

18A:72-8, 10.2, 10.4

February 10, 1970

LEGISLATIVE NOTES ON R.S. 18A:72-8, 10.2, 10.4,  
10.13; 16, 17  
(Higher Education Assistance Authority funds)

COPY NO. 2

L. 1969, Chapter 216 - A1121  
Introduced November 24 by Ewing [and others].  
Bill had statement (copy enclosed).  
Not amended during passage.  
Governor Hughes made statement on signing A1121 (copy enclosed).

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ASSEMBLY, No. 1121

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 24, 1969

By Assemblymen EWING, KEAN, WOODSON and WILENTZ

(Without Reference)

AN ACT concerning the Higher Education Assistance Authority Law, and amending sections 18A:72-8, 18A:72-16 and 18A:72-17 of the New Jersey Statutes and sections 6, 8 and 17 of chapter 135 of the laws of 1969 of New Jersey.

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

1 1. 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 *establish and maintain a special fund called*  
5 *the "higher education assistance fund" into which shall be de-*  
6 *posited such funds* [have such capital from time to time] *as shall*  
7 *be appropriated* [to it for that purpose] *by the Legislature of the*  
8 *State of New Jersey for inclusion therein, or (a) as shall be con-*  
9 *tributed to* [it from] *the authority by private sources, to be used for*  
10 *the purposes of this chapter, or (b) as shall be received by the*  
11 *authority from the sale of its bonds and bond anticipation notes as*  
12 *provided by law, or (c) as shall be loaned to the authority by any*  
13 *other agency or authority of the State, or (d) as shall be received*  
14 *by the authority from the resale of notes evidencing approved loans*  
15 *made pursuant to this chapter, purchased or otherwise acquired by*  
16 *it as provided by law, or (e) as shall be received by the authority*  
17 *from the resale of its participation notes in approved loans made*  
18 *pursuant to this chapter, or (f) as shall be received by the authority*  
19 *from the repayment of approved loans made pursuant to this*  
20 *chapter, or (g) as shall be received by the authority from any source*  
21 *whatsoever, including the United States of America, or agencies*  
22 *thereof, for inclusion therein. The authority may in any resolution*  
23 *authorizing the issuance of its bonds or notes, create or authorize*  
24 *the creation within said higher education assistance fund of special*

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

25 *funds or moneys to be held in pledge or otherwise for payment or*  
 26 *redemption of bonds or notes, reserves or other purposes and to*  
 27 *covenant as to use and disposition of the moneys held in such funds.*  
 28 **【The capital and all revenues of the authority shall be held in trust**  
 29 **in a “higher education assistance fund” to meet the obligations of**  
 30 **the authority incurred under this chapter, but any amount of the**  
 31 **fund in excess of the total amount of guaranteed or insured loans**  
 32 **outstanding at any time shall be subject to such disposition as may**  
 33 **be provided by law, and any amounts from the fund which the**  
 34 **authority determines are not needed for its current operations shall**  
 35 **be invested and reinvested by the State Treasurer in such obliga-**  
 36 **tions as are legal investments for savings banks of this State. All**  
 37 **payments from the fund shall be made by the State Treasurer upon**  
 38 **vouchers signed by such person or persons as are designated by the**  
 39 **authority. A certified copy of a resolution of the authority, attested**  
 40 **by its chairman or vice-chairman and bearing the specimen signa-**  
 41 **tures of the person or persons so designated, shall be filed with the**  
 42 **State Treasurer as his authority for making payments out of the**  
 43 **fund.】**

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

3 18A:72-16. Purchase of notes; participations.

4 (1) Whenever any approved note, *including notes held by the*  
 5 *authority in the higher education assistance fund*, shall be in default  
 6 **【to any lender】** for 30 days after the date of maturity thereof, or  
 7 whenever any installment thereon is more than 120 days in arrears  
 8 for loans on monthly installment payments and 180 days in arrears  
 9 for loans with less frequent payments, or upon the death or total  
 10 and permanent disability of the borrower, the authority shall, upon  
 11 the demand of **【the】** a lender, purchase **【from said lender】** such  
 12 note by paying to *the 【said】 lender or by transferring to the higher*  
 13 *education assistance fund out of the loan reserve fund hereinafter*  
 14 *in this chapter created, 【reserve fund】* the total amount of principal  
 15 and interest then due and owing **【to said lender】** on said note, as  
 16 herein provided.

