

## CHAPTER 178

AN ACT concerning Montclair State University and supplementing and amending Title 18A of the New Jersey Statutes.

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

C.18A:64N-1 Short title.

1. This act shall be known and may be cited as the "Montclair State University Act."

C.18A:64N-2 Findings, declarations relative to Montclair State University.

2. The Legislature finds and declares that:

- a. Montclair State University is a State university located in Montclair, Little Falls, Clifton, and Branchville, New Jersey, currently operating pursuant to the authority granted to State colleges by N.J.S.18A:64-1 et seq. and P.L.1994, c.48 (C.18A:3B-1 et seq.).

- b. Building on a distinguished 108-year history, Montclair State University is a leading institution of higher education in New Jersey. The university's 10 colleges and schools serve 21,000 undergraduate and graduate students in more than 300 doctoral, master's, and baccalaureate level programs.

- c. Montclair State University is currently comprised of the College of Humanities and Social Sciences, the College of Science and Mathematics, the College of Education and Human Services, the Feliciano School of Business, the College of the Arts, the John J. Cali School of Music, the School of Communication and Media, the Graduate School, the School of Nursing, and the New Jersey School of Conservation.

- d. Effective February 1, 2016, the national Carnegie Classification of Institutions of Higher Education, which is the widely recognized classification of United States institutions of higher education, recognized Montclair State University as a Research Doctoral University, based on the substantial growth at the institution in doctoral-level education and research activity.

- e. Effective March 31, 2016, the Office of the Secretary of Higher Education officially changed Montclair State University's programmatic mission to a doctoral degree-granting institution.

- f. Pursuant to the Carnegie Classification of Institutions of Higher Education, doctoral universities are ranked at three levels: Research 1, which have the highest research activity; Research 2, which have higher research activity; and Research 3, which have moderate research activity. Among the public universities in New Jersey, Rutgers-New Brunswick is a Research 1 university; NJIT and Rutgers-Newark are Research 2 universities; and Montclair State University and Rowan University are Research 3 universities. Of these institutions, only Montclair State University has not been recognized as a public research university by the State of New Jersey.

- g. Montclair State University has successfully expanded its research activities and doctoral programs and its ability to attract federal funds for research from the National Science Foundation, the National Institutes of Health, the National Aeronautics and Space Administration, the United States Department of Education, and other federal agencies.

- h. Examples of important faculty research initiatives at the university include projects: to develop medical countermeasures for botulinum neurotoxin; to better evaluate drugs that inhibit, and find the causative agents of, Parkinson's Disease; to study the catastrophic collapse of ice shelves in the Antarctic; to solve the challenges of positioning autonomous vehicles in the ocean; to understand how urban students can come to think of themselves as mathematicians; to understand the sociodemographic factors contributing to racial and ethnic

disparities in cancer prevention; to study the psychological effects on victims of natural disasters such as Superstorm Sandy; to evaluate the effectiveness of the portfolio management model being utilized in urban elementary schools; and to understand the unpredictable dynamics of stochastic disease spread.

i. These contributions to knowledge and the offering of advanced higher education programs are reflective of Montclair State University's historic contributions to New Jersey. Established in 1908, Montclair State University was the first of the State colleges to offer graduate programs in 1932.

j. In the past 15 years, Montclair State University has worked strategically and aggressively to grow enrollment, faculty, and facilities, and that growth has enabled the university to expand its educational programs and research initiatives in service to the State and the nation.

k. In light of Montclair State University's actual and successful transformation to a public research doctoral university and in recognition of the university's change in programmatic mission, it is appropriate at this time to designate Montclair State University as a public research university.

C.18A:64N-3 Designation as public research university.

3. As used in this act "Montclair State University," hereinafter referred to as "university," shall, unless the context clearly indicates to the contrary, include and mean the public research university herein designated "Montclair State University" as presently and hereafter constituted, including all departments, colleges, schools, centers, branches, educational and other units and extensions thereof, extension and cooperative education programs, continuing education programs and all other departments of higher education maintained by the educational entity of the university.

C.18A:64N-4 Body corporate and politic.

4. There is hereby established a body corporate and politic to be known as Montclair State University. The exercise by the university of the powers conferred by this act shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

C.18A:64N-5 Public policy.

5. It is declared to be the public policy of the State that the university shall be given a high degree of self-government and that the governance and conduct of the university shall be free of partisanship.

C.18A:64N-6 Board of trustees.

6. The board of trustees of the university is continued and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

C.18A:64N-7 Composition, size of board; terms.

7. a. The composition and size of the board of trustees shall be determined by the board; however, the 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. The 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.

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. A voting member of the board of trustees shall not be a salaried official of the State of New Jersey, or 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.

#### C.18A:64N-8 Election of student representatives.

8. The board of trustees of the university shall provide for the election of two student representatives, who shall be full-time, regularly matriculated students in good academic standing, and who shall be 18 years of age or older and citizens of the United States. The student representatives shall be elected by the members of the student government association to serve on the board of trustees for terms of two years commencing at the next organization of the board.

a. A student shall be elected for a two-year term, but shall serve during the first year as an alternate member, and as a voting member during the second year.

Any vacancies which occur shall be filled by the student governing body for the unexpired term only.

b. The standards for eligibility for student representatives on the board of trustees shall be the same as those required for other student government officers.

c. The student members shall be entitled to full participation in all activities of the board except that they shall not participate in:

(1) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective officer or employee or current officer or employee employed or appointed by the board, unless all the individual employees or appointees whose

rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting;

(2) Any matter involving the purchase, lease, acquisition or sale of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of these matters were disclosed; and

(3) Any pending or anticipated litigation in which the board is, or may become, a party, where it could adversely affect the public interest if discussion of these matters were disclosed, or any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

d. Upon assuming office, the students shall agree to adhere to such standards of responsibility and confidentiality as are established by the board of trustees.

C.18A:64N-9 Powers, duties.

9. The board of trustees of Montclair State University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty to:

a. Adopt and use a corporate seal;

b. Determine the educational curriculum and program of the university;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

n. Establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food services facilities;

o. Fix and determine tuition rates and other fees to be paid by students;

p. Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the programmatic mission of the institution or approved by the Secretary of Higher Education;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds \$33,000 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not

be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board. Commencing July 1, 2017 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in not-for-profit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in not-for-profit corporations may also utilize income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for-profit or not-for-profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or not-for-profit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs shall not be utilized by the for-profit or not-for-profit

corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university as a result of participation in the development, manufacture, or marketing of products, technology, or scientific information may be invested or reinvested pursuant to subsection w. of this section or any other provision of this act or State or federal law or retained by the board for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6);

aa. (1) Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law,"

P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university.

