18A:72A-72 to 18A:72A-80

LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: **1999** **CHAPTER:** 217

NJSA: 18A:72A-72 to 18A:72A-80 (Higher Education Capital Improvement Fund)

BILL NO: A3078 (Substituted for S1822)

SPONSOR(S): Wolfe and Malone

DATE INTRODUCED: May 3, 1999

COMMITTEE: **ASSEMBLY:** Education; Appropriations

SENATE: -----

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 17, 1999

SENATE: June 24, 1999

DATE OF APPROVAL: September 21, 1999

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: First Reprint
(Amendments during passage denoted by superscript numbers)

A3078

SPONSORS STATEMENT: (Begins on page 7 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes 5-20-99 Education
Yes 6-7-99 Appropriations

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S1822

SPONSORS STATEMENT: (Begins on page 7 of original bill) Yes
Bill and Sponsors Statement identical to A3078

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes 6-7-99
Yes 6-17-99

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: Yes

974.901 G53
New Jersey. Office of the Governor
Budget FY2000
[Trenton] : Governor, 2000
[see pp. i – xi]

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Jersey gives colleges a capital boost," Newark Star Ledger, 9-22-99, p. 28

§§1-8,15
C. 18A:72A-72 to
C. 18A:72A-80
§9
C. 5:9-22.4

P.L. 1999, CHAPTER 217, ***approved September 21, 1999***
Assembly, No. 3078 ***(First Reprint)***

AN ACT concerning facilities improvements at institutions of higher education [1]**[**and**]**,[1] supplementing P.L.1970, c.13 (C.5:9-1 et seq.) and chapter 72A of Title 18A of the New Jersey Statutes [1]and amending various parts of the statutory law[1].

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

1. This act shall be known and may be cited as the "Higher Education Capital Improvement Fund Act."

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing education and training for the work force of the future, by advancing knowledge and technology through research, and by providing lifelong learning opportunities for all citizens.

b. New Jersey has made a significant investment in its public and private institutions of higher education, and that investment must be protected to insure the continuing availability of affordable, accessible, and excellent higher educational opportunities within the State.

c. If New Jersey is to continue the expansion of its economic development through an adequately trained work force that retains and attracts industry to the State, the facilities and technology infrastructure at New Jersey's public and private institutions of higher education must be preserved and enhanced.

d. In order for New Jersey students and businesses to be competitive with their peers in today's global and technological society, the public and private sectors must continually take steps to preserve and enhance the facilities and technology at our colleges and universities. To do otherwise would result in the loss of potential students to more technologically advanced and well-developed and maintained institutions in other states.

e. In order to support the State's economy and preserve and enhance our higher education system, the State recently provided additional funds to capital needs at the two-year public colleges.

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

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Assembly AED committee amendments adopted May 20, 1999.

There remains, however, a crucial need to provide additional funds to renew, renovate, improve, expand, construct, and reconstruct facilities and technology infrastructure at New Jersey's four-year public and private institutions of higher education.

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, the "Higher Education Capital Improvement Fund," hereinafter referred to as the "capital improvement fund." The capital improvement fund shall be maintained as a separate account and administered by the authority to carry out the provisions of this act. The capital improvement fund shall consist of:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 7 of P.L. , c. (C.) (now pending before the Legislature as this bill) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds, notes or other obligations;

b. all moneys appropriated by the State for the purposes of the capital improvement fund; and

c. all interest and investment earnings received on moneys in the capital improvement fund.

4. The capital improvement fund shall be used to provide [1]**[**debt service support**]** grants[1] to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. Each institution shall use the [1]**[**debt service support**]** grants[1] for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. [1]An institution may use up to 5% of a grant within student-support facilities for fire code renovations, health-safety code renovations and other State and federal code-related renovations.[1] If all such renewal and renovation is completed or is accounted for through other funding sources, or if an institution is granted an exemption by the Commission on Higher Education for the purpose of maximizing federal grant fund recoveries [1]or for the purpose of replacing a building when projected renewal and renovation costs exceed the projected cost of replacement[1], then [1]**[**debt service support**]** grant[1] funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act[1]**[**,**]**:[1]

"renewal and renovation" means making the changes necessary to address deferred capital maintenance needs, to meet all State and federal health [1]**[**and**]**,[1] safety [1], fire, and building code[1] standards, or to provide a safe and appropriate educational or working environment[1]**[**.**]**;[1]

[1]**[**As used in this act,**]** "student-support facilities" mean student resident halls, student dining facilities, student activity centers, and student health centers; and[1]

"technology infrastructure" means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years.

