

18A:72-2,3

August 28, 1969

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Legislative Notes on R.S. 18A:72-2,3
(Higher Education Assistance Auth. - Loans Permitted)

S. 1969, Chapter 135 - A598
Introduced March 10, 1969 by Ewing and others.
No statement.
Amended during passage. (Copy enclosed)
Returned with Governor's recommendations for reconsideration;
copy attached.

Checked V.F. - - M.J. - Colleges and Universities - Finance,
without success.

JH/fb

ASSEMBLY, No. 598

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1969

By Assemblymen EWING, McDONOUGH, TODD, COURY, HAELIG,
KEAN, KALTENBACHER, RINALDI, DENNIS, WILSON,
FIORE, WILENTZ and OWENS

Referred to Committee on Education

AN ACT concerning the higher education assistance authority law,
and amending sections 18A:72-2, 18A:72-3, 18A:72-8,
18A:72-9, 18A:72-10, 18A:72-12, 18A:72-15 **[and]** **,**
18A:72-16 **and 18A:72-17** of the New Jersey Statutes, and
supplementing chapter 72 of Title 18A of the New Jersey
Statutes.

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

1 1. Section 18A:72-2 of the New Jersey Statutes is amended to
2 read as follows:

3 18A:72-2. Terms defined.

4 As used in this chapter, unless the context indicates another or
5 different meaning, the following words shall have the following
6 meanings:

7 "Authority" means the higher education assistance authority
8 created by this chapter, **or any board, body, commission, depart-*
8A *ment or officer succeeding to the principal functions thereof or to*
8B *whom the powers conferred upon the authority by this chapter*
8C *shall be given by law,**

8D ***"Bond" means bonds or notes of the authority issued pursuant*
8E *to this chapter.**

9 **["Bank"]** "Lender" includes ***the authority and*** any
10 financial institution authorized to make loans under section
10A 18A:72-9,

11 "Fund" means higher education assistance fund***[.]*** **.

11A ***"Other eligible institution" means a business or trade school,*
11B *or technical institution or other technical or vocational school, in*
11C *any State which (1) admits as regular students only persons who*

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

11D *have completed or left elementary or secondary school and who*
 11E *have the ability to benefit from the training offered by such institu-*
 11F *tion; (2) is legally authorized to provide, and provides within that*
 11G *State, a program of post-secondary vocational or technical educa-*
 11H *tion designed to fit individuals for useful employment in recog-*
 11I *nized occupations; (3) has been specially accredited by the Federal*
 11J *Commissioner of Education or by an accrediting agency recognized*
 11K *by him or has been approved by the authority.**

12 “Post-secondary nondegree institution of higher education”
 13 means a county college or a junior college licensed or approved by
 14 the Department of Higher Education, operated in accordance with
 15 rules and regulations of the Board of Higher Education or a trade
 16 or business school otherwise licensed or approved and operated and
 17 requiring a high school diploma or its equivalent for admission
 18 and offering a course or courses of study with a minimum length of
 19 2 academic years and of not less than 1,800 hours in any one or
 20 more of the following fields:

- 21 A. Accounting and finance,
- 22 B. Airframe and power plant mechanics,
- 22A C. Automotive mechanics,
- 23 D. Commercial art,
- 24 E. Drafting and design technology (aeronautical, architectural,
- 25 electronic, mechanical, structural, tool and die),
- 26 F. Economic engineering,
- 27 G. Electronics,
- 28 H. Fashion and textile design,
- 29 I. Higher accounting and business administration,
- 30 J. Industrial management technology,
- 31 K. Medical and X-ray technology,
- 32 L. Metallurgical technology,
- 33 M. Secretarial (administrative, executive, legal, medical, data
- 34 processing),
- 35 N. Terminal courses or college credit transfer courses in liberal
- 36 arts and sciences.

1 2. Section 18A:72-3 of the New Jersey Statutes is amended to
 2 read as follows:

3 18A:72-3. Education assistance authority created.

4 There is hereby created in the Department of Higher Education
 5 the Higher Education Assistance Authority, which shall be a body
 6 corporate and politic, with corporate succession. *The authority*
 7 *shall constitute **[a political subdivision of the State established*
 8 *as]** an instrumentality **of the State** exercising public and*
 9 *essential governmental functions, and the exercise by the authority*

10 of the powers conferred by this chapter shall be deemed and held
11 to be an essential governmental function of the State.

1 3. Section 18A:72-8 of the New Jersey Statutes is amended to
2 read as follows:

3 18A:72-8. Higher education assistance fund.

4 The authority shall have such capital from time to time as shall
5 be appropriated to it for that purpose by the Legislature of the
6 State of New Jersey, or *** (a) *** as shall be contributed to it from
7 private sources, to be used for the purposes of this chapter, or
8 *** (b) as shall be received by the authority *** from the sale of its
8A bonds as provided by law, or *** (c) as shall be loaned to the author-*
8B *ity by any other agency or authority of the State, or (d) as shall be*
8C *received by the authority from* **** [by] **** *the resale of notes evi-*
9 *dencing approved loans made pursuant to this chapter, purchased*
10 *or otherwise acquired by it as provided by law, ** or (e) as shall be*
10A *received by the authority from the resale of its participation notes*
10B *in approved loans made pursuant to this chapter, or (f) as shall be*
10C *received by the authority from the repayment of approved loans*
10D *made pursuant to this chapter.* **** [and the] **** *The* capital
11 and all revenues of the authority shall be held in trust in a "higher
12 education assistance fund" to meet the obligations of the authority
13 incurred under this chapter, but any amount of the fund in excess
14 of the total amount of guaranteed or insured loans outstanding at
15 any time shall be subject to such disposition as may be provided by
16 law, and any amounts from the fund which the authority determines
17 are not needed for its current operations shall be invested and re-
18 invested by the State Treasurer in such obligations as are legal in-
19 vestments for savings banks of this State.. *All payments from the*
20 *fund shall be made by the State Treasurer upon vouchers signed by*
21 *such person or persons as are designated by the authority. A certi-*
22 *fied copy of a resolution of the authority, attested by its chairman*
23 *or vice-chairman, and bearing the specimen signatures of the per-*
24 *son or persons so designated, shall be filed with the State Treasurer*
25 *as his authority for making payments out of the fund.*

1 ****4.** Section 18A:72-9 of the New Jersey Statutes is amended to
2 read as follows:

3 18A:72-9. Those authorized to make loans.

4 The authority, or any financial or credit institution (including
5 an insurance company) which is subject to the examination and
6 supervision of the Department of Banking and Insurance of this
7 State or by an agency of the United States, any Federal credit
8 union, and any national bank organized under the acts of Congress
9 of the United States and doing business in this State and any Fed-

10 *eral savings and loan association having its principal office in New*
 11 *Jersey may make loans under this chapter pursuant to such rules*
 12 *not inconsistent with this chapter and by the use of such forms, as*
 13 *the authority shall prescribe.***

1 **[4.]** **5.** Section 18A:72-10 of the New Jersey Statutes is
 2 amended to read as follows:

3 18A:72-10. Powers of authority.

4 The authority shall have the following powers:

5 (1) To ***make loans to persons or to*** assist in the placing of
 6 loans to persons, who are residents of this State, and
 6A who are attending and are in good standing in, or who plan
 7 to attend, any qualified institution of collegiate grade,
 8 located in this State or elsewhere, which is approved by any re-
 9 gional accrediting association recognized by the national commis-
 10 sion on accrediting, or approved by the Board of Higher Educa-
 11 tion*, * [or]* any qualified post-secondary nondegree institution
 12 of higher education, located in this State or elsewhere, **or any*
 13 *other eligible institution,** in order to assist them in meeting their
 14 expenses of higher education, and to guarantee such loans upon
 15 such terms and conditions as the authority may prescribe, but no
 16 loan or loans shall be ***made,*** placed or guaranteed by the au-
 17 thority for any such person to an amount in excess of \$1,500.00 for
 17A any school year, nor to a total amount in excess of \$7,500.00.

18 For the purposes of this section, a qualified institution of col-
 19 legiate grade shall be deemed to include a school of professional
 20 nursing accredited or approved by the New Jersey Board of Nurs-
 21 ing, and a qualified post-secondary nondegree institution of higher
 22 education located outside the State shall mean and include any such
 23 institution offering courses in one or more of the fields enumerated,
 24 and meet the admission standards set forth in N. J. S. 18A:72-2.

25 (2) To adopt rules not inconsistent with law governing the appli-
 26 cation for and the guarantee of loans made by the authority and
 27 governing any other matters related to its activities.

28 (3) *To buy and sell approved notes evidencing loans made under*
 29 *this chapter***, and to buy and sell participations in approved notes
 29A *made pursuant to this chapter***.

30 (4) *From time to time to issue its negotiable bonds and bond*
 31 *anticipation notes for the purpose of providing funds ***(a) *to make*
 32 *loans in accordance with the provisions of subsection (1) of this*
 33 *section; (b)** to purchase from lenders approved notes or partici-*
 34 *pations in approved notes as provided by law** [and]** **;* and
 34A *(c)** for the refunding of outstanding bonds.*

35 **[(3)]** (5) To perform any other acts which may be deemed neces-
 36 sary or appropriate to carry out the objects and purposes of this
 37 chapter.

1 ****[5.]**** ****6.**** Limitations on issue of bonds and bond anticipa-
 1A tion notes.

2 The Higher Education Assistance Authority shall not issue any
 3 bonds or bond anticipation notes as authorized by the Higher
 4 Education Assistance Authority Law (Title 18A, chapter 72 of
 5 the New Jersey Statutes) if, at the time of such issue, the aggre-
 6 gate principal amount owing on all outstanding bonds and bond
 7 anticipation notes of the authority exceeds, or the issuance of such
 8 bonds or bond anticipation notes would cause such aggregate prin-
 9 cipal amount so owing to exceed 75% of the aggregate principal
 10 amount owing on all unpaid approved notes evidencing loans made
 11 pursuant to the Higher Education Assistance Authority Law. Bond
 12 anticipation notes may be renewed from time to time, but the maxi-
 13 mum maturity of any such note, including renewals thereof, shall
 14 not exceed 5 years from the date of issue of the original note.
 15 Such notes shall be paid from any revenues or other moneys of
 16 the authority available therefor and not otherwise pledged, or from
 17 the proceeds of sale of the bonds of the authority in anticipation
 18 of which they were issued. The notes shall be issued in the same
 19 manner as the bonds, and the resolution or resolutions authorizing
 20 them may contain any provisions, conditions or limitations which
 21 a bond resolution of the authority may contain.

1 ****[6.]**** ****7.**** Bonds and bond anticipation notes: general pro-
 1A visions.