C.18A:64N-10 Public-private partnership agreements.

10. Notwithstanding the provisions of section 43 of P.L.2009, c.90 (C.18A:64-85) to the contrary, the university may enter into a public-private partnership agreement in accordance with the provisions of that section.

C.18A:64N-11 Participating contracting unit in competitive pricing system.

11. a. The university is authorized to be a participating contracting unit in a cooperative pricing system established pursuant to the laws of this State.

b. The university may make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement, including a cooperative purchasing agreement in existence as of the effective date of P.L.2016, c.50 (C.18A:64-63.1 et al.), in accordance with the provisions of paragraph (3) of subsection b. of section 7 of P.L.1996, c.16 (C.52:34-6.2).

c. The State Treasurer may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes of this section.

C.18A:64N-12 Functions, powers duties relative to investment, reinvestment of certain funds, purchase, sale.

12. All functions, powers and duties relating to the investment or reinvestment of funds other than those funds specified in subsection w. of section 9 of P.L.2017, c.178 (C.18A:64N-9) within the jurisdiction of the board of trustees including the purchase, sale, or exchange of any investments or securities may be exercised and performed by the Director of the Division of Investment in the Department of the Treasury in accordance with the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.) if so authorized by the board. Before any such investment, reinvestment, purchase, sale, or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after such submission to it, file with the director its written acceptance or rejection of such proposed investment, reinvestment, purchase, sale, or exchange; and the director shall have authority to make such investment, reinvestment, purchase, sale, or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment.

The finance committee of the board of trustees shall consist of three members of the board who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

C.18A:64N-13 Internet website for board of trustees.



13. The university shall maintain an Internet website for the board of trustees. The purpose of the website shall be to provide increased public access to board operations and activities. The following information shall be posted on the board's website:

- a. the board's rules, regulations, resolutions, and official policy statements;
- b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;
- c. the minutes of each meeting of the board and its committees; and
- d. information on any contract entered into by the board that was not competitively bid and the statutory authority for the contracting process.

The website shall be updated on a regular basis.

C.18A:64N-14 Additional powers, duties.

14. The board of trustees, in addition to the other powers and duties provided herein, shall be vested with the right of perpetual succession and shall have and exercise all the powers, rights, and privileges that are incident to the proper governance, conduct, and management of the university and the control of its properties and funds and such powers granted to the university or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this act.

C.18A:64N-15 Appointment, compensation of president.

15. The board shall appoint and fix the compensation of a president of the university. The president shall be responsible to the board of trustees and shall have such powers as shall be requisite for the executive management and conduct of the university in all departments, branches and divisions, and for the execution and enforcement of bylaws, ordinances, rules, regulations, statutes, and orders governing the management, conduct and administration of the university.

C.18A:64N-16 Immunity from personal liability.

16. No trustee or officer of the university shall be personally liable for any debt, obligation, or other liability of the university or incurred by or on behalf of the university or any constituent unit thereof.

C.18A:64N-17 Advice to Governor, Legislature.

17. The board of trustees shall advise the Governor and Legislature, in consultation with the Secretary of Higher Education and the President's Council and successor bodies, on the manner in which the facilities and services of the university may be utilized so as to increase the efficiency of the public education system and provide, maintain, and improve upon the quality of higher education for the people of the State. The board of trustees shall make recommendations to the Governor and the Legislature respecting the needs for the facilities and services of the university as an educational instrumentality of the State for that purpose.

C.18A:64N-18 University deemed employer for certain purposes.

18. Subject to the provisions of P.L.1969, c.242 (C.18A:66-167 et seq.) and except as otherwise provided by law, the university shall be deemed to be an employer for the purposes of the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.), and shall also be deemed to be a "public agency or organization" within the meaning of section 71 of that act (C.43:15A-71). Further, the university's commissioned police officers shall be eligible for participation in and subject to the provisions of the "Police and Firemen's

Retirement Systems Act," P.L.1944, c.255 (C.43:16A-1 et seq.), and the university shall be deemed an employer within the meaning of that act.

C.18A:64N-19 Construction of act.

19. Nothing herein contained shall be construed to impair, annul or affect any vested rights, grants, privileges, exemptions, immunities, powers, prerogatives, franchises, or advantages heretofore obtained or enjoyed by the university or any constituent unit thereof, under any authority or any act of this State or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are hereby ratified and confirmed except insofar as the same may have expired, be or have been repealed or altered, or may be inconsistent with this act or with existing provisions of law; subject however, thereto and to all of the rights, obligations, relations, conditions, terms, trust, duties, and liabilities to which the same are subject.

C.18A:64N-20 Current officers unaffected; exceptions.

20. The enactment and adoption of this act shall not, of itself, affect the official, operational, or organizational status of any officer of the university or any and all outstanding authorizations of any officer, agent, or employee to take specified action, or any and all outstanding commitments or undertakings of or by the university, except and only to the extent that any of the same may be inconsistent with this act.

C.18A:64N-21 Effect of establishment of body corporate and politic known as Montclair State University.

21. Upon the establishment of the body corporate and politic known as Montclair State University:

a. All appropriations, grants, debt service, research funds, and other monies available to Montclair State University prior to the effective date of this act and to become available shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available to Montclair State University prior to the effective date of this act and to become available to or for Montclair State University shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and federal law or otherwise;

c. All employees of Montclair State University prior to the effective date of this act shall become employees of the university. Nothing in this act shall be construed so as to deprive any person of any right of tenure or under any retirement system or to any pension, disability, social security or similar benefit, to which the person is entitled by law or contractually. All persons employed at Montclair State University shall continue to be represented by the majority representative that represented them on the effective date of this act, shall continue to be represented by the executive branch Statewide collective negotiations units they were in on the effective date of this act, and shall continue to be covered by the collective negotiations agreements that were in effect on the effective date of this act. Pursuant to section 12 of P.L.1986, c.42 (C.18A:64-21.1), the Governor shall continue to function as the public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), for persons employed at Montclair

State University. The executive branch Statewide collective negotiations units referenced in this section are the units specified in subsection b. of section 1 of P.L.2005, c.142 (C.34:13A-5.10). The employees of Montclair State University employed on the effective date of this act shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, promotions and health benefits. Nothing in this act shall be construed to deprive any person employed at Montclair State University of any tenure rights or to in any manner affect the tenure, rank, or academic track of any employees holding a faculty position. Such tenure, rank and academic track shall continue to be through Montclair State University and shall be held or granted pursuant to the authority of the board of trustees of Montclair State University for all current and future employees employed at Montclair State University. Nothing in this act shall be construed to deprive any officers or employees employed at Montclair State University of their rights, privileges, obligations or status under any pension, retirement, health benefits system, civil service law or any other law of this State;

d. All files, papers, records, equipment and other personal property of Montclair State University shall be transferred to the university; and

e. All orders, rules or regulations theretofore made or promulgated by Montclair State University shall continue in full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

C.18A:64N-22 Certain actions unaffected.