5. a. [1]**[**The debt service support from the**]** An amount not to exceed $550,000,000 in the capital improvement[1] fund shall be allocated as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

b. The commission may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the commission for [1]**[**debt service support**]** grants[1] within 24 months of the [1]**[**effective date of this act**]** adoption of regulations by the commission. The commission may allocate any additional moneys in the capital improvement fund to institutions for capital improvement projects as the commission determines and shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority[1].

c. The facilities and technology infrastructure funded by [1]**[**debt service support**]** grants[1] from the capital improvement fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the commission shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

6. a. The governing board of a four-year public or private institution of higher education may determine, by resolution, to apply for [1]**[**debt service support**]** a grant [1]from the capital improvement fund. Upon adoption of the resolution, the board shall file an application with the commission, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. In order to ensure the most effective utilization of the moneys in the capital improvement fund and to guide governing boards which elect to apply for [1][debt service support] a grant[1], the commission shall establish a list of [1][debt service support] grant[1] criteria and shall specify the information to be included in a [1][debt service support] grant[1] application.

c. The commission shall review the application and, by resolution, approve or disapprove the [1][debt service support] grant[1]. When [1][debt service support] a grant[1] is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the [1][debt service support] grant[1] to the authority.

d. The commission shall submit to the Legislature a copy of the resolution approving the [1][debt service support] grant[1] along with the amount of the [1][debt service support] grant[1]. If the Legislature does not disapprove the [1][debt service support] grant[1] by the adoption of a concurrent resolution within 45 days, the [1][debt service support] grant[1] shall be deemed to be authorized.

e. When [1][debt service support] a grant[1] is awarded pursuant to this act, it shall be contingent upon the governing board of the recipient institution entering into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year of the date on which the funds for the [1][debt service support] grant[1] are made available.

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

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to this act plus any amounts payable in connection with an agreement authorized under subsection e. of this section. The authority shall enter into a contractual agreement with each institution receiving [1]a[1] capital improvement fund [1]⟦debt service support⟧ grant[1], and the agreements shall be approved by a resolution of the authority. All agreements with the four-year public institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. All agreements with the four-year private institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. Upon receipt of the moneys from the public or private institutions of higher education, the authority shall apply the moneys in a manner specified in the contract with the State Treasurer.

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

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

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

8. a. The authority shall require that if an institution of higher education fails or is unable to pay the authority in full, when due, any obligations of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the institution" means any amount payable by the institution for the principal and interest on the bonds, notes or other obligations of the authority for the institution's capital improvement fund [1][debt service support] grant[1].

b. The amount retained by the State Treasurer shall be deducted from the appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, or entitle the institution to receive, any additional appropriation or apportionment.

9. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any capital improvement fund established to provide [1][debt service support] grants[1] to New Jersey's four-year public and private institutions of higher education for the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure shall be considered eligible for State aid from the net proceeds of the State lottery, as shall be provided by law.

[1]10. Section 31 of P.L.1986, c.43 (C.18A:64-82) is amended to read as follows:

31. Any State college may enter into an agreement indemnifying the New Jersey Educational Facilities Authority or[1] the United States of America, or any board, body, officer or agency thereof, from any liability for loss or damage to the person or property of others resulting from any project financed or to be financed by the New Jersey Educational Facilities Authority for the benefit of the State college, any project undertaken or to be undertaken by the federal government for the benefit of the State college or any project the cost of which or any part thereof is to be paid out of federal funds.[1]

(cf: P.L.1986, c.43, s.31)

[1]11. N.J.S.18A:72A-4 is amended to read as follows:

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

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

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

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

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

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

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

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

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

Notwithstanding the foregoing provisions of this subsection (i), with regard to the [authorization or] sale of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which the bonds are [authorized or] sold and the Governor shall indicate approval or disapproval of the action [upon receipt of the certified copy of the minutes] <u>prior to the issuance of the bonds</u>.

The powers conferred in this subsection (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.[1]

(cf: P.L.1999, c.46, s.48)

[1]12. N.J.S.18A:72A-8 is amended to read as follows:

N.J.S.18A:72A-8. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues or other moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes shall be general obligations of the authority payable from any revenues or moneys or the authority, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that bonds and notes may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform

Commercial Code, of the New Jersey Statutes, subject only to the provisions of the bonds and notes for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, [not exceeding 6% per annum,] be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine[, but which shall not at the time of sale yield more than 6% per annum computed according to standard tables of bond values]. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(i) pledging all or any part of the revenues of a project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(v) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(vi) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

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

(viii) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority; and

(ix) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

<u>(g) In connection with any bonds or refunding bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor or cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement and other security agreement approved by the authority</u>.[1]

(cf: N.J.S.18A:72A-8)

[1]13. N.J.S.18A:72A-27 is amended to read as follows:

18A:72A-27. In addition thereto the board of governors of the university and the board of trustees of each of said colleges including county colleges shall have the following powers and shall be subject to the following duties as to its lands and dormitories:

a. The power to pledge and assign all or any part of the revenues derived from the operation of such new dormitories as security for the payment of rentals due and to become due under any lease or sublease of such new dormitories under subsection c. of the preceding section.