17 (2) (a) Whenever the aggregate of the principal balances owing  
 18 on all approved notes *and Federally insured student loan notes* held  
 19 by a lender which is a banking institution as defined in section 1 of  
 20 The Banking Act of 1948 (P. L. 1948, c. 67) is in excess of  $\frac{1}{2}$  of 1%  
 21 of the deposits of such banking institution as of the most recent call  
 22 date for which published figures are available, and whenever the  
 23 aggregate of the principal balances owing on all approved notes  
 24 held by a lender which is an association as defined in section 5 of the

25 Savings and Loan Act (1963) (P. L. 1963, c. 144) is in excess of  $\frac{1}{2}$   
26 of 1% of the savings accounts of such association as shown in the  
27 association's most recent published statement, and whenever the  
28 aggregate of the principal balances owing on all approved notes  
29 held by a lender which is a financial or credit institution other than  
30 a banking institution or an association, is in excess of such sum,  
31 expressed in dollars or a percentage, as the authority shall by rule  
32 prescribe, the authority shall, at the written request of such lender  
33 *and provided that the authority either has sufficient unencumbered*  
34 *funds available therefor or can, by the sale of its bonds or notes,*  
35 *secure sufficient funds therefor,* purchase from such lender  
36 approved notes the unpaid aggregate principal balances of which  
37 are in excess of such sum or percentage. In lieu of purchasing such  
38 approved notes, the authority may, at its option, purchase a partic-  
39 ipation in approved notes, to the extent of at least 80% of the  
40 amount of such excess. In purchasing approved notes, or in pur-  
41 chasing a participation in approved notes, the authority shall pay  
42 therefor an amount equal to or based upon the aggregate principal  
43 amount owing on the notes so purchased or participated in plus  
44 unpaid interest to the date of such purchase or participation.  
45 Where the amount of such excess in respect to any one lender is  
46 more than \$50,000.00, the authority shall have the right to restrict  
47 its purchase or participation to even multiples of \$50,000.00. The  
48 authority may, in its discretion, decline to make more than one  
49 purchase of approved notes in any 3-month period from any one  
50 lender. The authority shall have power to contract with a lender  
51 for the servicing of approved notes which are purchased or parti-  
52 cipated in by it; and for the compensation to be retained by the  
53 lender out of the payments of interest or principal, or both, re-  
54 ceived by such lender in connection with approved notes purchased  
55 by or participated in by the authority.

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

58 (1) The authority shall be under no obligation to, but may in its  
59 discretion, purchase approved notes, or any participation therein,  
60 which were made, placed or guaranteed on or before August 3,  
61 1968;

62 [(2) No approved notes, nor any participation therein, shall be  
63 purchased by the authority from any lender unless such lender, as  
64 a condition precedent to any such purchase, shall agree to use that  
65 portion of any moneys to be paid to such lender incident to such  
66 purchase which represents the aggregate principal amount of such

67 notes or participation therein for the purpose of making loans  
68 authorized under this chapter;】

69 【(3)】 (2) The authority is hereby authorized, by resolution of  
70 the members thereof, from time to time to suspend or terminate  
71 and renew its obligation to purchase approved notes or participa-  
72 tion therein pursuant to subsection (2) (a) of this section; pro-  
73 vided, however, that any resolution of the authority suspending or  
74 terminating its obligation to purchase approved notes or participa-  
75 tions therein shall be effective only as to approved notes made,  
76 placed or guaranteed subsequent to the close of the fifth business  
77 day following the adoption of such resolution.

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

3 18A:72-17. *Loan* 【Reserve】 *reserve fund*【;】 【minimum  
4 amount】.

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

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

29 (a) *The authority shall establish and maintain a special fund*  
30 *called the "loan reserve fund" in which there shall be deposited*  
31 *(1) all reserve funds now held by the authority, (2) all moneys*  
32 *appropriated by the State for the purpose of such fund and (3) any*

33 other moneys or funds of the authority which it determines to de-  
34 posit therein. Moneys in the loan reserve fund shall be held and  
35 approved solely for the purchase by said fund of defaulted loans  
36 either by payment to a lender or by transfer to the higher educa-  
37 tion assistance fund, of the total amount of principal and interest  
38 then due and owing on any defaulted note, except to the extent that  
39 such moneys represent advances made to the authority by the  
40 United States of America, or agencies thereof, which the authority  
41 may be required to repay, and in the event such repayment is re-  
42 quired it shall be made from the loan reserve fund.