22. This act shall not affect actions or proceedings, civil or criminal, brought by or against Montclair State University, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the university as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, Montclair State University, and all such matters or proceedings pending before Montclair State University on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

C.18A:64N-23 Reference to public research university.

23. Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to Montclair State University, the same shall mean and refer to Montclair State University, herein referred to as "university," established as a public research university pursuant to the provisions of this act.

C.18A:64N-24 Powers of Secretary of Higher Education.

24. The general powers of supervision and control of the Secretary of Higher Education at the request of the Governor over Montclair State University include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

C.18A:64N-25 Governance of contract claims and suits.

25. Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against the university shall be governed by that act.

C.18A:64N-26 Warranty by contractor.

26. Every contract or agreement negotiated, awarded or made pursuant to this act shall contain a suitable warranty by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the university shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

C.18A:64N-27 Violation, misdemeanor.

27. Any person willfully authorizing, consenting to, making or procuring to be made payment of university funds for or on account of any purchase, contract or agreement known to him to have been made or entered into in violation of any of the provisions of this act shall be guilty of a misdemeanor.

C.18A:64N-28 Prohibitions relative to purchase, acquisition of property or services.

28. The payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with any purchase, sale or contract, to any person employed by Montclair State University, having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the university, by or on behalf of any seller or supplier who has made, negotiated, solicited or offered to make and contract to sell or furnish real or personal property or services to the university is hereby prohibited. Any person offering, paying, giving, soliciting or receiving any fee, commission, compensation, gift or gratuity in violation of this section shall be guilty of a misdemeanor.

C.18A:64N-29 Terms of present board members.

29. The provisions of this act shall not alter the term of any member of the board, not specifically abolished herein, lawfully in office as of the effective date of this act, or require the reappointment thereof.

C.18A:64N-30 Construction.

30. No provision of this act shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the State of New Jersey.

C.18A:64N-31 Liberal construction.

31. This act, being deemed and declared necessary for the welfare of the State and the people of New Jersey to provide for the development of public higher education in the State and thereby to improve the quality and increase the efficiency of the public system of educational services of the State, shall be liberally construed to effectuate the purposes and intent thereof.

C.18A:64N-32 Allocation to Department of State.

32. In accordance with the provisions of section 27 of P.L.1994, c.48 (C.18A:3B-27), the university is allocated to the Department of State for the purposes of complying with the provisions of Article V, Section IV, Paragraph 1 of the New Jersey Constitution.

Notwithstanding this allocation, the university shall be independent of any supervision or control of the Department of State or any board, commission, or officer thereof and the allocation shall not in any way affect the principles of institutional autonomy established by that act and as otherwise enumerated herein.

C.18A:64N-33 Rights, obligations of employers, employees unaffected.

33. Nothing in P.L.2017, c.178 (C.18A:64N-1 et al.) shall be construed to modify or contravene the rights and obligations of employers or employees under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.).

34. N.J.S.11A:6-6 is amended to read as follows:

State administrative leave.

11A:6-6. State administrative leave. Administrative leave for personal reasons including religious observances for full-time State employees or those employees of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, and Montclair State University who perform services similar to those performed by employees of the New Jersey State colleges who are in the career service shall be three working days per calendar year. Administrative leave shall not be cumulative and any administrative leave unused by an employee at the end of any year shall be cancelled.

35. N.J.S.11A:6-17 is amended to read as follows:

Supplemental compensation.

11A:6-17. Supplemental compensation; employees of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, and Montclair State University. The supplemental compensation provided under this chapter shall also be paid to each employee of Rutgers, The State University, New Jersey Institute of Technology, Rowan University, and Montclair State University who performs services similar to those performed by employees of the New Jersey State colleges who are in the career service or who have been granted sick leave under terms and conditions similar to career service employees, including those employees of Rutgers, The State University who are members of the Newark Employees' Retirement System.

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

C.18A:3B-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3;

"Commission" means the New Jersey Commission on Higher Education established by this act;

"Council" means the New Jersey Presidents' Council established by this act;

"Council of County Colleges" means the New Jersey Council of County Colleges established pursuant to N.J.S.18A:64A-26;

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes;

"Educational research and services corporation" means a nonprofit corporation whose voting members are public research universities, State colleges, county colleges, public institutions of higher education primarily located in the State of New Jersey, and nonprofit independent institutions of higher education that receive direct State aid;

"Programmatic Mission" means all program offerings consistent within those levels of academic degrees or certificates that the institution has been authorized to grant by the State Board of Higher Education prior to the effective date of this act or approved thereafter by the commission;

"Public Research University" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University;

"State college" means any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes including any State college designated as a teaching university.

37. Section 6 of P.L.1994, c.48 (C.18A:3B-6) is amended to read as follows:

C.18A:3B-6 Powers, duties of governing boards of institutions of higher education.

6. The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:

a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;

b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;

c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;

d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;

e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;

f. To have final authority to determine controversies and disputes concerning tenure, personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;

g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the

Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;

h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);

i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;

j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;

k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;

l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapter 64, 64A, 64G, 64E, or 64M of Title 18A of the New Jersey Statutes, or P.L.2017, c.178 (C.18A:64N-1 et al.). If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.

38. Section 12 of P.L.1994, c.48 (C.18A:3B-12) is amended to read as follows:

C.18A:3B-12 Executive board.

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 16 members as follows:

The president of Rutgers, The State University;

The president of New Jersey Institute of Technology;

The president of Rowan University;

The president of Montclair State University;

Three presidents of State Colleges who shall be selected by the presidents of this sector;

Five presidents of county colleges who shall be selected by the presidents of this sector;

Three presidents of independent institutions who shall be selected by the presidents of this sector;

One president of the proprietary schools which have been authorized to offer licensed degree programs who shall be selected by the presidents of these proprietary schools.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of Rowan

University, the president of New Jersey Institute of Technology, and the president of Montclair State University; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

39. Section 1 of P.L.2009, c.308 (C.18A:3B-46) is amended to read as follows:

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, Rowan University, the New Jersey Institute of Technology, and Montclair State University;

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

40. Section 1 of P.L.1985, c.161 (C.18A:64-45) is amended to read as follows:

C.18A:64-45 New Jersey Association of State Colleges and Universities.