b. The power to covenant and agree in any lease or sublease of such new dormitories made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of such new dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

c. The power to apply all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

d. The power to pledge and assign all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

e. The power to covenant and agree in any lease or sublease made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of any dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

f. The power to indemnify the authority from any liability for loss or damage to any person or property of others resulting from any project financed or to be financed by the authority for the benefit of the college.[1]

(cf: P.L.1971, c.77, s.2)

[1]14. Section 2 of P.L.1988, c.159 (C.18A72A-27.3) is amended to read as follows:

2. The board of trustees of the public institution of higher education shall submit a copy of a resolution approving any non-revenue producing facility project to the President of the Senate and the Speaker of the General Assembly and shall submit informational copies of the proposal to the members of the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee and to the Commission on Higher Education. The submission shall include all appropriate supporting information including, but not limited to, a description of the project, its impact, cost and construction schedule, and a detailed explanation of the sources of revenue which will be dedicated to the financing of the project. If the Legislature does not disapprove the proposal by the adoption of a concurrent resolution within ⟦60⟧ 45 days, the proposal shall be deemed to be approved.[1]

(cf: P.L.1999, c.46, s.49)

[1]⟦10.⟧ 15.[1] The Commission on Higher Education, in consultation with the New Jersey Educational Facilities Authority, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

[1]⟦11.⟧ 16.[1] This act shall take effect immediately.

Establishes the Higher Education Capital Improvement Fund to finance facilities projects at institutions of higher education.

ASSEMBLY, No. 3078

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED MAY 3, 1999

Sponsored by:
Assemblyman DAVID W. WOLFE
District 10 (Monmouth and Ocean)
Assemblyman JOSEPH R. MALONE, III
District 30 (Burlington, Monmouth and Ocean)

Co-Sponsored by:
Assemblymen Zecker, Blee, Holzapfel, LeFevre, Garcia, Stanley and Wisniewski

SYNOPSIS

Establishes the Higher Education Capital Improvement Fund to finance facilities projects at institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/21/1999)

AN ACT concerning facilities improvements at institutions of higher education and supplementing P.L.1970, c.13 (C.5:9-1 et seq.) and chapter 72A of Title 18A of the New Jersey Statutes.

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

1. This act shall be known and may be cited as the "Higher Education Capital Improvement Fund Act."

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing education and training for the work force of the future, by advancing knowledge and technology through research, and by providing lifelong learning opportunities for all citizens.

b. New Jersey has made a significant investment in its public and private institutions of higher education, and that investment must be protected to insure the continuing availability of affordable, accessible, and excellent higher educational opportunities within the State.

c. If New Jersey is to continue the expansion of its economic development through an adequately trained work force that retains and attracts industry to the State, the facilities and technology infrastructure at New Jersey's public and private institutions of higher education must be preserved and enhanced.

d. In order for New Jersey students and businesses to be competitive with their peers in today's global and technological society, the public and private sectors must continually take steps to preserve and enhance the facilities and technology at our colleges and universities. To do otherwise would result in the loss of potential students to more technologically advanced and well-developed and maintained institutions in other states.

e. In order to support the State's economy and preserve and enhance our higher education system, the State recently provided additional funds to capital needs at the two-year public colleges. There remains, however, a crucial need to provide additional funds to renew, renovate, improve, expand, construct, and reconstruct facilities and technology infrastructure at New Jersey's four-year public and private institutions of higher education.

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, the "Higher Education Capital Improvement Fund," hereinafter referred to as the "capital improvement fund." The capital improvement fund shall be maintained as a separate account

and administered by the authority to carry out the provisions of this act. The capital improvement fund shall consist of:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 7 of P.L. , c. (C.) (now pending before the Legislature as this bill) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds, notes or other obligations;

b. all moneys appropriated by the State for the purposes of the capital improvement fund; and

c. all interest and investment earnings received on moneys in the capital improvement fund.

4. The capital improvement fund shall be used to provide debt service support to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. Each institution shall use the debt service support for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. If all such renewal and renovation is completed or is accounted for through other funding sources, or if an institution is granted an exemption by the Commission on Higher Education for the purpose of maximizing federal grant fund recoveries, then debt service support funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act, "renewal and renovation" means making the changes necessary to address deferred capital maintenance needs, to meet all State and federal health and safety standards, or to provide a safe and appropriate educational or working environment.

As used in this act, "technology infrastructure" means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years.

