970, c.102 (C.18A:64G-4) is amended to read as follows:

C.18A:64G-4 Board of trustees, membership, organization, committees.

4. a. The government, control, conduct, management and administration of the university shall be vested in the board of trustees of the university. The membership of the board of trustees shall consist of the Commissioner of Health and Senior Services, who shall serve ex

officio, without vote, and 19 voting members appointed by the Governor as follows: two members shall be appointed by the Governor upon recommendation of the Senate President; two members shall be appointed by the Governor upon recommendation of the Speaker of the General Assembly; and 15 members shall be appointed by the Governor with the advice and consent of the Senate. A voting member shall serve for a term of five years and shall serve until his successor is appointed and has qualified. No trustee shall be appointed who is an employee or paid official of any hospital affiliated with the university. Any vacancies in the voting membership of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. Each voting member of the board of trustees before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oath shall be filed in the office of the Secretary of State. Each voting member of the board may be removed from office by the Governor, for cause, after a public hearing.

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

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

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

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

30. N.J.S.18A:72A-4 is amended to read as follows:

“New Jersey educational facilities authority.”

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

(b) The authority shall consist of seven members, two of whom shall be the chairman of the Commission on Higher Education, ex officio, and the State Treasurer, ex officio, or when so designated by them, their deputies and five citizens of the State to be appointed by the Governor with the advice and consent of the Senate for terms of five years; provided that the terms of the members first appointed shall be arranged by the Governor so that one of such terms shall expire on April 30 in each successive year ensuing after such appointments. Each member shall hold office for the term of his appointment and shall continue to serve during

the term of his successor unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

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

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

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

(f) The powers of the authority shall be vested in the members thereof in office from time to time and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the authority at any meeting thereof by the affirmative vote of a majority of the members present, unless in any case the bylaws of the authority shall require a larger number. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

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

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

(i) A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days, Saturdays, Sundays and public holidays excepted, after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording

thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

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

31. Section 1 of P.L.1980, c.31 (C.18A:72A-11.1) is amended to read as follows:

C.18A:72A-11.1 Refinancing outstanding mortgages of private lenders.

1. In addition to other powers and duties which have been granted to the authority, whenever any public or private college has constructed or acquired any work or improvement which would otherwise qualify under this act except for the fact that such construction or acquisition was undertaken and financed without assistance from the authority, the authority may purchase such work or improvement, and lease the same to such college, or may lend funds to such college for the purpose of enabling the latter to retire obligations incurred for such construction or acquisition; except that the amount of any such price or loan shall not exceed the original project cost and administrative costs, reserves, and other costs associated with the retirement of such obligations. All powers, rights, obligations and duties granted to or imposed upon the authority, colleges, State departments and agencies or others by this chapter in respect to projects shall apply to the same extent with respect to transactions pursuant to this section; except that any action otherwise required to be taken at a particular time in the progression of a project may, where the circumstances are so required in connection with a transaction under this section, be taken with the same effect as if taken at that particular time.

32. Section 2 of P.L.1993, c.136 (C.18A:72A-41) is amended to read as follows:

C.18A:72A-41 Findings, declarations.

2. The Legislature finds and declares that:

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

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

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

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

33. Section 5 of P.L.1993, c.136 (C.18A:72A-42) is amended to read as follows:

C.18A:72A-42 Higher education equipment leasing fund; issuance of bonds.

5. a. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, hereinafter referred to as the "authority," a higher education equipment leasing fund to finance the purchase of higher education equipment at public and private institutions of higher education. The authority shall issue bonds to finance the purchase of higher education equipment for lease to public and private institutions of higher education and to finance the administrative costs associated with the approval process and the issuance of bonds provided that the total outstanding principal amount of the bonds shall not exceed \$100,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond issued shall not exceed 10 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section. In entering into a lease agreement with a public or private institution of higher education, the authority shall include such lease provisions as may be necessary to insure that the institution shall pay an amount equal to 25% of the amount necessary to pay the principal and interest on the bonds and notes of the authority issued pursuant to this section to finance the purchase of higher education equipment at that institution. Upon receipt of such moneys from the public or private institution of higher education, the authority shall remit the moneys immediately to the State Treasurer.

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

c. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds.

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

34. Section 6 of P.L.1993, c.136 (C.18A:72A-43) is amended to read as follows:

C.18A:72A-43 Allocation of moneys.

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

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

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

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

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

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

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

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

The Commission on Higher Education may apportion the amounts authorized in subsection g. among any other amounts authorized in subsections a. through f.

The Commission on Higher Education may reallocate any balance in the amounts authorized in subsections a. through g. of this section which have not been fully committed within 18 months of the effective date of this act.

The Commission on Higher Education shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

35. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to read as follows:

C.18A:72A-45 Approval for lease agreements.

8. The authority shall not enter into a lease agreement with an institution of higher education unless the Commission on Higher Education has adopted a resolution which approves the purchase of the higher education equipment by the institution. The commission shall forward a copy of the resolution along with the amount of the approved purchase to the authority.

36. Section 10 of P.L.1993, c.136 (C.18A:72A-47) is amended to read as follows:

C.18A:72A-47 Annual report.

10. The Commission on Higher Education shall annually submit a report to the Governor and the Legislature on the higher education equipment purchases at public and private institutions of higher education which have been approved by the commission and financed by the New Jersey Educational Facilities Authority pursuant to lease agreements with the institutions.

37. Section 11 of P.L.1993, c.136 (C.18A:72A-48) is amended to read as follows:

C.18A:72A-48 Rules, regulations.

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

38. Section 5 of P.L.1993, c.375 (C.18A:72A-53) is amended to read as follows:

C.18A:72A-53 Allocation of initial grants.