1. There is established a body corporate and politic, with corporate succession, to be known as the New Jersey Association of State Colleges and Universities. New Jersey City University, Kean University, Ramapo College of New Jersey, Richard Stockton College of New Jersey, Thomas Edison State College, The College of New Jersey and The William Paterson University of New Jersey shall constitute the membership of the association.

41. Section 2 of P.L.1985, c.161 (C.18A:64-46) is amended to read as follows:

C.18A:64-46 Membership of association.

2. The association shall consist of seven voting members to be appointed as follows: one member from each member institution's boards of trustees, appointed by the members thereof. In addition the presidents of the member institutions shall serve as ex officio, nonvoting members.

Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

42. Section 1 of P.L.1981, c.148 (C.18A:64I-1) is amended to read as follows:

C.18A:64I-1 Certain land used in perpetuity.

1. The 240 acre tract of land known as the New Jersey School of Conservation, located in Stokes State Forest, Sussex county, New Jersey, together with all the buildings thereon, and under the management and control of the Division of Parks, Forestry and Recreation in the Department of Environmental Protection, shall be used in perpetuity as a school for environmental field study under the direction of the Board of Trustees of Montclair State University.



43. Section 2 of P.L.1981, c.148 (C.18A:64I-2) is amended to read as follows:

C.18A:64I-2 Expenditure of funds from appropriations.

2. The Board of Trustees of Montclair State University shall expend such sum or sums of money as may be included in any annual appropriations act for the expenses necessary for the educational program of the New Jersey School of Conservation, including the maintenance of the buildings and grounds necessary for that program.

44. Section 2 of P.L.1985, c.103 (C.18A:64J-2) is amended to read as follows:

C.18A:64J-2 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Consortium" means a cooperative arrangement between two or more institutions of higher education to pursue a program for strengthening academic programs, improving administration or providing for other special needs.

e. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. "Private institutions of higher education" means independent colleges, universities or institutes incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

g. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law.

h. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private

institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

45. Section 2 of P.L.1985, c.104 (C.18A:64J-9) is amended to read as follows:

C.18A:64J-9 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private universities to existing industry, but also adapt these innovations to the requirements of individual business operations.

46. Section 2 of P.L.1985, c.105 (C.18A:64J-16) is amended to read as follows:

C.18A:64J-16 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are

provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

47. Section 2 of P.L.1985, c.106 (C.18A:64J-23) is amended to read as follows:

C.18A:64J-23 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facility" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

48. Section 2 of P.L.1985, c.366 (C.18A:64J-30) is amended to read as follows:

C.18A:64J-30 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education which are provided substantial and concentrated financial support to promote their development into national level bases for innovative technology research;

b. "Business incubation facilities" means low cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education which are of strategic importance to the New Jersey economy under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by

the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

49. Section 2 of P.L.1985, c.397 (C.18A:64J-39) is amended to read as follows:

C.18A:64J-39 Definitions.

2. For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research;

b. "Business incubation facilities" means low-cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L.1985, c.102 (C.52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

50. Section 4 of P.L.2009, c.4 (C.18A:65A-1) is amended to read as follows:

C.18A:65A-1 Implementation of energy savings improvement program by public institution of higher education; definitions.

4. a. (1) The board of trustees of a public institution of higher education may implement an energy savings improvement program in the manner provided by this section whenever it determines that the savings generated from reduced energy use from the program will be sufficient to cover the cost of the program's energy conservation measures as set forth in an energy savings plan. Under such a program, a board of trustees may enter into an energy savings services contract with an energy services company to implement the program or the board may authorize separate contracts to implement the program. The provisions of: N.J.S.18A:64-1 et seq., in the case of any State college; P.L.1995, c.400 (C.18A:64E-12 et seq.), in the case of the New Jersey Institute of Technology; N.J.S.18A:65-1 et seq., in the case of Rutgers, the State University; P.L.2012, c.45 (C.18A:64M-1 et al.), in the case of Rowan University; P.L.2017, c.178 (C.18A:64N-1 et al.), in the case of Montclair State University; and N.J.S.18A:64A-1 et seq., in the case of the county colleges; shall apply to any contracts awarded pursuant to this section to the extent that the provisions of such law are not inconsistent with any provision of this section.

In the case of Rutgers, the State University, references in this section to the board of trustees shall mean the Rutgers board of governors.

(2) An educational facility alteration required to properly implement other energy efficiency or energy conservation measures, or both, may be included as part of an energy savings services contract, in which case, notwithstanding any other provision of law, rule, regulation, or order to the contrary, the facility alteration may be undertaken or supervised by the energy services company performing the energy savings services contract if:

(a) the total cost of the improvement does not exceed 15 percent of the total cost of the work to be performed under the energy savings services contract; and

(b) (i) the improvement is necessary to conform to a law, rule, or regulation, or order, or (ii) an analysis within an approved proposal, or the board of trustees, at the time of the award of the proposal, demonstrates that there is an economic advantage to the board of trustees implementing the improvement as part of the energy savings services contract, and the savings rationale for the improvement is documented and supported by reasonable justification.

b. (1) To be eligible to enter into an energy savings services contract, an energy services company shall be a commercial entity that is qualified to provide energy savings services in accordance with the provisions of this section. A public institution of higher education may enter into an energy savings services contract through public advertising for bids and the receipt of bids therefor.

(2) (a) Public works activities performed under an energy savings improvement program shall be subject to all requirements regarding public bidding, bid security, performance guarantees, insurance and other public contracting requirements that are applicable to public works contracts, to the extent not inconsistent with this section. A general contractor, energy services company serving as general contractor, or any subcontractor hired for the furnishing

of plumbing and gas fitting and all kindred work, and of steam and hot water heating and ventilating apparatus, steam power plants and kindred work, and electrical work, structural steel and ornamental iron work, shall be classified by the Division of Property Management and Construction in the Department of the Treasury in order to perform public works activities under an energy savings improvement program.

(b) Individuals or organizations performing energy audits, acting as commissioning agents, or conducting verification of energy savings plans, implementation of energy conservation measures, or verifying guarantees shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury to perform their work under an energy savings improvement program.

(c) Where there is a need for compatibility of a direct digital control system with previously installed control systems and equipment, the bid specifications may include a requirement for proprietary goods, and if so included, the bid specification shall set forth an allowance price for its supply which shall be used by all bidders in the public bidding process.

(3) (a) An energy services company may be designated as the general contractor for improvements to be made pursuant to an energy savings plan, provided that the hiring of subcontractors that are required to be classified pursuant to subparagraph (a) of paragraph (2) of this subsection shall be performed in accordance with the procedures and requirements set forth pursuant to the public bidding requirements of the board of trustees. A contract with an energy savings company shall include, but not be limited to: preparation of an energy savings plan; the responsibilities of the parties for project schedules, installations, performance and quality, payment of subcontractors, project completion, commissioning, savings implementation; a requirement that the savings to be achieved by energy conservation measures be verified upon commissioning of the improvements; allocation of State and federal rebates and tax credits; and any other provisions deemed necessary by the parties.