2 Except as may otherwise be expressly provided by the Higher
 3 Education Assistance Authority, every issue of its bonds or notes
 4 shall be general obligations of the authority payable from any
 5 revenues or moneys of the authority, subject only to any agree-
 6 ments with the holders of particular bonds or notes pledging any
 7 particular revenues or moneys. Notwithstanding that bonds and
 8 notes may be payable from a special fund, they shall be fully
 9 negotiable within the meaning of Title 12A, the Uniform Commer-
 10 cial Code, of New Jersey Statutes, subject only to the provisions
 11 of the bonds and notes for registration. The bonds may be issued
 12 as serial bonds or as term bonds, or the authority, in its discretion,
 13 may issue bonds of both types. The bonds shall be authorized
 14 by resolution of the members of the authority and shall bear such
 15 date or dates, mature at such time or times, not exceeding 25 years
 16 from their respective dates, bear interest at such rate or rates, not

17 exceeding 7% per annum, be payable at such time or times, be in
 18 such denominations, be in such form, either coupon or registered,
 19 carry such registration privileges, be executed in such manner,
 20 be payable in lawful money of the United States of America at
 21 such place or places, and be subject to such terms of redemption,
 22 as such resolution or resolutions may provide. The bonds or notes
 23 may be sold at public or private sale for such price or prices as
 24 the authority shall determine. Pending preparation of the defini-
 25 tive bonds, the authority may issue interim receipts or certificates
 26 which shall be exchanged for such definitive bonds.

1 **[7.]** **8.** Bond resolutions.

2 Any resolution or resolutions of the Higher Education Assist-
 3 ance Authority authorizing any bonds or any issue of bonds may
 4 contain provisions, which shall be a part of the contract with the
 5 holders of the bonds to be authorized as to:

6 (1) The pledging of all or any part of the revenues of the author-
 7 ity;

8 (2) The use and disposition of the revenues;

9 (3) The setting aside of reserves or sinking funds, and the regu-
 10 lation and disposition thereof;

11 (4) Limitations on the issuance of additional bonds, the terms
 12 upon which additional bonds may be issued and secured and the
 13 refunding of outstanding bonds;

14 (5) The procedure, if any, by which the terms of any contract
 14A with bondholders may be amended or abrogated, the amount of
 15 bonds the holders of which must consent thereto, and the manner in
 16 which such consent may be given;

17 (6) Limitations on the purpose to which the proceeds of sale
 18 of any issue of bonds then or thereafter to be issued may be applied
 19 and pledging such proceeds to secure the payment of the bonds
 20 or any issue of the bonds; and

21 (7) Defining the acts or omissions to act which shall constitute a
 22 default in the duties of the authority to holders of its obligations
 23 and providing the rights and remedies of such holders in the event
 24 of a default.

1 **[8.]** **9.** Personal liability on bonds and notes.

2 Neither the members of the Higher Education Assistance Au-
 3 thority nor any person executing bonds or notes issued by it shall
 4 be liable personally on such bonds or notes or be subject to any
 5 personal liability or accountability by reason of the issuance
 6 thereof.

1 **[9.]** **10.** Purchase by authority of bonds and notes.

2 The Higher Education Assistance Authority shall have power
3 out of any funds available therefor to purchase its bonds or notes.
4 The authority may hold, pledge, cancel or resell such bonds, subject
5 to and in accordance with agreements with bondholders.

1 **[10.]** **11.** Security for bonds.

2 In the discretion of the Higher Education Assistance Authority,
3 any bonds issued by it may be secured by a trust agreement be-
4 tween the authority and a qualified bank as defined in section 1
5 of The Banking Act of 1948 (P. L. 1948, c. 67). The trust agree-
6 ment or resolution providing for the issuance of such bonds may
7 contain such provisions for protecting and enforcing the rights and
8 remedies of the bondholders as may be reasonable and proper and
9 not in violation of law, including particularly those provisions
10 authorized to be included in any resolution or resolutions of the
11 authority authorizing bonds. Any banking institution, as defined
12 in section 1 of The Banking Act of 1948 (P. L. 1948, c. 67) may
13 act as depositary of the proceeds of bonds or of revenues or other
14 moneys and may furnish such indemnifying bonds or pledge such
15 securities as may be required by the authority. Any such trust
16 agreement may set forth the rights and remedies of the bondhold-
17 ers and of the trustee or trustees, and may restrict the individual
18 right of action by bondholders. In addition to the foregoing, any
19 such trust agreement or resolution may contain such other provi-
20 sions as the authority may deem reasonable and proper for the
21 security of the bondholders.

1 **[11.]** **12.** Liability for payment of bonds.

2 Bonds issued pursuant to N. J. S. 18A:72-10 shall not be deemed
3 to constitute a debt or liability of the State or of any political
4 subdivision thereof or a pledge of the faith and credit of the State
5 or of any such political subdivision, but shall be payable solely from
6 the funds herein provided. All such bonds shall contain on the face
7 thereof a statement to the effect that neither the State of New
8 Jersey nor the Higher Education Assistance Authority shall be
9 obligated to pay the same or the interest thereon except from rev-
10 enues or other moneys of the authority and that neither the faith
11 and credit nor the taxing power of the State of New Jersey or
12 of any political subdivision thereof is pledged to the payment of
13 the principal of or the interest on such bonds. The issuance of
14 bonds under the provisions of this chapter shall not directly or
15 indirectly or contingently obligate the State or any political sub-
16 division thereof to levy or to pledge any form of taxation whatever
17 therefor.

1 **[12.]** **13.** Rights of bondholders.

2 Any holder of bonds issued by the Higher Education Assistance
3 Authority pursuant to N. J. S. 18A:72-10, or any of the coupons
4 appertaining thereto, and the trustee or trustees under any trust
5 agreement, except to the extent the rights herein given may be
6 restricted by any resolution authorizing the issuance of, or any
7 such trust agreement securing, such bonds, may, either at law or
8 in equity, by suit, action or other proceedings, protect and enforce
9 any and all rights under the laws of the State or granted hereunder
10 or under such resolution or trust agreement, and may enforce and
11 compel the performance of all duties required by this act or by such
12 resolution or trust agreement to be performed by the authority or
13 by any officer, employee or agent thereof.

1 **[13.]** **14.** Refunding bonds.

1A (1) The Higher Education Assistance Authority shall have
2 power to issue bonds for the purpose of refunding any of its bonds
3 then outstanding, including the payment of any redemption pre-
4 mium thereon and any interest accrued or to accrue to the earliest
5 or subsequent date of redemption, purchase or maturity of such
6 bonds.

7 (2) The proceeds of bonds issued for the purpose of refunding
8 outstanding bonds may, in the discretion of the authority, be ap-
9 plied to the purchase or retirement at maturity or redemption of
10 outstanding bonds either on their earliest or any subsequent re-
11 demption date or upon the purchase or at the maturity thereof
12 and may, pending such application, be placed in escrow to be ap-
13 plied to such purchase or retirement at maturity or redemption
14 on such date as may be determined by the authority. Any such
15 escrowed proceeds, pending such use, may be invested and rein-
16 vested in obligations of or guaranteed by the United States of
17 America, or in certificates of deposit or time deposits secured by
18 obligations of or guaranteed by the United States of America,
19 maturing at such time or times as shall be appropriate to assure
20 the prompt payment, as to principal, interest and redemption pre-
21 mium, if any, of the outstanding bonds to be so refunded. The
22 interest, income and profits, if any, earned or realized on any such
23 investment may also be applied to the payment of the outstanding
24 bonds to be so refunded. After the terms of the escrow have been
25 fully satisfied and carried out, any balance of such proceeds and
26 interest, income and profits, if any, earned or realized on the invest-
27 ments thereof may be returned to the authority for use by it in any
28 lawful manner. All such bonds shall be subject to the provisions

29 of this act in the same manner and to the same extent as other
30 bonds issued pursuant to this act and N. J. S. 18A:72-10.

1 **[14.]** **15.** Bonds as legal investments.

2 Bonds and notes issued by the Higher Education Assistance Au-
3 thority under the provisions of this act and of N. J. S. 18A:72-10,
4 are hereby made securities in which the State and all political sub-
5 divisions of the State, their officers, boards, commissions, depart-
6 ments or other agencies, banks, savings banks, savings and loan
7 associations, investment companies, all insurance companies, insur-
8 ance associations and all administrators, executors, guardians,
9 trustees and other fiduciaries, and all other persons whatsoever
10 who now are or may hereafter be authorized to invest in bonds
11 or other obligations of the State, may properly and legally invest
12 any funds, including capital belonging to them or within their con-
13 trol; and said bonds, notes or other securities or obligations are
14 hereby made securities which may properly and legally be deposited
15 with and received by any State or municipal officers or agency of
16 the State for any purpose for which the deposit of bonds or other
17 obligations of the State is now or may hereafter be authorized by
18 law.

1 **[15.]** **16.** Further authorization for bonds.

2 Bonds may be issued by the Higher Education Assistance Au-
3 thority under the provisions of this act and of N. J. S. 18A:72-10
4 without obtaining the consent of any department, division, com-
5 mission, board, bureau, agency or officer of the State, and without
6 any other proceedings or the happening of any other conditions or
7 things than those proceedings, conditions and things which are
8 specifically required by this act.

1 **[16.]** **17.** Pledge of State.

1A The State of New Jersey does pledge to and agree with the
2 holders of the bonds, notes and other obligations issued pursuant
3 to authority contained in this act and N. J. S. 18A:72-10, that the
4 State will not limit the power and obligation of the Higher Educa-
5 tion Assistance Authority to fulfill the terms of any agreements
6 made with the holders of bonds so issued, or in any way impair
7 the rights or remedies of the holders of such bonds until the bonds,
8 together with interest thereon, are fully paid and discharged. The
9 authority as a public body corporate and politic shall have the right
10 to include the pledge herein made in its bonds and contracts.

1 **[17.]** **18.** Section 18A:72-12 of the New Jersey Statutes
2 is amended to read as follows:

3 18A:72-12. Approval and granting of loan; incentive fees.

4 (1) Upon approval by the authority of a loan application, any
 5 **[bank]** lender may make the loan as approved and upon the terms
 6 and conditions required under this chapter, but no moneys shall
 7 be advanced or paid under any such loan until the applicant shall
 8 have satisfied the authority ****[.]**** and ******, *unless the authority is*
 9 *the lender,*** the authority shall have certified to the **[bank]**
 9A *lender**,*** that the applicant has been admitted to, or
 10 is in regular attendance and in good standing at a qualified insti-
 11 tution of collegiate grade approved by any regional accrediting as-
 12 sociation recognized by the national commission on accrediting or
 13 approved by the Board of Higher Education*, ****[or]**** a qualified
 14 post-secondary nondegree institution of higher education **or any*
 15 *other eligible institution**. Any **[bank]** lender making a loan shall
 16 co-operate with the authority in supervising the use of credit in
 16A accordance with its purposes.