5. The initial grants from the trust fund shall be allocated as follows:

- a. \$48,000,000 for facilities at the State Colleges;
- b. \$38,880,000 for facilities at Rutgers, The State University;
- c. \$20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey;
- d. \$12,960,000 for facilities at the New Jersey Institute of Technology;
- e. \$44,000,000 for facilities at the county colleges;
- f. \$21,000,000 for facilities at the private institutions of higher education;
- g. \$15,000,000 for South Jersey multi-institutional economic development facilities. As

used in this section, "South Jersey multi-institutional economic development facilities" means facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education; and

- h. \$20,000,000 for a new facility for Rutgers, The State University, School of Law, Newark.

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

The Commission on Higher Education may reallocate any balance in an amount authorized in subsections a. through h. of this section which has not been approved by the commission for a grant within 18 months of the effective date of this act.

The Commission on Higher Education shall determine the allocation of moneys deposited into the trust fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

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

39. Section 6 of P.L.1993, c.375 (C.18A:72A-54) is amended to read as follows:

C.18A:72A-54 Application for grant.

6. a. The governing board of a public or private institution of higher education may determine, by resolution, to apply for a grant from the trust fund. Upon adoption of the resolution, the board shall file an application with the Commission on Higher Education, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. The Commission on Higher Education shall review the application and, by resolution, approve or disapprove the grant. For each grant which is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the grant to the authority.

c. The Commission on Higher Education shall submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 60 days, the grant shall be deemed to be authorized. In addition, the resolution approving the grant for the new instructional and research facility for Rutgers, The State University, School of Law, Newark, shall be submitted by the commission to the Joint Budget Oversight Committee for its approval prior to the commission's submission of the resolution to the Legislature. The commission shall provide to the committee such information concerning the grant as the committee may require for its consideration.

d. Each grant awarded under this act shall be contingent upon the recipient governing board entering into a contract or contracts for the commencement of the construction, reconstruction, development, extension, or improvement of the facility within one year of the date on which the funds of the grant are made available.

40. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to read as follows:

C.18A:72A-55 List of selection criteria.

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

41. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to read as follows:

C.18A:72A-56 "Higher Education Facilities Trust Fund Board."

8. In order to ensure proper oversight and review, there is created the "Higher Education Facilities Trust Fund Board" which shall consist of five members as follows: the Chair and Vice Chair of the Commission on Higher Education; the State Treasurer or a designee; the President of the Senate or a designee; and the Speaker of the General Assembly or a designee. The board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Commission on Higher Education. At the end of each three-year period following the approval of this act, the board shall review, in consultation with the Commission on Higher Education, the physical plant needs of public and private institutions of higher education in the State and shall recommend to the Governor and the

Legislature a plan to increase, as necessary, the availability and uses of grants made from the trust fund.

42. Section 9 of P.L.1993, c.375 (C.18A:72A-57) is amended to read as follows:

C.18A:72A-57 Issuance of bonds, notes.

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

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

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to the authorization of P.L.1993, c.375 (C.18A:72A-49 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on

behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

43. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended to read as follows:

C.18A:72A-58 Rules, regulations.

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

44. Section 7 of P.L.1997, c.238 (C.18A:72A-65) is amended to read as follows:

C.18A:72A-65 Issuance of bonds, notes.

7. a. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds and notes for the purchase of higher education technology infrastructure for public and private institutions of higher education, provided that the total outstanding principal amount of the bonds and notes shall not exceed \$55,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds or notes which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section.

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

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to P.L.1997, c.238 (C.18A:72A-59 et seq.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes,

together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

45. Section 7 of P.L.1999, c.217 (C.18A:72A-78) is amended to read as follows:

C.18A:72A-78 Issuance of bonds, notes, other obligations.

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

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to this act plus any amounts payable in connection with an agreement authorized under subsection e. of this section. The authority shall enter into a contractual agreement with each institution receiving a capital improvement fund grant, and the agreements shall be approved by a resolution of the authority. All agreements with the four-year public institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. All agreements with the four-year private institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. Upon receipt of the moneys from the public or private institutions of higher education, the authority shall apply the moneys in a manner specified in the contract with the State Treasurer.

c. Bonds, notes or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless

funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

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

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

46. Section 5 of P.L.1999, c.184 (C.18A:74-28) is amended to read as follows:

C.18A:74-28 Issuance of bonds, notes, other obligations; cap.

5. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under P.L.1999, c.184 (C.18A:74-24 et al.) and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, provided that the aggregate principal amount of the bonds, notes or other obligations shall not exceed \$45,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes, provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.184 (C.18A:74-24 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations

shall be issued pursuant to this section without the prior written consent of the State Treasurer.

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

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

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

d. Bonds, notes or other obligations issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.). Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of, redemption premium, if any, or the interest on the bonds, notes or other obligations.

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

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

47. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to read as follows:

C.52:13C-27 Act not applicable to certain activities.

10. This act shall not apply to the following activities:

a. the publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book publisher, regularly published periodical, or radio or television station, including an owner, editor or employee thereof;

b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any state or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment, except as provided in section 10 of P.L.2009, c.308 (C.18A:3B-55);

c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party;

e. acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his testimony;

f. acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Lieutenant Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits;

g. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts of an attorney falling within the attorney-client privilege while engaging in the practice of law to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

h. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts involving collective negotiations, or the interpretation or violation of collective negotiation agreements,

of a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

48. Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is amended to read as follows:

C.18A:64A-22.1 County college capital project aid.

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

49. This act shall take effect on the 180th day after the date of enactment, but the Commission on Higher Education may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 18, 2010.