(b) All workers performing public works activities for subcontractors awarded contracts by an energy services company pursuant to this section shall be paid prevailing wages in accordance with the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with the provisions of "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately classified as contractors by the Division of Property Management and Construction shall be eligible to be awarded a contract as a subcontractor of an energy services company under this section for performing public works activities pursuant to regulations adopted by the Division of Property Management and Construction.

(c) In order to expedite communications with an energy services company and facilitate the implementation of an energy savings improvement program, a board of trustees may designate or appoint an employee of the public institution of higher education with decision-making authority to coordinate with the energy services company and to address issues associated with the implementation of an energy savings improvement program as they arise, provided that any decision requiring a change order shall be made only upon the approval of the board of trustees of the public institution of higher education.

(4) A subsidiary or wholly-owned or partially-owned affiliate of the energy services company shall not be an eligible contractor or subcontractor under an energy savings services contract.

c. An energy savings improvement program may be financed through a lease-purchase agreement or through the issuance of energy savings obligations pursuant to this subsection.

(1) An energy savings improvement program may be financed through a lease-purchase agreement between a board of trustees and an energy services company or other public or private entity. Under a lease-purchase agreement, ownership of the energy savings equipment or improved facilities shall pass to the board of trustees when all lease payments have been made. Notwithstanding the provisions of any other law to the contrary, the duration of such a lease-purchase agreement shall not exceed 15 years, except that the duration of a lease purchase agreement for a combined heat and power or cogeneration project shall not exceed 20 years. For the purposes of this paragraph, the duration of the repayment term of a lease-purchase agreement shall commence on the date upon which construction and installation of the energy savings equipment, "combined heat and power facility" or "cogeneration facility," as those terms are defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other energy conservation measures undertaken pursuant to the energy savings plan, have been completed.

(2) Any lease-purchase or other agreement entered into in connection with an energy savings improvement program may be a general obligation of the public institution of higher education pursuant to this subsection, and may contain: a clause making it subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation; and a non-substitution clause maintaining that if the agreement is terminated for non-appropriation, the board of trustees may not replace the leased equipment or facilities with equipment or facilities that perform the same or similar functions.

(3) A board of trustees may arrange for incurring energy savings obligations to finance an energy savings improvement program and may enter into any agreement with the New Jersey Educational Facilities Authority or other persons in connection with the issuance by the authority of its obligations on behalf of the public institution of higher education in order to finance the institution's energy savings improvement program. Energy savings obligations may be funded through appropriations for utility services in the annual budget of the board, or incurred as a general obligation of the public institution of higher education in connection with the issuance by the New Jersey Educational Facilities Authority of bonds or notes pursuant to N.J.S.18A:72A-2 et seq., or, in the case of a county college, by a sponsoring county as a refunding bond pursuant to N.J.S.40A:2-52 et seq., including the issuance of bond anticipation notes as may be necessary, provided that all such bonds and notes mature within the periods authorized for such energy savings obligations.

(4) Lease-purchase agreements and energy savings obligations shall not be used to finance maintenance, guarantees, or verification of guarantees of energy conservation measures. Lease-purchase agreements and energy savings obligations may be used to finance the cost of an energy audit or the cost of verification of energy savings as part of adopting an energy savings plan. Maturity schedules of lease-purchase agreements or energy savings obligations shall not exceed the estimated average useful life of the energy conservation measures.

d. (1) The energy audit component of an energy savings improvement program shall be conducted either by the board of trustees or by a qualified third party retained by the board for that purpose. It shall not be conducted by an energy services company subsequently hired to develop an energy savings improvement program. The energy audit shall identify the current energy use of any or all facilities and energy conservation measures that can be implemented in which the energy savings and energy efficiency could be realized and maximized.



(2) To implement an energy savings improvement program, a board of trustees shall develop an energy savings plan that consists of one or more energy conservation measures. The plan shall:

- (a) contain the results of an energy audit;
- (b) describe the energy conservation measures that will comprise the program;
- (c) estimate greenhouse gas reductions resulting from those energy savings;
- (d) identify all design and compliance issues that require the professional services of an architect or engineer and identify who will provide these services;
- (e) include an assessment of risks involved in the successful implementation of the plan;
- (f) identify the eligibility for, and costs and revenues associated with the PJM Independent System Operator for demand response and curtailable service activities;
- (g) include schedules showing calculations of all costs of implementing the proposed energy conservation measures and the projected energy savings;
- (h) identify maintenance requirements necessary to ensure continued energy savings, and describe how they will be fulfilled; and
- (i) if developed by an energy services company, a description of, and cost estimates of an energy savings guarantee.

All professionals providing engineering services under the plan shall have errors and omissions insurance.

(3) Prior to the adoption of the plan, the board of trustees shall contract with a qualified third party to verify the projected energy savings to be realized from the proposed program have been calculated as required by subsection e. of this section.

(4) Upon adoption, the plan shall be submitted to the Board of Public Utilities, which shall post it on the Internet on a public webpage maintained for such purpose. If the board of trustees maintains its own website, it shall also post the plan on that site. The Board of Public Utilities may require periodic reporting concerning the implementation of the plan.

(5) Verification by a qualified third party shall be required when energy conservation measures are placed in service or commissioned, to ensure the savings projected in the energy savings plan shall be achieved.

(6) Energy-related capital improvements that do not reduce energy usage may be included in an energy savings improvement program but the cost of such improvements shall not be financed as a lease-purchase or through energy savings obligations authorized by subsection c. of this section. Nothing herein is intended to prevent the financing of such capital improvements through otherwise authorized means.

(7) A qualified third party when required by this subsection may include an employee of the public institution of higher education who is properly trained and qualified to perform such work.

e. (1) (a) The calculation of energy savings for the purposes of determining that the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures, as provided in subsection a. of this section, shall involve determination of the dollar amount saved through implementation of an energy savings improvement program using the guidelines of the International Performance Measurement and Verification Protocol or other protocols approved by the Board of Public Utilities and standards adopted by the Board of Public Utilities pursuant to this section. The calculation shall include all applicable State and federal rebates and tax credits, but shall not include the cost of an energy audit and the cost of verifying energy savings. The calculation shall state which party has made application for rebates and credits and how these applications translate into energy savings.