17 (2) *Notwithstanding the provisions of section 18A:72-11 or of*
 18 *subsection 1 of this section, the authority may approve a loan for*
 19 *the purposes of this chapter after it has been made by a lender and*
 20 *the proceeds thereof disbursed by the lender for the purposes of*
 21 *this chapter, provided such loan would have been approved by the*
 22-23 *authority had prior application been made therefor pursuant to*
 24 *section 18A:72-11. A loan which is so approved after it has been*
 25 *made shall, from the time of its approval, be treated for all pur-*
 26 *poses of this chapter in the same manner as if such loan had been*
 27 *applied for and approved by the authority prior to its making, and*
 28 *the lender making such loan shall have the same rights under this*
 29 *chapter in respect to such loan as it would have had if the loan had*
 30 *been applied for and approved by the authority prior to its making.*

31 (3) *As an incentive to lenders to make loans under this chapter,*
 32 *the authority may, by ****[rule]**** ****resolution** of the members*
 33 *thereof,** provide for the payment to lenders of an incentive fee***
 34 ***solely with respect to loans made, placed or guaranteed after*
 35 *August 1, 1969, which incentive fee shall be computed** on any one*
 36 *of the following bases: (i) a single fee at the rate not exceeding*
 37 *1/2 of 1% computed on the amount of each such loan for the period*
 38 *from the making of such loan, to the ****[anticipated]**** date ****[of]*****
 39 *repayment ****[thereof]**** ****begins****; or (ii) a single fee not to exceed*
 40 *\$25.00 ****[for each loan made]**** ****per borrower, per academic year****;*
 41 *or (iii) such other form and amount of incentive fee as shall be fixed*
 42 *from time to time by rule of the authority. ****[The authority shall***
 43 *have power to define "anticipated date of repayment" as used in*
 44 *this section.]***

1 **[18.]** **19.** Section 18A:72-15 of the New Jersey Statutes
2 is amended to read as follows:

3 18A:72-15. Extension and refinancing of loans.

4 Any loan made under this chapter may be extended or refinanced
5 in the discretion of the [bank] lender without affecting the obliga-
6 tion of the authority hereunder for such period and under such
7 terms as shall be prescribed by the rules of the authority, and any
8 loan may be reduced at any time at the option of the borrower.

1 **[19.]** **20.** Section 18A:72-16 of the New Jersey Statutes
2 is amended to read as follows:

3 18A:72-16. Purchase of notes [in default.]; participations.

4 (1) Whenever any approved note shall be in default to any
5 [bank] lender for 30 days after the date of maturity thereof, or
6 whenever any installment thereon is more than 120 days in arrears
7 for loans on monthly installment payments and 180 days in arrears
8 for loans with less frequent payments, or upon the death or total
9 and permanent disability of the borrower, the authority shall, upon
10 the demand of the [bank] lender, purchase from said [bank]
11 lender such note by paying to said [bank] lender out of the reserve
12 fund the total amount of principal and interest then due and owing
13 to said [bank] lender on said note, as herein provided.

14 (2) *(a)* Whenever the aggregate of the principal balances
15 owing on all approved notes held by a lender which is a banking in-
15A stitution as defined in section 1 of The Banking Act of 1948 (P. L.
16 1948, c. 67) is in excess of 1/2 of 1% of the deposits of such banking
17 institution as of the most recent call date for which published
18 figures are available, and whenever the aggregate of the principal
19 balances owing on all approved notes held by a lender which is an
20 association as defined in section 5 of the Savings and Loan Act
21 (1963) (P. L. 1963, c. 144) is in excess of 1/2 of 1% of the savings
22 accounts of such association as shown in the association's most re-
23 cent published statement, and whenever the aggregate of the princi-
24 pal balances owing on all approved notes held by a lender which is a
25 financial or credit institution other than a banking institution or an
26 association, is in excess of such sum, expressed in dollars or a per-
27 centage, as the authority shall by rule prescribe, the authority shall,
28 at the written request of such lender purchase from such lender
29 approved notes the unpaid aggregate principal balances of which
30 ***[at least equal the amount of such excess]*** are in excess of
30A such sum or percentage*. In lieu of purchasing such ap-
31 proved notes, the authority may, at its option, purchase a partici-

32 participation in approved notes, to the extent of at least 80% of the
 33 amount of such excess. In purchasing approved notes, or in pur-
 34 chasing a participation in approved notes, the authority shall pay
 35 therefor an amount equal to or based upon the aggregate principal
 36 amount owing on the notes so purchased or participated in plus
 37 unpaid interest to the date of such purchase or participation.
 38 Where the amount of such excess in respect to any one lender is
 39 more than \$50,000.00, the authority shall have the right to restrict
 40 its purchase or participation to even multiples of \$50,000.00. The
 41 authority may, in its discretion, decline to make more than one
 42 purchase of approved notes in any 3-month period from any one
 43 lender. The authority shall have power to contract with a lender
 44 for the servicing of approved notes which are purchased or partici-
 45 pated in by it, and for the compensation to be retained by the lender
 46 out of the payments of interest or principal, or both, received by
 47 such lender in connection with approved notes purchased by or
 48 participated in by the authority.

49 ****(b) Notwithstanding the provisions of subsection (2) (a) of
 50 this section:

51 (1) the authority shall be under no obligation to, but may in
 52 its discretion, purchase approved notes, or any participation
 53 therein, which were made, placed or guaranteed on or before
 54 August 3, 1968;

55 (2) no approved notes, nor any participation therein, shall
 56 be purchased by the authority from any lender unless such
 57 lender, as a condition precedent to any such purchase, shall
 58 agree to use that portion of any moneys to be paid to such
 59 lender incident to such purchase which represents the aggre-
 60 gate principal amount of such notes or participation therein
 61 for the purpose of making loans authorized under this chapter;

62 (3) the authority is hereby authorized, by resolution of the
 63 members thereof, from time to time to suspend or terminate
 64 and renew its obligation to purchase approved notes or par-
 65 ticipation therein pursuant to subsection (2) (a) of this sec-
 66 tion; provided, however, that any resolution of the authority
 67 suspending or terminating its obligation to purchase approved
 68 notes or participations therein shall be effective only as to
 69 approved notes made, placed or guaranteed subsequent to the
 70 close of the fifth business day following the adoption of such
 71 resolution.**

1 ****21. Section 18A:72-17 of the New Jersey Statutes is amended
 2 to read as follows:

3 18A:72-17. Reserve fund; minimum amount.

4 *The sum total of all reserve funds set aside by the authority in*
5 *accordance with the provisions of this chapter, other than moneys*
6 *held in the New Jersey Higher Educational Assistance Capital*
7 *Reserve Fund, together with such amount as the authority may set*
8 *aside, out of the fund, to meet the payment by the authority of ap-*
9 *proved notes submitted to it for purchase in accordance with the*
10 *provisions of section 18A:72-16 (1), shall in no event be less than*
11 *\$6,000,000.00 minus the unpaid balance of notes purchased during*
12 *the preceding 12 months or the encumbered reserves required to*
13 *be maintained on all approved loans from time to time outstanding*
14 *that were approved prior to the effective date of this act, whichever*
15 *is greater.*

16 *The authority shall annually, on or before September 15, ascer-*
17 *tain and determine, (a) an amount necessary to increase the esti-*
18 *mated net balance of the fund as of June 30 of the next ensuing*
19 *fiscal year to \$6,000,000.00 and (b) an amount necessary to meet*
20 *the estimated disbursements to be made by the authority in accord-*
21 *ance with the provisions of section 18A:72-16 (1) during the next*
22 *ensuing fiscal year less the estimated revenue of the authority dur-*
23 *ing the next ensuing fiscal year. The chancellor on recommendation*
24 *of the authority shall certify to the Governor the amount so de-*
25 *termined, in the form prescribed by P. L. 1944, chapter 112, and the*
26 *greater of the 2 amounts shall be appropriated and paid to the*
27 *reserve fund.***

1 **22. *A true copy of the minutes of every meeting of the author-*
2 *ity shall be forthwith delivered by and under the certification of the*
3 *secretary thereof, to the Governor. No action taken at such meet-*
4 *ing by the authority shall have force or effect until 10 days after*
5 *such copy of the minutes shall have been so delivered. If, in said*
6 *10-day period, the Governor returns such copy of the minutes with*
7 *veto of any action taken by the authority or any member thereof*
8 *at such meeting, such action shall be null and of no effect. If the*
9 *Governor shall not return the minutes within said 10-day period,*
10 *any action therein recited shall have force and effect according to*
11 *the wording thereof. At any time prior to the expiration of the*
12 *said 10-day period, the Governor may sign a statement of approval*
13 *of any such action of the authority, in which case the action so ap-*
14 *proved shall not thereafter be disapproved.*

15 *Notwithstanding the foregoing provisions of this section, with*
16 *regard to the sale and award of bonds of the authority, the author-*
17 *ity shall furnish to the Governor a certified copy of the minutes of*
18 *the meeting at which said bonds are sold and awarded forthwith*

19 upon the taking of such action and the Governor shall indicate his
 20 approval or disapproval of such action prior to the end of the busi-
 21 ness day upon which such action of the authority was taken.

22 The powers conferred in this section upon the Governor shall be
 23 exercised with due regard for the rights of the holders of bonds of
 24 the authority at any time outstanding, and nothing in, or done pur-
 25 suant to, this section shall in any way limit, restrict or alter the
 26 obligation or powers of the authority or any representative or
 27 officer of the authority to carry out and perform in every detail each
 28 and every covenant, agreement or contract at any time made or
 29 entered into by or on behalf of the authority with respect to its
 30 bonds or for the benefit, protection or security of the holders
 31 thereof.**

1 **23. (a) The authority shall establish and maintain a special
 2 fund called the "New Jersey Higher Educational Assistance
 3 Capital Reserve Fund" in which there shall be deposited (1) all
 4 moneys appropriated by the State for the purpose of such fund,
 5 (2) all proceeds of bonds required to be deposited therein by terms
 6 of any contract between the authority and its bondholders or any
 7 resolution of the authority with respect to such proceeds or bonds,
 8 and (3) any other moneys or funds of the authority which it de-
 9 termines to deposit therein. Moneys in the reserve fund shall be
 10 held and applied solely to the payment of the interest on and prin-
 11 cipal of bonds of the authority as the same shall become due and
 12 payable and for the retirement of bonds, and shall not be withdrawn
 13 therefrom if such withdrawal would reduce the amount in the
 14 reserve fund to an amount equal to less than the "maximum debt
 15 service reserve" (as hereinafter defined) except for payment of
 16 interest then due and payable on bonds and the principal of bonds
 17 then maturing and payable and for the retirement of bonds in ac-
 18 cordance with the terms of any contract between the authority and
 19 its bondholders and for the payments on account of which interest
 20 or principal or retirement of bonds other moneys of the authority
 21 are not then available in accordance with the terms of any such
 22-23 contract. As herein used "maximum debt service reserve"
 24 means, as of any date of computation, the largest amount of money
 25 required by the terms of all contracts between the authority and its
 26 bondholders to be raised in any succeeding calendar year for the
 27 payment of interest on and maturing principal of outstanding
 28 bonds and payments required by the terms of any such contracts
 29 to sinking funds established for the payment or redemption of such
 30 bonds, all calculated on the assumption that bonds will cease to be