43 (b) The sum total of all funds on deposit in the loan reserve fund,  
44 hereafter referred to as the "loan reserve requirement," shall in  
45 no event be less than (i) the amount required to acquire defaulted  
46 loans during the then current fiscal year or (ii) the encumbered  
47 reserves required to be maintained on all approved loans from time  
48 to time outstanding that were approved prior to the effective date  
49 of this act, whichever is greater.

50 (c) In order to assure the maintenance of the loan reserve re-  
51 quirement in the loan reserve fund, there shall be appropriated  
52 annually and paid to the authority for deposit in said fund, such  
53 sum, if any, as shall be certified by the chairman of the authority  
54 to the Governor as necessary to maintain said fund at an amount  
55 equal to the loan reserve requirement during the then current fiscal  
56 year. The chairman shall annually, on or before December 1, make  
57 and deliver to the Governor his certificate stating the sums, if any,  
58 required to maintain said fund at the amount aforesaid, and the  
59 sum or sums so certified shall be appropriated and paid to the  
60 authority during the then current State fiscal year.

61 (d) Moneys in said fund at any time in excess of the loan reserve  
62 requirement, whether by reason of investment or otherwise, may be  
63 withdrawn at any time by the authority and transferred to any  
64 other fund or account of the authority.

65 (e) Moneys at any time in the loan reserve fund may be invested  
66 in any direct obligations of, or obligations as to which the principal  
67 and interest thereof is guaranteed by, the United States of America  
68 or such other obligations as the authority may approve.

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

1 4. Section 6 of chapter 135 of the laws of 1969 of New Jersey is  
2 amended to read as follows:

3 6. Limitations on issue of [bonds and] bond anticipation notes.

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

1 5. Section 8 of chapter 135 of the laws of 1969 of New Jersey is  
2 amended to read as follows:

3 8. Bond resolutions.

4 Any resolution or resolutions of the Higher Education Assistance  
5 Authority authorizing any bonds or any issue of bonds may contain  
6 provisions, which shall be a part of the contract with the holders of  
7 the bonds to be authorized as to:

8 (1) The pledging of all or any part of the revenues of the  
9 authority;

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

11 (3) The setting aside of reserves or sinking funds, and the reg-  
12 ulations and disposition thereof;

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

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

20 (6) Limitations on the purpose to which the proceeds of sale of  
21 any issue of bonds then or thereafter to be issued may be applied  
22 and pledging such proceeds to secure the payment of the bonds or  
23 any issue of the bonds; **[and]**

24 (7) Defining the acts or omissions to act which shall constitute a  
25 default in the duties of the authority to holders of its obligations  
26 and providing the rights and remedies of such holders in the event  
27 of a default; *and*

28 (8) *The making of covenants other than and in addition to the*  
29 *covenants herein expressly authorized, of like or different char-*  
30 *acter; and the making of such covenants to do or refrain from doing*  
31 *such acts and things as may be necessary or convenient or desirable*  
32 *in order to better secure the bonds or notes or which, in the absolute*  
33 *discretion of the authority, will tend to make the bonds or notes*  
34 *more marketable, notwithstanding that such covenants, acts or*  
35 *things may not be enumerated herein.*

1 6. Section 17 of chapter 135 of the laws of 1969 of New Jersey is  
2 amended to read as follows:

3 17. Pledge of State.

4 (a) The State of New Jersey does pledge to and agree with the  
5 holders of the bonds, notes and other obligations issued pursuant  
6 to authority contained in this act and New Jersey Statutes  
7 18A:72-10, that the State will not limit the power and obligation of  
8 the Higher Education Assistance Authority to fulfill the terms of  
9 any agreements made with the holders of bonds so issued, or in any  
10 way impair the rights or remedies of the holders of such bonds.  
11 *and will not modify in any way the exemptions for taxation pro-*  
12 *vided for in this act, until the bonds, together with interest thereon,*  
13 *are fully paid and discharged. The authority as a public body cor-*  
14 *porate and politic shall have the right to include the pledge herein*  
15 *made in it bonds and contracts.*

16 (b) *All bonds, bond anticipation notes or other obligations*  
17 *issued pursuant to this act are hereby declared to be issued by a*  
18 *body corporate and public of this State and for an essential public*  
19 *and governmental purpose and such bonds, bond anticipation notes*  
20 *and other obligations, and the interest thereon and the income*  
21 *therefrom, and all fees, charges, funds, revenues, income and other*  
22 *moneys pledged or available to pay or secure the payment of such*  
23 *bonds, bond anticipation notes or other obligations, or interest*  
24 *thereon, shall at all times be exempt from taxation except for trans-*  
25 *fer, inheritance and estate taxes.*

1 7. This act shall take effect immediately.