(b) During the procurement phase of an energy savings improvement program, an energy services company's proposal submitted in response to a request for proposal shall not include a savings calculation that assumes, includes, or references capital cost avoidance savings, the current or projected value of a "solar renewable energy certificate," as defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), or other environmental or similar attributes or benefits of whatever nature that derive from the generation of renewable energy, and any costs or discounts associated with maintenance services, an energy savings guarantee, or third party verification of energy conservation measures and energy savings. The calculation of energy savings shall utilize and specifically reference as a benchmark the actual demand and energy components of the public utility tariff rate applicable to the board of trustees then in effect, and not a blended rate that aggregates, combines, or restates in any manner the distinct demand and energy components of the public utility tariff rate into a single combined or restated tariff rate. If an energy services company submits a proposal to a board of trustees that does not calculate projected energy savings in the manner required by this subsection, such proposal shall be rejected by the board of trustees.

(2) For the purposes of this section, the Board of Public Utilities shall adopt standards and uniform values for interest rates and escalation of labor, electricity, oil, and gas, as well as standards for presenting these costs in a life cycle and net present value format, standards for the presentation of obligations for carbon reductions, and other standards that the board may determine necessary.

f. (1) When an energy services company is awarded an energy savings services contract, it shall offer the board of trustees the option to purchase, for an additional amount, an energy savings guarantee. The guarantee, if accepted by a separate vote of the board of trustees, shall insure that the energy savings resulting from the energy savings improvement program, determined periodically over the duration of the guarantee, will be sufficient to defray all payments required to be made pursuant to the lease-purchase agreement or energy savings obligation, and if the savings are not sufficient, the energy services company will reimburse the board of trustees for any additional amounts. Annual costs of a guarantee shall not be financed or included as costs in an energy savings plan but shall be fully disclosed in an energy savings plan.

(2) When a guaranteed energy savings option is purchased, the contract shall require a qualified third party to verify the energy savings at intervals established by the parties.

(3) When an energy services company is awarded an energy savings services contract to provide or perform goods or services for the purpose of enabling a board of trustees to conserve energy through energy efficiency equipment, including a "combined heat and power facility" as that term is defined pursuant to section 3 of P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract shall extend for a term of up to 15 years for energy efficiency projects, and for up to 20 years for a combined heat and power facility after construction completion. If a board of trustees shall elect to contract with an energy services company for an energy savings guarantee in connection with a contract awarded pursuant to this section, such guarantee may extend for a term of up to 15 years for energy efficiency projects, or up to 20 years for a combined heat and power facility after construction completion.

g. As used in this section:

"direct digital control systems" means the devices and computerized control equipment that contain software and computer interfaces that perform the logic that control a building's heating, ventilating, and air conditioning system. Direct digital controls shall be open protocol format and shall meet the interoperability guidelines established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers;

"educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administrative building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking, maintenance, storage or utility facility or energy conservation measures and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

"energy conservation measure" means an improvement that results in reduced energy use, including, but not limited to, installation of energy efficient equipment; demand response equipment; combined heat and power systems; facilities for the production of renewable energy; water conservation measures, fixtures or facilities; building envelope improvements that are part of an energy savings improvement program; and related control systems for each of the foregoing;

"energy related capital improvement" means a capital improvement that uses energy but does not result in a reduction of energy use;

"energy saving obligation" means a bond, note or other agreement evidencing the obligation to repay borrowed funds incurred in order to finance energy saving improvements;

"energy savings" means a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of one or more energy conservation measures services when compared with an established baseline of previous fuel, energy, operating or maintenance costs, including, but not limited to, future capital replacement expenditures avoided as a result of equipment installed or services performed as part of an energy savings plan;

"energy savings improvement program" means an initiative of a public institution of higher education to implement energy conservation measures in existing facilities, provided that the value of the energy savings resulting from the program will be sufficient to cover the cost of the program's energy conservation measures;

"energy savings plan" means the document that describes the actions to be taken to implement the energy savings improvement program;

"energy savings services contract" means a contract with an energy savings company to develop an energy savings plan, prepare bid specifications, manage the performance, provision, construction, and installation of energy conservation measures by subcontractors, to offer a guarantee of energy savings derived from the implementation of an energy savings plan, and may include a provision to manage the bidding process;

"energy services company" means a commercial entity that is qualified to develop and implement an energy savings plan in accordance with the provisions of this section;

"public works activities" means any work subject to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

"water conservation measure" means an alteration to a facility or equipment that reduces water consumption, maximizes the efficiency of water use, or reduces water loss.

h. (1) The State Treasurer and the Board of Public Utilities may take such action as is deemed necessary and consistent with the intent of this section to implement its provisions.

(2) The State Treasurer and the Board of Public Utilities may adopt implementation guidelines or directives, and adopt such administrative rules, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the implementation of those agencies' respective responsibilities under this section, except that

notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer and the Board of Public Utilities may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as deemed necessary to implement the provisions of this act which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

51. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to read as follows:

C.18A:66-169 Definitions.

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. (Deleted by amendment, P.L.1994, c.48).

e. (Deleted by amendment, P.L.2012, c.45)

f. "County colleges" means the colleges so defined in N.J.S.18A:64A-1.

g. "Division of Pensions" means the division established in the Department of the Treasury pursuant to section 1 of P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the State and county colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program, and after the effective date of P.L.2008, c.89, means an adjunct faculty member or a part-time instructor whose employment agreement begins after that effective date.

k. "New Jersey Institute of Technology" means the Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes and any former State college designated as a public research university pursuant to P.L.2012, c.45 (C.18A:64M-1 et al.) and P.L.2017, c.178 (C.18A:64N-1 et al.).

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C.s. 80a-1 et seq.

52. Section 4 of P.L.1969, c.242 (C.18A:66-170) is amended to read as follows:

C.18A:66-170 Alternate benefit program.

4. All full-time officers and all full-time members of the faculty of Rutgers, The State University, the Newark College of Engineering, Rowan University, Montclair State University, the State and county colleges and all regularly appointed teaching and administrative staff members in applicable positions, as determined by the Director of the Division of Pensions in the Department of the Treasury, shall be eligible and shall participate in the alternate benefit program, except those persons appointed in a part-time or temporary capacity, physicians and dentists holding employment in positions titled intern, resident or fellow on or after the effective date of this amendatory act, persons compensated on a fee basis, persons temporarily in the United States under an F or J visa and members of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan, who did not elect to transfer to the alternate benefit program in accordance with the provisions of chapter 64C or 65 of Title 18A of the New Jersey Statutes, P.L.1967, c.278 (C.18A:66-130 et seq.), or P.L.1967, c.281 (C.18A:66-142 et seq.), or P.L.1968, c.181 (C.18A:66-154 et seq.). An eligible person who has been enrolled in the alternate benefit program for at least one year pursuant to this section may continue to be enrolled in the program, notwithstanding promotion or transfer to a position within the institution not otherwise eligible for the program.