31 *outstanding after date of such computation by reason of the pay-*
32 *ment of bonds at their respective maturities and the payments of*
33 *such required moneys to sinking funds and the application thereof*
34 *in accordance with the terms of all such contracts to the retirement*
35 *of bonds.*

36 *(b) Moneys in said fund at any time in excess of the maximum*
37 *debt service reserve, whether by reason of investment or otherwise,*
38 *may be withdrawn at any time by the authority and transferred to*
39 *any other fund or account of the authority.*

40 *(c) Moneys at any time in the reserve fund may be invested in*
41 *any direct obligations of, or obligations as to which the principal*
42 *and interest thereof is guaranteed by, the United States of*
43 *America.*

44 *(d) For purposes of valuation, investments in the reserve fund*
45 *shall be valued at the lowest of the par value, cost to the authority*
46 *or market value of such investments. Valuation on any particular*
47 *date shall include the amount of interest then earned or accrued to*
48 *such date on any moneys or investments in the reserve fund.*

49 *(e) Notwithstanding any other provision contained in this act,*
50 *no bonds shall be issued by the authority unless there is in the*
51 *reserve fund the maximum debt service reserve for all bonds then*
52 *issued and outstanding and the bonds about to be issued, provided,*
53 *however, that nothing herein shall prevent or preclude the author-*
54 *ity from satisfying the foregoing requirement by depositing so*
55 *much of the proceeds of the bonds about to be issued, upon their*
56 *issuance, as is needed to achieve the maximum debt service reserve.*
57 *The authority may at any time issue its bonds or notes for the pur-*
58 *pose of providing any amount necessary to increase the amount in*
59 *the reserve fund to the maximum debt service reserve, or to meet*
60 *such higher or additional reserve as may be fixed by the authority*
61 *with respect to such fund.*

62 *(f) In order to assure the maintenance of the maximum debt*
63 *service reserve in the reserve fund, there shall be appropriated*
64 *annually and paid to the authority for deposit in said fund, such*
65 *sum, if any, as shall be certified by the chairman of the authority*
66 *to the Governor as necessary to restore said fund to an amount*
67 *equal to the maximum debt service reserve. The chairman shall*
68 *annually, on or before December 1, make and deliver to the Gov-*
69 *ernor his certificate stating the sums, if any, required to restore*
70 *said fund to the amount aforesaid, and the sum or sums so certified*
71 *shall be appropriated and paid to the authority during the then*
72 *current State fiscal year.*

73 (g) *This reserve fund shall be kept separate from any other*
74 *reserve fund established by the authority and shall not be subject*
75 *to the provisions of section 18A:72-17 of the New Jersey Stat-*
76 *utes.***

1 ***24. If any clause, sentence, subdivision, paragraph, section or*
2 *part of this act be adjudged to be unconstitutional or invalid, such*
3 *judgment shall not affect, impair or invalidate the remainder*
4 *thereof, but shall be confined in its operation to the clause, sentence,*
5 *subdivision, paragraph, section or part thereof directly involved in*
6 *the controversy in which said judgment shall have been rendered.***

1 ***[20.]** **25.** This act shall take effect immediately.*

ASSEMBLY, No. 598

STATE OF NEW JERSEY

INTRODUCED MARCH 10, 1969

By Assemblymen EWING, McDONOUGH, TODD, COURY, HAELIG,
KEAN, KALTENBACHER, RINALDI, DENNIS, WILSON,
FIORE, WILENTZ and OWENS

Referred to Committee on Education

AN ACT concerning the higher education assistance authority law,
and amending sections 18A:72-2, 18A:72-3, 18A:72-8, 18A:72-10,
18A:72-12, 18A:72-15 and 18A:72-16 of the New Jersey Stat-
utes, and supplementing chapter 72 of Title 18A of the New
Jersey Statutes.

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

1 1. Section 18A:72-2 of the New Jersey Statutes is amended to
2 read as follows:

3 18A:72-2. Terms defined.

4 As used in this chapter, unless the context indicates another or
5 different meaning, the following words shall have the following
6 meanings:

7 "Authority" means the higher education assistance authority
8 created by this chapter,

9 **["Bank"]** "Lender" includes any financial institution author-
10 ized to make loans under section 18A:72-9,

11 "Fund" means higher education assistance fund.

12 "Post-secondary nondegree institution of higher education"
13 means a county college or a junior college licensed or approved by
14 the Department of Higher Education, operated in accordance with
15 rules and regulations of the Board of Higher Education or a trade
16 or business school otherwise licensed or approved and operated and
17 requiring a high school diploma or its equivalent for admission
18 and offering a course or courses of study with a minimum length of
19 2 academic years and of not less than 1,800 hours in any one or
20 more of the following fields:

21 A. Accounting and finance,

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

- 22 B. Airframe and power plant mechanics,
 22A C. Automotive mechanics,
 23 D. Commercial art,
 24 E. Drafting and design technology (aeronautical, architectural,
 25 electronic, mechanical, structural, tool and die),
 26 F. Economic engineering,
 27 G. Electronics,
 28 H. Fashion and textile design,
 29 I. Higher accounting and business administration,
 30 J. Industrial management technology,
 31 K. Medical and X-ray technology,
 32 L. Metallurgical technology,
 33 M. Secretarial (administrative, executive, legal, medical, data
 34 processing),
 35 N. Terminal courses or college credit transfer courses in liberal
 36 arts and sciences.

1 2. Section 18A:72-3 of the New Jersey Statutes is amended to
 2 read as follows:

3 18A:72-3. Education assistance authority created.

4 There is hereby created in the Department of Higher Education
 5 the Higher Education Assistance Authority, which shall be a body
 6 corporate and politic, with corporate succession. *The authority*
 7 *shall constitute a political subdivision of the State established as*
 8 *an instrumentality exercising public and essential governmental*
 9 *functions, and the exercise by the authority of the powers con-*
 10 *ferred by this chapter shall be deemed and held to be an essential*
 11 *governmental function of the State.*

1 3. Section 18A:72-8 of the New Jersey Statutes is amended to
 2 read as follows:

3 18A:72-8. Higher education assistance fund.

4 The authority shall have such capital from time to time as shall
 5 be appropriated to it for that purpose by the Legislature of the
 6 State of New Jersey, or as shall be contributed to it from private
 7 sources, to be used for the purposes of this chapter, *or from the*
 8 *sale of its bonds as provided by law, or by the resale of notes evi-*
 9 *dencing approved loans made pursuant to this chapter, purchased*
 10 *or otherwise acquired by it as provided by law, and the capital and*
 11 *all revenues of the authority shall be held in trust in a "higher*
 12 *education assistance fund" to meet the obligations of the authority*
 13 *incurred under this chapter, but any amount of the fund in excess*
 14 *of the total amount of guaranteed or insured loans outstanding at*
 15 *any time shall be subject to such disposition as may be provided by*

16 law, and any amounts from the fund which the authority determines
 17 are not needed for its current operations shall be invested and re-
 18 invested by the State Treasurer in such obligations as are legal in-
 19 vestments for savings banks of this State.. *All payments from the*
 20 *fund shall be made by the State Treasurer upon vouchers signed by*
 21 *such person or persons as are designated by the authority. A certi-*
 22 *fied copy of a resolution of the authority, attested by its chairman*
 23 *or vice-chairman, and bearing the specimen signatures of the per-*
 24 *son or persons so designated, shall be filed with the State Treasurer*
 25 *as his authority for making payments out of the fund.*

1 4. Section 18A:72-10 of the New Jersey Statutes is amended to
 2 read as follows:

3 18A:72-10. Powers of authority.

4 The authority shall have the following powers:

5 (1) To assist in the placing of loans to persons, who are residents
 6 of this State, and who are attending and are in good standing in, or
 7 who plan to attend, any qualified institution of collegiate grade,
 8 located in this State or elsewhere, which is approved by any re-
 9 gional accrediting association recognized by the national commis-
 10 sion on accrediting, or approved by the Board of Higher Education
 11 or any qualified post-secondary nondegree institution of higher edu-
 12 cation, located in this State or elsewhere, in order to assist them in
 13 meeting their expenses of higher education, and to guarantee such
 14 loans upon such terms and conditions as the authority may pre-
 15 scribe, but no loan or loans shall be placed or guaranteed by the au-
 16 thority for any such person to an amount in excess of \$1,500.00 for
 17 any school year, nor to a total amount in excess of \$7,500.00.

18 For the purposes of this section, a qualified institution of col-
 19 legiate grade shall be deemed to include a school of professional
 20 nursing accredited or approved by the New Jersey Board of Nurs-
 21 ing, and a qualified post-secondary nondegree institution of higher
 22 education located outside the State shall mean and include any such
 23 institution offering courses in one or more of the fields enumerated,
 24 and meet the admission standards set forth in N. J. S. 18A:72-2.

25 (2) To adopt rules not inconsistent with law governing the appli-
 26 cation for and the guarantee of loans made by the authority and
 27 governing any other matters related to its activities.

28 (3) *To buy and sell approved notes evidencing loans made under*
 29 *this chapter.*

30 (4) *From time to time to issue its negotiable bonds and bond*
 31 *anticipation notes for the purpose of providing funds to purchase*
 32-33 *from lenders approved notes or participations in approved notes*
 34 *as provided by law, and for the refunding of outstanding bonds.*

35 **[(3)]** (5) To perform any other acts which may be deemed neces-
36 sary or appropriate to carry out the objects and purposes of this
37 chapter.

1 5. Limitations on issue of bonds and bond anticipation notes.

2 The Higher Education Assistance Authority shall not issue any
3 bonds or bond anticipation notes as authorized by the Higher
4 Education Assistance Authority Law (Title 18A, chapter 72 of
5 the New Jersey Statutes) if, at the time of such issue, the aggre-
6 gate principal amount owing on all outstanding bonds and bond
7 anticipation notes of the authority exceeds, or the issuance of such
8 bonds or bond anticipation notes would cause such aggregate prin-
9 cipal amount so owing to exceed 75% of the aggregate principal
10 amount owing on all unpaid approved notes evidencing loans made
11 pursuant to the Higher Education Assistance Authority Law. Bond
12 anticipation notes may be renewed from time to time, but the maxi-
13 mum maturity of any such note, including renewals thereof, shall
14 not exceed 5 years from the date of issue of the original note.
15 Such notes shall be paid from any revenues or other moneys of
16 the authority available therefor and not otherwise pledged, or from
17 the proceeds of sale of the bonds of the authority in anticipation
18 of which they were issued. The notes shall be issued in the same
19 manner as the bonds, and the resolution or resolutions authorizing
20 them may contain any provisions, conditions or limitations which
21 a bond resolution of the authority may contain.

1 6. Bonds and bond anticipation notes: general provisions.