**STATEMENT**

This bill is necessary to facilitate revenue bond financing by the New Jersey Higher Education Assistance Authority and reflects the suggestions of the authority's financial advisors and bond counsel. These amendments, if enacted, would enumerate and clarify the various funds to be maintained by the authority. The changes are technical in nature but very necessary if the authority is to successfully carry out its much needed student loan program. To this end, the changes will enhance the security for the authority's bonds thereby placing the authority in a much better position to market its bonds in the presently unstable bond market.

Governor Richard J. Hughes today announced he had signed the following bills:

Senate Bill No. 287 -- which establishes a \$2 million program of loans and guarantees for residents of economically depressed areas. Governor Hughes stated "I am extremely gratified that the Legislature chose to concur in my conditional veto of this bill. As amended, it presents one of the most farsighted and flexible instruments for helping the residents of our center cities help themselves in the country. With this bill, I believe we are far ahead, not only of our sister states, but of the Federal government's efforts in this field."

Senate Bill No. 514 -- which authorizes the Governor to submit a reorganization plan to the Legislature, to take effect unless disapproved by the Legislature within 60 days. The legislation is patterned on the Federal Executive Reorganization Act.

Senate Bill No. 534 -- which authorizes the Department of Transportation to pay for a substitute potable water supply when State construction has destroyed or contaminated the water supply of any private individual or public body.

Senate Bill No. 620 -- which increases the raffle license fee from \$5 to \$10.

Senate Bill No. 621 -- which increases the bingo license fee from \$5 to \$10.

Senate Bill No. 622 -- which requires an approved bingo rentor to pay a \$5 fee for games held on licensed premises.

Senate Bill No. 667 -- which establishes the responsibility for the payment of the cost of relocated public utilities in an urban renewal project conducted by a redevelopment agency.

Senate Bill No. 668 -- which establishes the responsibility for the payment of the cost of relocated public utilities in an urban renewal project conducted by a public housing authority as a redevelopment agency.

Senate Bill No. 777 -- relating to pension payments of certain county court judges.

Senate Bill No. 847 -- which appropriates \$25,000 for the purchase of land by the State Police and \$40,000 to the State Emergency Fund.

Assembly Bill No. 464 -- which requires employers of farm laborers to have workmen's compensation insurance coverage. Governor Hughes stated "This bill removes one more of many discriminations remaining against seasonal farm laborers in our laws. I sincerely hope that the Legislature will continue its efforts in this area and enact the companion measures I have requested in my Annual Message. Assembly Bill No. 465, which grants the fundamental right of collective bargaining to seasonal laborers, still languishes in committee. Assembly Bill No. 466, which allows seasonal laborers to have the basic dignity of being allowed visitors in migrant labor camps, also has not been approved. It seems sad to be compelled to ask so little for those who are denied so much."

Assembly Bill No. 674 -- which appropriates \$50,000 for the purpose of facilitating the transfer of the Gubernatorial office.

Assembly Bill No. 839 -- regarding the salaries of city commissioners of certain fourth-class cities.

Assembly Bill No. 895 -- The "Retirement Community Full Disclosure Act" which requires full disclosure of the financing and soundness of proposed "retirement villages." Governor Hughes stated "I must consider this one of the most important pieces of consumer protection legislation proposed in my Annual Message to the Legislature. We have already had one experience too many with the inadequate financing of a 'retirement village' which subsequently failed and left many of our elderly citizens in the lurch. This bill will allow the Department of Community Affairs to regulate the conditions under which such subdivisions are offered to the public. No law can guarantee that a developer of a 'retirement village' will not ultimately go bankrupt or fail to meet his obligations to the public. However, this bill presents a sound first step in minimizing the risk to the public of that eventuality."

Assembly Bill No. 1110 -- which authorizes limited-dividend housing corporations to enter into mortgages requiring interest payments of up to the maximum legal interest rate, currently at 7.5%.

Assembly Bill No. 1121 -- which makes technical amendments to the Higher Education Assistance Authority Fund for student loans in order to insure compliance with recent Federal legislation and facilitate the sale of bonds and notes by the Authority.

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