Any person participating in the alternate benefit program shall be ineligible for membership in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan and any person electing to participate in the alternate benefit program shall thereby waive all rights and benefits provided by the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan as a member of said fund, system or plan, except as herein and otherwise provided by law or under terms of the Group Annuity Plan.

Any person required to participate in the alternate benefit program by reason of employment, who at the time of such employment is a member of the Teachers' Pension and Annuity Fund, shall be permitted to transfer his membership in said fund to the Public Employees' Retirement System, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Any such new employee who is a member of the

Public Employees' Retirement System will be permitted to continue his membership in that system, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions within 30 days of the beginning date of employment.

Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.

No person eligible for participation in the alternate benefit program shall be eligible for, or receive, benefits under chapters 4 and 8B of Title 43 of the Revised Statutes.

The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P.L.1968, c.23 (C.43:3C-1 et seq.).

53. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to read as follows:

C.18A:66-173 Transfer to alternate benefit program.

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of Rutgers, The State University, the

New Jersey Institute of Technology, Rowan University, Montclair State University, or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under N.J.S.18A:66-36 or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than two consecutive years elapse in which no employer contributions to an alternate benefit program are required.

54. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to read as follows:

C.18A:66-174 Reduction of payments from compensation of participants; employer contributions.

8. (a) Rutgers, The State University and the New Jersey Institute of Technology shall reduce the compensation of each participant in the alternate benefit program and pay over to the insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions and Benefits shall provide for reductions from the compensation of each participant in the alternate benefit program employed by the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the insurers or mutual fund companies for the individual's retirement annuity

contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions and Benefits.

The Division of Pensions and Benefits may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

(b) Based on a certification to the Division of Pensions and Benefits by Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, and Montclair State University of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions and Benefits of the number and base salary of participants employed by the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107), which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Division of Pensions and Benefits as a full-time faculty member and who is permitted to transfer his membership and does so, the State shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary, except the amount of the contribution shall not exceed 8% of the maximum salary for department officers established pursuant to section 1 of P.L.1974, c.55 (C.52:14-15.107). If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Director of the Division of Pensions and Benefits, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

55. Section 24 of P.L.1969, c.242 (C.18A:66-190) is amended to read as follows:

C.18A:66-190 Authority to enter into agreements for annuity purchases; method of payment; limitations.

24. The Board of Governors of Rutgers, The State University, the Board of Trustees of the New Jersey Institute of Technology, the Board of Trustees of Rowan University, the Board of Trustees of Montclair State University, and the boards of trustees of State and county colleges, are hereby authorized to enter into an agreement with each employee participating in the alternate benefit program whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the agreement of the respective institution to use a corresponding amount to purchase an annuity for such employee so as to obtain the benefits afforded under section



403(b) of the federal Internal Revenue Code, as amended. Any such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to amounts earned while the agreement is in effect; provided, however, that such agreement may be terminated after it has been in effect for a period of not less than one year upon notice in writing by either party, and provided further that not more than one such agreement shall be entered into during any taxable year of the employee. For the purposes of this section, any annuity or other contract which meets the requirements of section 403(b) of the federal Internal Revenue Code, as amended, may be utilized. The amount of the reduction in salary under any agreement entered into between the institutions and any employee pursuant to this section shall not exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and Section 415(c) of the Internal Revenue Code of 1954 as amended for such year.

Amounts payable pursuant to this section by an institution on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

56. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to read as follows:

C.18A:66-191 Prohibited payments; authorized payments.

25. No retirement, death or other benefit shall be payable by the State, Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, or the Division of Pensions under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated insurers or mutual fund companies under the terms of the contracts.

57. Section 3 of P.L.1969, c.142 (C.18A:71-30) is amended to read as follows:

C.18A:71-30 Definitions.

3. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) The term "board" shall mean the Board of Directors of the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(b) (Deleted by amendment, P.L.1994, c.48).

(c) The term "department" shall mean the Department of State.

(d) The term "fund" shall mean the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(e) The term "higher education" shall mean that education which is provided by any or all of the public institutions of higher education as herein defined or any or all equivalent private institutions.

(f) The term "public institutions of higher education" shall mean and include Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, the seven State colleges, the county colleges, and any other public universities, colleges or county colleges now or hereafter established or authorized by law.

58. N.J.S.18A:71A-4 is amended to read as follows:

Board of the authority.

18A:71A-4. a. The Board of the Higher Education Student Assistance Authority shall consist of 18 members as follows: the State Treasurer, ex-officio, or a designee; the Secretary of Higher Education, ex-officio, or a designee from among the public members of the commission; the chairperson of the Board of Directors of the Educational Opportunity Fund, ex-officio, or a designee from among the public members of the board; five representatives from eligible institutions in this State, including one from Rutgers, the State University, one from either the New Jersey Institute of Technology, Rowan University, or Montclair State University, one from the county colleges, one from the State colleges, and one from the independent institutions of higher education in the State; two students from different collegiate institutional sectors; seven public members who shall be residents of this State, including one who shall represent a lender party to a participation agreement with the authority; and the executive director of the authority, or designee, who shall be an ex-officio, non-voting member of the board.

b. The seven public members, including the lender member, shall be appointed by the Governor with the advice and consent of the Senate. No more than four of the public members shall be members of the same political party. The institutional representatives shall be nominated by the respective institution in the case of Rutgers, the State University, New Jersey Institute of Technology, Rowan University, and Montclair State University. The remaining institutional representatives shall be nominated by the respective sector association. Institutional representatives shall be appointed by the Governor with the advice and consent of the Senate. The student members shall be the individuals that the Student Advisory Committee elects as its chairperson and vice-chairperson. The Student Advisory Committee shall be created by the board to include students from all collegiate institutional sectors. The necessary appointments shall be made within 45 days of the enactment of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.).

c. Public and institutional members of the board shall serve a term of four years and until a successor is appointed and qualified, except in the case of the first members so appointed, four of whom shall be appointed for a term of four years, four of whom shall be appointed for a term of three years, two of whom shall be appointed for a term of two years, and two of whom shall be appointed for a term of one year. Student members shall serve a term of office not to exceed two years. Any vacancy in the membership of the board, occurring otherwise than by expiration of term, shall be filled in the same manner as the original appointment or election was made, but for the unexpired term only.

59. Section 3 of P.L.2000, c.163 (C.18A:71B-55) is amended to read as follows:

C.18A:71B-55 Definitions regarding scholarship.