2 Except as may otherwise be expressly provided by the Higher
3 Education Assistance Authority, every issue of its bonds or notes
4 shall be general obligations of the authority payable from any
5 revenues or moneys of the authority, subject only to any agree-
6 ments with the holders of particular bonds or notes pledging any
7 particular revenues or moneys. Notwithstanding that bonds and
8 notes may be payable from a special fund, they shall be fully
9 negotiable within the meaning of Title 12A, the Uniform Commer-
10 cial Code, of New Jersey Statutes, subject only to the provisions
11 of the bonds and notes for registration. The bonds may be issued
12 as serial bonds or as term bonds, or the authority, in its discretion,
13 may issue bonds of both types. The bonds shall be authorized
14 by resolution of the members of the authority and shall bear such
15 date or dates, mature at such time or times, not exceeding 25 years
16 from their respective dates, bear interest at such rate or rates, not
17 exceeding 7% per annum, be payable at such time or times, be in

18 such denominations, be in such form, either coupon or registered,
 19 carry such registration privileges, be executed in such manner,
 20 be payable in lawful money of the United States of America at
 21 such place or places, and be subject to such terms of redemption,
 22 as such resolution or resolutions may provide. The bonds or notes
 23 may be sold at public or private sale for such price or prices as
 24 the authority shall determine. Pending preparation of the defini-
 25 tive bonds, the authority may issue interim receipts or certificates
 26 which shall be exchanged for such definitive bonds.

1 7. Bond resolutions.

2 Any resolution or resolutions of the Higher Education Assist-
 3 ance Authority authorizing any bonds or any issue of bonds may
 4 contain provisions, which shall be a part of the contract with the
 5 holders of the bonds to be authorized as to:

6 (1) The pledging of all or any part of the revenues of the author-
 7 ity;

8 (2) The use and disposition of the revenues;

9 (3) The setting aside of reserves or sinking funds, and the regu-
 10 lation and disposition thereof;

11 (4) Limitations on the issuance of additional bonds, the terms
 12 upon which additional bonds may be issued and secured and the
 13 refunding of outstanding bonds;

14 (5) The procedure, if any, by which the terms of any contract
 14A with bondholders may be amended or abrogated, the amount of
 15 bonds the holders of which must consent thereto, and the manner in
 16 which such consent may be given;

17 (6) Limitations on the purpose to which the proceeds of sale
 18 of any issue of bonds then or thereafter to be issued may be applied
 19 and pledging such proceeds to secure the payment of the bonds
 20 or any issue of the bonds; and

21 (7) Defining the acts or omissions to act which shall constitute a
 22 default in the duties of the authority to holders of its obligations
 23 and providing the rights and remedies of such holders in the event
 24 of a default.

1 8. Personal liability on bonds and notes.

2 Neither the members of the Higher Education Assistance Au-
 3 thority nor any person executing bonds or notes issued by it shall
 4 be liable personally on such bonds or notes or be subject to any
 5 personal liability or accountability by reason of the issuance
 6 thereof.

1 9. Purchase by authority of bonds and notes.

2 The Higher Education Assistance Authority shall have power
3 out of any funds available therefor to purchase its bonds or notes.
4 The authority may hold, pledge, cancel or resell such bonds, subject
5 to and in accordance with agreements with bondholders.

1 10. Security for bonds.

2 In the discretion of the Higher Education Assistance Authority,
3 any bonds issued by it may be secured by a trust agreement be-
4 tween the authority and a qualified bank as defined in section 1
5 of The Banking Act of 1948 (P. L. 1948, c. 67). The trust agree-
6 ment or resolution providing for the issuance of such bonds may
7 contain such provisions for protecting and enforcing the rights and
8 remedies of the bondholders as may be reasonable and proper and
9 not in violation of law, including particularly those provisions
10 authorized to be included in any resolution or resolutions of the
11 authority authorizing bonds. Any banking institution, as defined
12 in section 1 of The Banking Act of 1948 (P. L. 1948, c. 67) may
13 act as depositary of the proceeds of bonds or of revenues or other
14 moneys and may furnish such indemnifying bonds or pledge such
15 securities as may be required by the authority. Any such trust
16 agreement may set forth the rights and remedies of the bondhold-
17 ers and of the trustee or trustees, and may restrict the individual
18 right of action by bondholders. In addition to the foregoing, any
19 such trust agreement or resolution may contain such other provi-
20 sions as the authority may deem reasonable and proper for the
21 security of the bondholders.

1 11. Liability for payment of bonds.

2 Bonds issued pursuant to N. J. S. 18A:72-10 shall not be deemed
3 to constitute a debt or liability of the State or of any political
4 subdivision thereof or a pledge of the faith and credit of the State
5 or of any such political subdivision, but shall be payable solely from
6 the funds herein provided. All such bonds shall contain on the face
7 thereof a statement to the effect that neither the State of New
8 Jersey nor the Higher Education Assistance Authority shall be
9 obligated to pay the same or the interest thereon except from rev-
10 enues or other moneys of the authority and that neither the faith
11 and credit nor the taxing power of the State of New Jersey or
12 of any political subdivision thereof is pledged to the payment of
13 the principal of or the interest on such bonds. The issuance of
14 bonds under the provisions of this chapter shall not directly or
15 indirectly or contingently obligate the State or any political sub-
16 division thereof to levy or to pledge any form of taxation whatever
17 therefor.

1 12. Rights of bondholders.

2 Any holder of bonds issued by the Higher Education Assistance
3 Authority pursuant to N. J. S. 18A:72-10, or any of the coupons
4 appertaining thereto, and the trustee or trustees under any trust
5 agreement, except to the extent the rights herein given may be
6 restricted by any resolution authorizing the issuance of, or any
7 such trust agreement securing, such bonds, may, either at law or
8 in equity, by suit, action or other proceedings, protect and enforce
9 any and all rights under the laws of the State or granted hereunder
10 or under such resolution or trust agreement, and may enforce and
11 compel the performance of all duties required by this act or by such
12 resolution or trust agreement to be performed by the authority or
13 by any officer, employee or agent thereof.

1 13. Refunding bonds.

1A (1) The Higher Education Assistance Authority shall have
2 power to issue bonds for the purpose of refunding any of its bonds
3 then outstanding, including the payment of any redemption pre-
4 mium thereon and any interest accrued or to accrue to the earliest
5 or subsequent date of redemption, purchase or maturity of such
6 bonds.

7 (2) The proceeds of bonds issued for the purpose of refunding
8 outstanding bonds may, in the discretion of the authority, be ap-
9 plied to the purchase or retirement at maturity or redemption of
10 outstanding bonds either on their earliest or any subsequent re-
11 demption date or upon the purchase or at the maturity thereof
12 and may, pending such application, be placed in escrow to be ap-
13 plied to such purchase or retirement at maturity or redemption
14 on such date as may be determined by the authority. Any such
15 escrowed proceeds, pending such use, may be invested and rein-
16 vested in obligations of or guaranteed by the United States of
17 America, or in certificates of deposit or time deposits secured by
18 obligations of or guaranteed by the United States of America,
19 maturing at such time or times as shall be appropriate to assure
20 the prompt payment, as to principal, interest and redemption pre-
21 mium, if any, of the outstanding bonds to be so refunded. The
22 interest, income and profits, if any, earned or realized on any such
23 investment may also be applied to the payment of the outstanding
24 bonds to be so refunded. After the terms of the escrow have been
25 fully satisfied and carried out, any balance of such proceeds and
26 interest, income and profits, if any, earned or realized on the invest-
27 ments thereof may be returned to the authority for use by it in any
28 lawful manner. All such bonds shall be subject to the provisions

29 of this act in the same manner and to the same extent as other
30 bonds issued pursuant to this act and N. J. S. 18A:72-10.

1 14. Bonds as legal investments.

2 Bonds and notes issued by the Higher Education Assistance Au-
3 thority under the provisions of this act and of N. J. S. 18A:72-10,
4 are hereby made securities in which the State and all political sub-
5 divisions of the State, their officers, boards, commissions, depart-
6 ments or other agencies, banks, savings banks, savings and loan
7 associations, investment companies, all insurance companies, insur-
8 ance associations and all administrators, executors, guardians,
9 trustees and other fiduciaries, and all other persons whatsoever
10 who now are or may hereafter be authorized to invest in bonds
11 or other obligations of the State, may properly and legally invest
12 any funds, including capital belonging to them or within their con-
13 trol; and said bonds, notes or other securities or obligations are
14 hereby made securities which may properly and legally be deposited
15 with and received by any State or municipal officers or agency of
16 the State for any purpose for which the deposit of bonds or other
17 obligations of the State is now or may hereafter be authorized by
18 law.

1 15. Further authorization for bonds.

2 Bonds may be issued by the Higher Education Assistance Au-
3 thority under the provisions of this act and of N. J. S. 18A:72-10
4 without obtaining the consent of any department, division, com-
5 mission, board, bureau, agency or officer of the State, and without
6 any other proceedings or the happening of any other conditions or
7 things than those proceedings, conditions and things which are
8 specifically required by this act.

1 16. Pledge of State.

1A The State of New Jersey does pledge to and agree with the
2 holders of the bonds, notes and other obligations issued pursuant
3 to authority contained in this act and N. J. S. 18A:72-10, that the
4 State will not limit the power and obligation of the Higher Educa-
5 tion Assistance Authority to fulfill the terms of any agreements
6 made with the holders of bonds so issued, or in any way impair
7 the rights or remedies of the holders of such bonds until the bonds,
8 together with interest thereon, are fully paid and discharged. The
9 authority as a public body corporate and politic shall have the right
10 to include the pledge herein made in its bonds and contracts.

1 17. Section 18A:72-12 of the New Jersey Statutes is amended to
2 read as follows:

3 18A:72-12. Approval and granting of loan; incentive fees.

4 (1) Upon approval by the authority of a loan application, any
 5 **bank** lender may make the loan as approved and upon the terms
 6 and conditions required under this chapter, but no moneys shall
 7 be advanced or paid under any such loan until the applicant shall
 8 have satisfied the authority, and the authority shall have certified
 9 to the **bank** lender that the applicant has been admitted to, or
 10 is in regular attendance and in good standing at a qualified insti-
 11 tution of collegiate grade approved by any regional accrediting as-
 12 sociation recognized by the national commission on accrediting or
 13 approved by the Board of Higher Education or a qualified post-
 14 secondary nondegree institution of higher education. Any **bank**
 15 lender making a loan shall co-operate with the authority in super-
 16 vising the use of credit in accordance with its purposes.