3. As used in this act, the following terms shall have the following meanings:

"Board" means the Board of Trustees of the Tony Pompelio Commemorative Scholarship Fund for the children of crime victims created pursuant to this act.

"Chairman" means the Chairman of the Violent Crimes Compensation Board.

"Executive director" means the chief executive and administrative officer of the authority.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-1 et seq., the "Higher Education Student Assistance Authority Law," or any body, entity, commission, or department succeeding to the principal functions thereof or to whom the powers conferred upon the authority by N.J.S.18A:71A-1 et seq. shall be given by law.

"Public Institutions of Higher Education" means the State colleges and universities created pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the county colleges; the New Jersey Institute of Technology; Rutgers, the State University; Rowan University; Montclair State University; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

60. N.J.S.18A:72A-3 is amended to read as follows:

Definitions.

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

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

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

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

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

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

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

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

"Participating college" means a public institution of higher education or private college which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof, or a county college capital project;

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

"Private institution of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public

institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid;

"Public institution of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, Rowan University, Montclair State University, the county colleges and any other public university or college now or hereafter established or authorized by law;

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

"University" means Rutgers, The State University.

61. N.J.S.18A:72A-26 is amended to read as follows:

Powers and duties of treasurer; institutions under State jurisdiction.

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the treasurer as to such as are located on land owned by the State or by the authority, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, Rowan University, or Montclair State University, the board of trustees of a State college or the board of trustees of a county college as to such as are located on land owned by the university or by the particular college respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the State or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing dormitories conveyed or leased to the authority under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

62. N.J.S.18A:72A-27.1 is amended to read as follows:

Powers and duties, revenue producing facilities.

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the treasurer, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology, the board of trustees of a State college, the board of trustees of Rowan University, the board of trustees of Montclair State University, and the board of trustees of a county college shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of section 18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 18A:72A-26 including, without limitation, student unions and parking facilities.

63. Section 48 of P.L.2009, c.90 (C.18A:72A-82) is amended to read as follows:

C.18A:72A-82 Definitions relative to higher education partnership agreements.

48. As used in sections 48 and 49 of P.L.2009, c.90 (C.18A:72A-82 and C.18A:72A-83):

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

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

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

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

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

"Municipality" means the municipal governing body or an entity acting on behalf of the municipality if permitted by the federal Internal Revenue Code of 1986, or, if a redevelopment agency or redevelopment entity is established in the municipality pursuant to

P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so provides, the redevelopment agency or entity so established.

64. Section 3 of P.L.1985, c.493 (C.18A:72H-3) is amended to read as follows:

C.18A:72H-3 Definitions.

3. As used in this act:

a. "Auditory impairment" means an inability to hear within normal limits due to a physical impairment or dysfunction of auditory mechanisms characterized by: (i) deafness, (ii) hearing impairment, (iii) hardness of hearing, or (iv) deaf-blindness. "Deaf" means an auditory impairment is so severe that the individual does not process linguistic information through hearing, with or without amplification, and the student's educational performance is adversely affected. "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, which adversely affects the individual's educational performance. "Deaf-blind" means concomitant hearing and visual disabilities, the combination of which causes such severe communication and other developmental and educational needs that the child cannot be accommodated in special education programs solely for children with deafness or children with blindness.

b. "Competent authority" means any doctor of medicine or any doctor of osteopathy licensed to practice medicine and surgery in this State.

c. (Deleted by amendment, P.L.1994, c.48).

d. "Eligible student" means any student admitted to a public or independent institution of higher education who has a visual impairment, auditory impairment or specific learning disability within guidelines established by the Commission on Higher Education pursuant to regulations promulgated under P.L.1985, c.493 (C.18A:72H-1 et seq.).

e. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Learning disability" means a significant barrier to learning caused by a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself as a disability that affects the ability to listen, think, speak, read, write, spell, or do mathematical calculations. The disorder includes conditions such as perceptual disability, brain injury, attention deficit hyperactivity disorder, dyslexia, and developmental aphasia. This term shall not include learning problems which are primarily the result of visual, hearing, or motor disabilities, intellectual disabilities, emotional disturbances, or environmental, cultural, or economic disadvantage.

g. "Program" means the Higher Education Services Program for Students with Visual Impairments, Auditory Impairments, and Learning Disabilities established pursuant to this act.

h. "Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, Rowan University, Montclair State University, the State colleges and the county colleges.

i. "Support services" or "supportive services" means services that assist eligible students in obtaining a college education and include, but are not limited to, interpreters, note takers, and tutors.

j. "Visual impairment" means when an individual's better eye with correction does not exceed 20/200 or where there is a field defect in the better eye in which the diameter of the field is no greater than 20 degrees.

65. Section 2 of P.L.2005, c.379 (C.34:11-56.59) is amended to read as follows:

C.34:11-56.59 Definitions relative to prevailing wage levels for employees furnishing State building services.

2. As used in this act:

"Commissioner" means the Commissioner of Labor and Workforce Development or the commissioner's duly authorized representatives.

"Building services" means any cleaning or building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, engineering, securing, patrolling, or other work in connection with the care, securing, or maintenance of an existing building, except that "building services" shall not include any maintenance work or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Leased by the State" means that not less than 55% of the property or premises is leased by the State, provided that the portion of the property or premises that is leased by the State measures more than 20,000 square feet.

"Prevailing wage for building services" means the wage and benefit rates designated by the commissioner based on the determinations made by the General Services Administration pursuant to the federal "Service Contract Act of 1965" (41 U.S.C. s.351 et seq.), for the appropriate localities and classifications of building service employees.

"The State" means the State of New Jersey and all of its departments, bureaus, boards, commissions, agencies and instrumentalities, including any State institutions of higher education, but does not include political subdivisions.

"State institutions of higher education," means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University, and any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, but does not include any county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

66. Section 12 of P.L.1978, c.39 (C.52:18A-174) is amended to read as follows:

C.52:18A-174 Deferred compensation plan expanded.

12. Subject to the independent approval of the State Treasurer, the board may authorize the transfer of funds necessary to permit individuals employed at the New Jersey Institute of Technology, Rutgers, The State University, Rowan University, Montclair State University, and any other agency, authority, commission, or instrumentality of State government which has an independent corporate existence, to participate in the plan.

67. Section 1 of P.L.1959, c.40 (C.52:27B-56.1) is amended to read as follows:

C.52:27B-56.1 Joint purchases.

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, Rowan University, Montclair State University, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the South Jersey Transportation Authority, the Hackensack Meadowlands Development Commission, the New Jersey Water Supply Authority, the Higher Education Student Assistance Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

68. This act shall take effect immediately.

Approved July 21, 2017.