17 (2) *Notwithstanding the provisions of section 18A:72-11 or of*
 18 *subsection 1 of this section, the authority may approve a loan for*
 19 *the purposes of this chapter after it has been made by a lender and*
 20 *the proceeds thereof disbursed by the lender for the purposes of*
 21 *this chapter, provided such loan would have been approved by the*
 22-23 *authority had prior application been made therefor pursuant to*
 24 *section 18A:72-11. A loan which is so approved after it has been*
 25 *made shall, from the time of its approval, be treated for all pur-*
 26 *poses of this chapter in the same manner as if such loan had been*
 27 *applied for and approved by the authority prior to its making, and*
 28 *the lender making such loan shall have the same rights under this*
 29 *chapter in respect to such loan as it would have had if the loan had*
 30 *been applied for and approved by the authority prior to its making.*

31 (3) *As an incentive to lenders to make loans under this chapter,*
 32 *the authority may, by rule, provide for the payment to lenders of*
 33 *an incentive fee on any one of the following bases: (i) a single fee*
 34 *at the rate not exceeding 1/2 of 1% computed on the amount of*
 35 *each such loan for the period from the making of such loan, to the*
 36 *anticipated date of repayment thereof; or (ii) a single fee not to*
 37 *exceed \$25.00 for each loan made; or (iii) such other form and*
 38 *amount of incentive fee as shall be fixed from time to time by rule*
 39 *of the authority. The authority shall have power to define "antici-*
 40 *pated date of repayment" as used in this section.*

1 18. Section 18A:72-15 of the New Jersey Statutes is amended to
 2 read as follows:

3 18A:72-15. Extension and refinancing of loans.

4 Any loan made under this chapter may be extended or refinanced
 5 in the discretion of the **bank** lender without affecting the obliga-
 6 tion of the authority hereunder for such period and under such

7 terms as shall be prescribed by the rules of the authority, and any
8 loan may be reduced at any time at the option of the borrower.

1 19. Section 18A:72-16 of the New Jersey Statutes is amended
2 to read as follows:

3 18A:72-16. Purchase of notes **[in default.]** ; *participations.*

4 (1) Whenever any approved note shall be in default to any
5 **[bank]** lender for 30 days after the date of maturity thereof, or
6 whenever any installment thereon is more than 120 days in arrears
7 for loans on monthly installment payments and 180 days in arrears
8 for loans with less frequent payments, or upon the death or total
9 and permanent disability of the borrower, the authority shall, upon
10 the demand of the **[bank]** lender, purchase from said **[bank]**
11 lender such note by paying to said **[bank]** lender out of the reserve
12 fund the total amount of principal and interest then due and owing
13 to said **[bank]** lender on said note, as herein provided.

14 (2) *Whenever the aggregate of the principal balances owing on*
15 *all approved notes held by a lender which is a banking institution*
15A *as defined in section 1 of The Banking Act of 1948 (P. L. 1948, c. 67)*
16 *is in excess of 1/2 of 1% of the deposits of such banking institution*
17 *as of the most recent call date for which published figures are avail-*
18 *able, and whenever the aggregate of the principal balances owing*
19 *on all approved notes held by a lender which is an association as*
20 *defined in section 5 of the Savings and Loan Act (1963) (P. L.*
21 *1963, c. 144) is in excess of 1/2 of 1% of the savings accounts of*
22 *such association as shown in the association's most recent published*
23 *statement, and whenever the aggregate of the principal balances*
24 *owing on all approved notes held by a lender which is a financial*
25 *or credit institution other than a banking institution or an associ-*
26 *ation, is in excess of such sum, expressed in dollars or a percentage,*
27 *as the authority shall by rule prescribe, the authority shall, at the*
28 *written request of such lender purchase from such lender approved*
29 *notes the unpaid aggregate principal balances of which at least*
30 *equal the amount of such excess. In lieu of purchasing such ap-*
31 *proved notes, the authority may, at its option, purchase a partici-*
32 *pation in approved notes, to the extent of at least 80% of the*
33 *amount of such excess. In purchasing approved notes, or in pur-*
34 *chasing a participation in approved notes, the authority shall pay*
35 *therefor an amount equal to or based upon the aggregate principal*
36 *amount owing on the notes so purchased or participated in plus*
37 *unpaid interest to the date of such purchase or participation.*
38 *Where the amount of such excess in respect to any one lender is*
39 *more than \$50,000.00, the authority shall have the right to restrict*

40 *its purchase or participation to even multiples of \$50,000.00. The*
41 *authority may, in its discretion, decline to make more than one*
42 *purchase of approved notes in any 3-month period from any one*
43 *lender. The authority shall have power to contract with a lender*
44 *for the servicing of approved notes which are purchased or partici-*
45 *pated in by it, and for the compensation to be retained by the lender*
46 *out of the payments of interest or principal, or both, received by*
47 *such lender in connection with approved notes purchased by or*
48 *participated in by the authority.*

1 20. This act shall take effect immediately.

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 598

STATE OF NEW JERSEY

ADOPTED MAY 12, 1969

Amend page 1, section 1, line 8, after "chapter," insert "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".

Amend page 1, section 1, after line 8, insert a new paragraph as follows: " 'Bond' means bonds or notes of the authority issued pursuant to this chapter."

Amend page 1, section 1, line 11, omit the period insert a comma.

Amend page 1, section 1, after line 11 insert a new paragraph as follows: " 'Other eligible institution' means a business or trade school, or technical institution or other technical or vocational school, in any State which (1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (2) is legally authorized to provide, and provides within that State, a program of post-secondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (3) has been specially accredited by the Federal Commissioner of Education or by an accrediting agency recognized by him or has been approved by the authority."

Amend page 3, section 4, line 10, after "Education", insert a comma.

Amend page 3, section 4, line 11, omit "or".

Amend page 3, section 4, line 12, after "elsewhere," insert "or any other eligible institution,".

Amend page 9, section 17, line 13, after "Education", omit "or", insert a comma.

Amend page 9, section 17, line 14, after "education", insert "or any other eligible institution".

Amend page 9, section 17, line 36, omit "anticipated"; omit "of"; omit "thereof", insert "begins".

Amend page 9, section 17, line 37, omit "for each loan made", insert "per borrower, per academic year".

Amend page 9, section 17, lines 39, 40, omit "The authority shall have power to define 'anticipated date of repayment' as used in this section."

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 598
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED JULY 2, 1969

Amend page 1, title, line 2, after "18A:72-8", insert "18A:72-9".

Amend page 1, title, line 3, after "18A:72-15", delete "and", insert ","; after "18A:72-16", insert "and 18A:72-17".

Amend page 1, section 1, line 9, after "includes", insert "the authority and".

Amend page 2, section 2, line 7, after "constitute", delete "a political subdivision of the State established as".

Amend page 2, section 2, line 8, after "instrumentality", insert "of the State".

Amend page 3, section 3, line 6, after "or", insert "(a)".

Amend page 3, section 3, line 7, after "or", insert "(b) as shall be received by the authority".

Amend page 3, section 3, line 8, after "or", insert "(c) as shall be loaned to the authority by any other agency or authority of the State, or (d) as shall be received by the authority from".

Amend page 3, section 3, line 8, before "the", delete "by".

Amend page 3, section 3, line 10, after "law," insert "or (e) as shall be received by the authority from the resale of its participation notes in approved loans made pursuant to this chapter, or (f) as shall be received by the authority from the repayment of approved loans made pursuant to this chapter."

Amend page 3, section 3, line 10, before "capital", delete "and the", and insert "The".

Amend page 3, after section 3, insert a new section 4 to read as follows:

"4. Section 18A:72-9 of the New Jersey Statutes is amended to read as follows:

18A:72-9. Those authorized to make loans.

The authority, or any financial or credit institution (including an insurance company) which is subject to the examination and super-

vision of the Department of Banking and Insurance of this State or by an agency of the United States, any Federal credit union, and any national bank organized under the acts of Congress of the United States and doing business in this State and any Federal savings and loan association having its principal office in New Jersey may make loans under this chapter pursuant to such rules not inconsistent with this chapter and by the use of such forms, as the authority shall prescribe.”.

Amend page 3, section 4, line 1, delete “4”, and insert “5.”.

Amend page 3, section 4, line 5, before “assist”, insert “make loans to persons or to”.

Amend page 4, section 4, line 16, after “be”, insert “made,”.

Amend page 4, section 4, line 29, after “chapter”, insert “, and to buy and sell participations in approved notes made pursuant to this chapter”.

Amend page 4, section 4, line 31, after “funds”, insert “(a) to make loans in accordance with the provisions of subsection (1) of this section; (b)”.

Amend page 4, section 4, line 34, after “law”, delete “, and”, and insert “; and (c)”.

Amend page 4, section 5, line 1, delete “5”, and insert “6”.

Amend page 5, section 6, line 1, delete “6”, and insert “7”.

Amend page 5, section 7, line 1, delete “7”, and insert “8”.

Amend page 6, section 8, line 1, delete “8”, and insert “9”.

Amend page 6, section 9, line 1, delete “9”, and insert “10”.

Amend page 6, section 10, line 1, delete “10”, and insert “11”.

Amend page 6, section 11, line 1, delete “11”, and insert “12”.

Amend page 7, section 12, line 1, delete “12”, and insert “13”.

Amend page 7, section 13, line 1, delete “13”, and insert “14”.

Amend page 8, section 14, line 1, delete “14”, and insert “15”.

Amend page 8, section 15, line 1, delete “15”, and insert “16”.

Amend page 9, section 16, line 1, delete “16”, and insert “17”.

Amend page 9, section 17, line 1, delete “17”, and insert “18”.

Amend page 9, section 17, line 8, before “and”, delete “,”.

Amend page 9, section 17, line 8, after “and”, insert “, unless the authority is the lender,”.

Amend page 9, section 17, line 9, after “lender”, insert “,”.

Amend page 10, section 17, line 32, after “by”, delete “rule”, and insert “resolution of the members thereof,”.

Amend page 10, section 17, line 33, after “fee”, insert “solely with respect to loans made, placed or guaranteed after August 1, 1969, which incentive fee shall be computed”.

Amend page 10, section 18, line 1, delete “18”, and insert “19”.

Amend page 10, section 19, line 1, delete "19", and insert "20".

Amend page 10, section 19, line 14, after "(2)", insert "(a)".

Amend page 11, section 19, line 29, after "which", delete "at least".

Amend page 11, section 19, line 30, delete "equal the amount of such excess", and insert "are in excess of such sum or percentage".

Amend page 11, section 19, after line 48, insert a new subsection "(2) (b)" to read as follows:

"(b) Notwithstanding the provisions of subsection (2) (a) of this section:

(1) the authority shall be under no obligation to, but may in its discretion, purchase approved notes, or any participation therein, which were made, placed or guaranteed on or before August 3, 1968;

(2) no approved notes, nor any participation therein, shall be purchased by the authority from any lender unless such lender, as a condition precedent to any such purchase, shall agree to use that portion of any moneys to be paid to such lender incident to such purchase which represents the aggregate principal amount of such notes or participation therein for the purpose of making loans authorized under this chapter;

(3) the authority is hereby authorized, by resolution of the members thereof, from time to time to suspend or terminate and renew its obligation to purchase approved notes or participations therein pursuant to subsection (2) (a) of this section; provided, however, that any resolution of the authority suspending or terminating its obligation to purchase approved notes or participations therein shall be effective only as to approved notes made, placed or guaranteed subsequent to the close of the fifth business day following the adoption of such resolution."

Amend page 11, after section 19, after line 48, insert new sections 21, 22, 23 and 24 to read as follows:

"21. Section 18A:72-17 of the New Jersey Statutes is amended to read as follows:

18A:72-17. Reserve fund; minimum amount.

The sum total of all reserve funds set aside by the authority in accordance with the provisions of this chapter, other than moneys held in the New Jersey Higher Educational Assistance Capital Reserve Fund, together with such amount as the authority may set aside, out of the fund to meet the payment by the authority of approved notes submitted to it for purchase in accordance with the provisions of section 18A:72-16 (1), shall in no event be less than \$6,000,000.00 minus the unpaid balance of notes purchased during the preceding 12 months or the encumbered reserves required to be maintained on all approved

loans from time to time outstanding that were approved prior to the effective date of this act, whichever is greater.

The authority shall annually, on or before September 15, ascertain and determine, (a) an amount necessary to increase the estimated net balance of the fund as of June 30 of the next ensuing fiscal year to \$6,000,000.00 and (b) an amount necessary to meet the estimated disbursements to be made by the authority in accordance with the provisions of section 18A:72-16 (1) during the next ensuing fiscal year less the estimated revenue of the authority during the next ensuing fiscal year. The chancellor on recommendation of the authority shall certify to the Governor the amount so determined, in the form prescribed by P. L. 1944, chapter 112, and the greater of the 2 amounts shall be appropriated and paid to the reserve fund.

“22. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

Notwithstanding the foregoing provisions of this section, with regard to the sale and award of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which said bonds are sold and awarded forthwith upon the taking of such action and the Governor shall indicate his approval or disapproval of such action prior to the end of the business day upon which such action of the authority was taken.

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

“23. (a) The authority shall establish and maintain a special fund called the ‘New Jersey Higher Educational Assistance Capital Reserve Fund’ in which there shall be deposited (1) all moneys appropriated by the State for the purpose of such fund, (2) all proceeds of bonds required to be deposited therein by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to such proceeds or bonds, and (3) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the same shall become due and payable and for the retirement of bonds, and shall not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount equal to less than the ‘maximum debt service reserve’ (as hereinafter defined) except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of any contract between the authority and its bondholders and for the payments on account of which interest or principal or retirement of bonds other moneys of the authority are not then available in accordance with the terms of any such contract. As herein used ‘maximum debt service reserve’ means, as of any date of computation, the largest amount of money required by the terms of all contracts between the authority and its bondholders to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds, all calculated on the assumption that bonds will cease to be outstanding after date of such computation by reason of the payment of bonds at their respective maturities and the payments of such required moneys to sinking funds and the application thereof in accordance with the terms of all such contracts to the retirement of bonds.

(b) Moneys in said fund at any time in excess of the maximum debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to any other fund or account of the authority.

(c) Moneys at any time in the reserve fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America.

(d) For purposes of valuation, investments in the reserve fund shall be valued at the lowest of the par value, cost to the authority or market value of such investments. Valuation on any particular date shall

include the amount of interest then earned or accrued to such date on any moneys or investments in the reserve fund.

(e) Notwithstanding any other provision contained in this act, no bonds shall be issued by the authority unless there is in the reserve fund the maximum debt service reserve for all bonds then issued and outstanding and the bonds about to be issued, provided, however, that nothing herein shall prevent or preclude the authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds about to be issued, upon their issuance, as is needed to achieve the maximum debt service reserve. The authority may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the maximum debt service reserve, or to meet such higher or additional reserve as may be fixed by the authority with respect to such fund.

(f) In order to assure the maintenance of the maximum debt service reserve in the reserve fund, there shall be appropriated annually and paid to the authority for deposit in said fund, such sum, if any, as shall be certified by the chairman of the authority to the Governor as necessary to restore said fund to an amount equal to the maximum debt service reserve. The chairman shall annually, on or before December 1, make and deliver to the Governor his certificate stating the sums, if any, required to restore said fund to the amount aforesaid, and the sum or sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

(g) This reserve fund shall be kept separate from any other reserve fund established by the authority and shall not be subject to the provisions of section 18A:72-17 of the New Jersey Statutes.”.

“24. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.”.

Amend page 11, section 20, line 1, delete “20”, and insert “25”.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

July 2, 1969

ASSEMBLY BILL NO. 598

To the General Assembly:

Pursuant to Article V, Section 1, paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 598, with my objections, for reconsideration.

This bill would amend and supplement in many respects the "Higher Education Assistance Authority Law," chapter 72 of Title 18A of the New Jersey Statutes. The major provisions of A-598 (1969) would: (1) grant to the Higher Education Assistance Authority the power to issue revenue bonds and to pay incentive fees to cooperating lenders; and (2) obligate the Authority to purchase from cooperating lenders personal notes representing higher education loans made by the lenders. These provisions were designed to strengthen the New Jersey Student Loan Program in order that deserving students will have access to higher education loans even in the fast-paced and fluctuating money markets of today.

Ten years ago, when the Higher Education Assistance Authority Law was enacted, our Student Loan Program represented a near-perfect solution to a potentially staggering problem. Operated exclusively through decentralized, private lending institutions, our Student Loan Program has enabled thousands of young men and women to meet the expenses of their college educations. Until recent times no severe problems were encountered by prospective college students in their attempts to secure higher education loans through the joint efforts of private lending institutions and the Authority.

Within the past few years, however, several factors have contributed jointly to the development of severe pressures on our Student Loan Program. First, the post-World War II "baby-boom" has approached its crest, with greatly increased numbers of young people as potential college students. Second, the costs of college education - just as the cost of practically all other items or services - has climbed rapidly in the period of constant inflation running from the 1957-1958 parity base until today. Lastly, the mechanics of the money market today are fast grinding to a halt in this period of "tight" credit

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 2.

and high interest rates. While all these factors, in varying degrees, are responsible for the difficulties the Student Loan Program faces today, the primary problem lies in the money market.

It should be noted that numerous entities compete in the money market for the use of borrowed money - major corporations, individuals, small businesses, even other banks. The potential college student who seeks to enter this competition today does so under two major disabilities. First, applicable Federal law limits the interest that may be paid on student loans to 7% of the principal amount. Accordingly, the young person who needs a student loan finds it increasingly difficult to compete with, for example, corporations that are not only willing to pay 10-14% interest, but also to maintain a "compensating balance" on deposit with the potential lender. Second, repayment of student loans must often be delayed until five years after the loan is executed - or one year after the graduation of the student-borrower. Yet, on the other hand, repayment of practically all other loans executed by a lending institution begins within three months of execution - and that as an outside date. Accordingly, the time-cost to a lending institution of student loans is clearly greater than the time-cost to it of other loans. For essentially these two reasons, then, lending institutions are increasingly reluctant to encumber large sums of their deposits in student loans.

In order that the record may be clear, however, I think it important to note the significant role that lending institutions have played in our Student Loan Program. By way of example, the lending institutions of this State have made outstanding student loans of \$70,000,000.00 approximately \$38,000,000.00 of which bear only 5% or 6% interest. Great credit must go to the lending institutions of this State for the major community service they have rendered by continuing to make financially unattractive student loans. However, it is unrealistic to expect this record of past service to continue in the face of the present money market and the problems I have noted.

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EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 3.

This bill attempts to deal with the problems I have outlined by empowering the Higher Education Assistance Authority to issue revenue bonds. The proceeds of the bonds to be issued by the Authority would be used by the Authority to purchase outstanding student notes from lending institutions. The bill makes the obligation to purchase outstanding notes mandatory - including the 5% and 6% loans of which there are approximately \$38,000,000.00 outstanding. In today's market, however, it is painfully clear that the return on the 5% and 6% loans would not be sufficient to repay the principal and interest on revenue bonds issued by the Authority. Moreover, the bill does not provide for any suspension of the Authority's mandatory purchase obligation - a necessary provision as a hedge against even more serious money market conditions.

To correct these serious defects, I am recommending two major amendments to the mandatory purchase provisions of Assembly Bill No. 598. The first would relieve the Authority of any obligation to purchase student notes executed prior to August 3, 1968, which is the date when Federal law was amended to permit interest on student loans at 7%. The second would grant the Higher Education Assistance Authority the power to refuse to purchase student loans from eligible banks on a prospective basis. This power is necessary if the State is to be protected in the repayment of its revenue bonds from market conditions which would make the acceptance of 7 per cent loans inadvisable.

In addition to these two important amendments, I am recommending additional amendments on the advice of bond counsel to strengthen the marketability of those bonds to be issued by the Higher Education Assistance Authority. These amendments provide for a reserve fund which would be guaranteed by the Legislature and a veto of all action by the Higher Education Assistance Authority within a ten-day period by the Governor. This latter provision is one in force for almost all State and inter-state authorities.

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EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 4.

Assembly Bill No. 598, if amended in accordance with my recommendations, would permit the Higher Education Assistance Authority to make direct loans to students. This power is included in order that catastrophic market conditions, should they occur, will not preclude students from obtaining loans. The power to make direct loans should only be used under those conditions where it is clearly impossible for New Jersey lending institutions to issue student loans because of the unattractive rate of return.

I am also recommending amendments which would establish the independence of the reserve fund which is maintained by statute at a constant \$6 million level for guaranteeing student loans against default. This fund should be maintained separately from the reserve fund being recommended for covering the Authority's obligations in the repayment of its revenue bonds.

I note that Assembly Bill No. 598 also authorizes the Higher Education Assistance Authority the discretion to pay incentive fees to lending institutions. These fees would have the effect of increasing the rate of return to banks on student loans. However, no appropriation was made for these fees and it is not possible for the proceeds from revenue bond sales to be used for these purposes. The Legislature should understand that a significant program of incentive fees might cost hundreds of thousands of dollars in the first year and would increase substantially in subsequent years.

In making the following recommendations, I have considered carefully the most economical approach for the State of New Jersey, the needs of our prospective college students, and the creditable service of New Jersey lending institutions. I have consulted with representatives of New Jersey lending institutions and the chief sponsor of Assembly Bill No. 598, Assemblyman Ewing. They understand the deficiencies which I have outlined and agree that remedial action must be taken in accordance with my recommendations.

Accordingly, I herewith return the measure for reconsideration and with the recommendation that it be amended as follows:

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EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 5.

On page 1, section 1, line 9, after "includes" insert "the authority and".

On page 2, section 2, line 7, after "constitute" delete "a political subdivision of the State established as".

On page 2, section 2, line 8, after "instrumentality" insert "of the state".

On page 3, section 3, line 6, after "or" insert "(a)".

On page 3, section 3, line 7, after "or" insert "(b) as shall be received by the authority".

On page 3, section 3, line 8, after "or" insert "(c) as shall be loaned to the authority by any other agency or authority of the State, or (d) as shall be received by the authority from".

On page 3, section 3, line 8, before "the" delete "by".

On page 3, section 3, line 10, after "law," insert "or (e) as shall be received by the authority from the resale of its participation notes in approved loans made pursuant to this chapter, or (f) as shall be received by the authority from the repayment of approved loans made pursuant to this chapter."

On page 3, section 3, line 10, before "capital" delete "and the" and insert "The".

On page 3, after section 3, insert a new section 4 to read as follows:

"4. Section 18A:72-9 of the New Jersey Statutes is amended to read as follows:

18A:72-9. Those authorized to make loans.

The authority, or any financial or credit institution (including an insurance company) which is subject to the examination and supervision of the department of banking and insurance of this state or by an agency of the United States, any federal credit union, and any national bank organized under the acts of congress of the United States and doing business in this state and any federal savings and loan association having its principal office in New Jersey may make loans under this chapter pursuant to such rules not inconsistent with this chapter and by the use of such forms, as the authority shall prescribe."

On page 3, section 4, line 1, delete "4" and insert "5".

On page 3, section 4, line 5, before "assist" insert "make loans to persons or to".

On page 4, section 4, line 16, after "be" insert "made,".

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Page 6.

On page 4, section 4, line 29, after "chapter" insert ", and to buy and sell participations in approved notes made pursuant to this chapter".

On page 4, section 4, line 31, after "funds" insert "(a)to make loans in accordance with the provisions of subsection (1) of this section; (b)".

On page 4, section 4, line 34, after "law" delete ", and" and insert "; and (c)".

On page 4, section 5, line 1, delete "5" and insert "6".

On page 5, section 6, line 1, delete "6" and insert "7".

On page 5, section 7, line 1, delete "7" and insert "8".

On page 6, section 8, line 1, delete "8" and insert "9".

On page 6, section 9, line 1, delete "9" and insert "10".

On page 6, section 10, line 1, delete "10" and insert "11".

On page 6, section 11, line 1, delete "11" and insert "12".

On page 7, section 12, line 1, delete "12" and insert "13".

On page 7, section 13, line 1, delete "13" and insert "14".

On page 8, section 14, line 1, delete "14" and insert "15".

On page 8, section 15, line 1, delete "15" and insert "16".

On page 9, section 16, line 1, delete "16" and insert "17".

On page 9, section 17, line 1, delete "17" and insert "18".

On page 9, section 17, line 8, before "and" delete ",,".

On page 9, section 17, line 8, after "and" insert ", unless the authority is the lender,".

On page 9, section 17, line 9, after "lender" insert ",,".

On page 10, section 17, line 32, after "by" delete "rule" and insert "resolution of the members thereof,".

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EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 7.

On page 10, section 17, line 33, after "fee" insert "solely with respect to loans made, placed or guaranteed after August 1, 1969, which incentive fee shall be computed".

On page 10, section 18, line 1, delete "18" and insert "19".

On page 10, section 19, line 1, delete "19" and insert "20".

On page 10, section 19, line 14, after "(2)" insert "(a)".

On page 11, section 19, line 29, after "which" delete "at least".

On page 11, section 19, line 30, delete "equal the amount of such excess" and insert "are in excess of such sum or percentage".

On page 11, section 19, after line 48, insert a new subsection "(2)(b)" to read as follows:

"(b) Notwithstanding the provisions of subsection (2)(a) of this section . . .

(1) the authority shall be under no obligation to, but may in its discretion, purchase approved notes, or any participation therein, which were made, placed or guaranteed on or before August 3, 1968;

(2) no approved notes, nor any participation therein, shall be purchased by the authority from any lender unless such lender, as a condition precedent to any such purchase, shall agree to use that portion of any monies to be paid to such lender incident to such purchase which represents the aggregate principal amount of such notes or participation therein for the purpose of making loans authorized under this chapter;

(3) the authority is hereby authorized, by resolution of the members thereof, from time to time to suspend or terminate and renew its obligation to purchase approved notes or participations therein pursuant to subsection (2)(a) of this section; provided, however, that any resolution of the authority suspending or terminating its obligation to purchase approved notes or participations therein shall be effective only as to approved notes made, placed or guaranteed subsequent to the close of the fifth business day following the adoption of such resolution."

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EXECUTIVE DEPARTMENT

Assembly Bill No. 598

Page 8.

On page 11, after section 19, after line 48, insert new sections 21, 22, 23 and 24 to read as follows:

"21. Section 18A:72-17 of the New Jersey Statutes is amended to read as follows:

18A:72-17. Reserve fund; minimum amount

The sum total of all reserve funds set aside by the authority in accordance with the provisions of this chapter, other than monies held in the New Jersey Higher Educational Assistance Capital Reserve Fund, together with such amount as the authority may set aside, out of the fund, to meet the payment by the authority of approved notes submitted to it for purchase in accordance with the provisions of Section 18A:72-16(1), shall in no event be less than \$6,000,000.00 minus the unpaid balance of notes purchased during the preceding 12 months or the encumbered reserves required to be maintained on all approved loans from time to time outstanding that were approved prior to the effective date of this act, whichever is greater.

The authority shall annually, on or before September 15, ascertain and determine, (a) an amount necessary to increase the estimated net balance of the fund as of June 30 of the next ensuing fiscal year to \$6,000,000.00 and (b) an amount necessary to meet the estimated disbursements to be made by the authority in accordance with the provisions of Section 18A:72-16(1) during the next ensuing fiscal year less the estimated revenue of the authority during the next ensuing fiscal year. The chancellor on recommendation of the authority shall certify to the Governor the amount so determined, in the form prescribed by P.L. 1944, chapter 112, and the greater of the 2 amounts shall be appropriated and paid to the reserve fund.

"22. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved.

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Notwithstanding the foregoing provisions of this section, with regard to the sale and award of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which said bonds are sold and awarded forthwith upon the taking of such action and the Governor shall indicate his approval or disapproval of such action prior to the end of the business day upon which such action of the authority was taken.

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

"23. (a) The authority shall establish and maintain a special fund called the 'New Jersey Higher Educational Assistance Capital Reserve Fund' in which there shall be deposited (1) all moneys appropriated by the State for the purpose of such fund, (2) all proceeds of bonds required to be deposited therein by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to such proceeds or bonds, and (3) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the same shall become due and payable and for the retirement of bonds, and shall not be withdrawn therefrom if such withdrawal would reduce the amount in the reserve fund to an amount equal to less than the 'maximum debt service reserve' (as hereinafter defined) except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of any contract between the authority and its bondholders and for the payments on account of which interest or principal or retirement of bonds other moneys of the authority are not then available in accordance with the terms of any such contract. As herein used 'maximum debt service reserve' means, as of any date of computation, the largest amount of money required by the terms of all contracts between the authority and its bondholders to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of any such contracts to sinking funds established for the payment or redemption of such bonds, all calculated on the assumption that bonds will cease to be outstanding after date of such computation by reason of the payment of bonds at their respective maturities and the payments of such required moneys to sinking funds and the application thereof in accordance with the terms of all such contracts to the retirement of bonds.

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(b) Moneys in said fund at any time in excess of the maximum debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to any other fund or account of the authority.

(c) Moneys at any time in the reserve fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America.

(d) For purposes of valuation, investments in the reserve fund shall be valued at the lowest of the par value, cost to the authority or market value of such investments. Valuation on any particular date shall include the amount of interest then earned or accrued to such date on any moneys or investments in the reserve fund.

(e) Notwithstanding any other provision contained in this act, no bonds shall be issued by the authority unless there is in the reserve fund the maximum debt service reserve for all bonds then issued and outstanding and the bonds about to be issued, provided, however, that nothing herein shall prevent or preclude the authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds about to be issued, upon their issuance, as is needed to achieve the maximum debt service reserve. The authority may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the maximum debt service reserve, or to meet such higher or additional reserve as may be fixed by the authority with respect to such fund.

(f) In order to assure the maintenance of the maximum debt service reserve in the reserve fund, there shall be appropriated annually and paid to the authority for deposit in said fund, such sum, if any, as shall be certified by the chairman of the authority to the Governor as necessary to restore said fund to an amount equal to the maximum debt service reserve. The chairman shall annually, on or before December 1, make and deliver to the Governor his certificate stating the sums, if any, required to restore said fund to the amount aforesaid, and the sum or sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

(g) This reserve fund shall be kept separate from any other reserve fund established by the authority and shall not be subject to the provisions of Section 18A:72-17 of the New Jersey Statutes."

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"24. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered."

On page 11, section 20, line 1, delete "20" and insert "25".

Respectfully,

/S/ RICHARD J. HUGHES

GOVERNOR

[seal]

Attest:

/S/ ALAN J. KARCHER

FISCAL NOTE TO
ASSEMBLY, No. 598
AS AMENDED

STATE OF NEW JERSEY

DATED: MAY 20, 1969

Assembly Bill No. 598, as amended, amends and supplements the Higher Education Assistance Authority Law.

As of May 12, 1969, the Division of Budget and Accounting pointed out that the 1970 Budget Message shows the estimated loans outstanding for June 30, 1969, to be \$77,030,620.00. The revised estimate from the Higher Education Assistance Authority as of this moment is \$80,000,000.00. The authority expects the loans outstanding to reach \$400 million or more by the mid 1970's.

The cost estimate of the Higher Education Assistance Authority makes the following assumptions:

- that the \$80 million loans outstanding will grow to \$120 million next year;
- that the authority will pay a lenders fee of $\frac{1}{2}$ of 1% per year on a calendar basis.

The calculation of the cost is as follows:

Pay lenders fee $\frac{1}{2}$ of 1% for \$80 million loans outstanding as of the beginning of calendar 1969	\$400,000 00
Pay lenders fee $\frac{1}{2}$ of 1% for \$120 million loans outstanding as of December, 1969	600,000 00
Expense of floating bonds	100,000 00
Total Cost for Fiscal 1970	<u>\$1,100,000 00</u>

The cost estimate for fiscal 1971 is \$700,000.00 lenders fee at $\frac{1}{2}$ of 1% plus the \$100,000.00 expense of issuing the bonds.

When the loans outstanding grows to \$400 million then the lenders fee at $\frac{1}{2}$ of 1% would be \$2,000,000.00. The bill also gives the authority the option to pay a fixed fee of \$25.00 per loan instead of the $\frac{1}{2}$ of 1%. If the authority opts to use the \$25.00 fixed fee rather than the $\frac{1}{2}$ of 1% single fee, the net cost would be considerably less although the initial cost would be greater.

The State has a contingent liability in that it has the obligation to purchase any loans in default and will sustain a loss to the extent that the loans in default are uncollectable.

These observations by the Division of Budget and Accounting had been based on the following 2 assumptions:

- a. $\frac{1}{2}$ of 1% single fee is an annual rate;
- b. \$25.00 fixed fee is payable once at inception of loan.

As the bill was amended on May 12, the language clarifies that the potential costs under the \$25.00 per loan option is an annual fee instead of a fee that would be paid once during the life of the loan.

Assuming a \$1,000.00 loan, the cost of \$25.00 fee would be 5 times greater than the $\frac{1}{2}$ of 1% method of compensating lenders.

In the example given, the loans outstanding by the mid 1970's are expected to be \$400 million and will generate a lenders fee of \$2,000,000.00 per year. With the same \$400 million in loans the lenders fee at the \$25.00 per loan per year rate would increase the lenders fee from \$2,000,000.00 to \$10,000,000.00.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.