5.a. The debt service support from the fund shall be allocated as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

b. The commission may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the commission for debt service support within 24 months of the effective date of this act.

c. The facilities and technology infrastructure funded by debt service support from the capital improvement fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the commission shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

6. a. The governing board of a four-year public or private institution of higher education may determine, by resolution, to apply for debt service support from the capital improvement fund. Upon adoption of the resolution, the board shall file an application with the commission, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. In order to ensure the most effective utilization of the moneys in the capital improvement fund and to guide governing boards which elect to apply for debt service support, the commission shall establish a list of debt service support criteria and shall specify the information to be included in a debt service support application.

c. The commission shall review the application and, by resolution, approve or disapprove the debt service support. When debt service support is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the debt service support to the authority.

d. The commission shall submit to the Legislature a copy of the resolution approving the debt service support along with the amount of the debt service support. If the Legislature does not disapprove the debt service support by the adoption of a concurrent resolution within 45 days, the debt service support shall be deemed to be authorized.

e. When debt service support is awarded pursuant to this act, it shall be contingent upon the governing board of the recipient institution entering into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year of the date on which the funds for the debt service support are made available.

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

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

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

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

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

8. a. The authority shall require that if an institution of higher education fails or is unable to pay the authority in full, when due, any obligations of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the institution" means any amount payable by the institution for the principal and interest on the bonds, notes or other obligations of the authority for the institution's capital

improvement fund debt service support.

b. The amount retained by the State Treasurer shall be deducted from the appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, or entitle the institution to receive, any additional appropriation or apportionment.

9. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any capital improvement fund established to provide debt service support to New Jersey's four-year public and private institutions of higher education for the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure shall be considered eligible for State aid from the net proceeds of the State lottery, as shall be provided by law.

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

11. This act shall take effect immediately.

STATEMENT

This bill creates the "Higher Education Capital Improvement Fund," within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide debt service support to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure.

In order to finance the debt service support, bonds, notes or other obligations in the maximum amount of $550,000,000 would be issued by the authority for a maximum term of 30 years. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates the debt service support as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

Pursuant to the bill, the authority would enter into a contractual agreement with each institution receiving capital improvement fund debt service support. An agreement with a four-year public institutions of higher education would include provisions to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

In order to receive debt service support from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for debt service support. The application would be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each debt service support approved, the commission would establish the amount and notify the authority of the approval and the amount of the debt service support. The commission would also notify the Legislature of each debt service support approval and the amount of the debt service support. If the Legislature does not disapprove the debt service support by the adoption of a concurrent resolution within 45 days, the debt service support would be deemed to be authorized. The governing body of an institution which receives debt service support would be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3078

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1999

The Assembly Education Committee favorably reports Assembly Bill No. 3078 with committee amendments.

As amended, this bill creates the "Higher Education Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. An institution is required to use the grants for existing renewal and renovation needs, but may use up to 5% of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

Bonds, notes or other obligations in the maximum amount of $550,000,000 would be issued by the authority for a maximum term of 30 years in order to finance the grants. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

Under the bill, the authority would enter into a contractual agreement with each institution receiving a capital improvement fund grant. An agreement with a four-year public institution of higher education would include provisions to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

In order to receive a grant from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for a grant. The application would be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each grant approved, the commission would establish the amount and notify the authority of the approval and the amount of the grant. The commission would also notify the Legislature of each grant and its amount. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant would be deemed to be authorized. The governing body of an institution which receives a grant would be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

The committee adopted amendments which: 1) replace the term "debt service support" with the term "grant" to designate an award from the capital improvement fund; 2) permit an institution to use 5% of a grant for certain code-related renovations; 3) include the purpose of replacing a building when renovation costs exceed the cost of replacement within the exemptions granted by the commission; and 4) authorize the commission to allocate any additional moneys in the capital improvement fund. In addition, the committee amended several statutes in order to: 1) permit institutions of higher education to indemnify the New Jersey Educational Facilities Authority; 2) remove the interest rate cap of 6% on bonds issued by the authority; 3) authorize the authority to enter into certain agreements in connection with the issuance of bonds; and 4) reduce the time-frame the Legislature has to disapprove a non-revenue producing facility at a public institution of higher education from 60 days to 45 days.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3078

STATE OF NEW JERSEY

DATED: JUNE 7, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3078 (1R).

Assembly Bill No. 3078 (1R) creates the "Higher Education Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund will be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure.

An institution is required to use the grants for existing renewal and renovation needs, but may use up to 5% of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

Bonds, notes or other obligations in the maximum amount of $550,000,000 will be issued by the authority for a maximum term of 30 years to finance the grants. The bonds, notes and other obligations will not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

Under the bill, the authority will enter into a contractual agreement with each institution receiving a capital improvement fund grant. An agreement with a four-year public institution of higher education would include provisions to ensure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education will include provisions to ensure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

To receive a grant from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for a grant. An application will be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each grant approved, the commission will establish the amount and notify the authority of the approval and the amount of the grant. The commission will also notify the Legislature of each grant and its amount. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant would be deemed to be authorized. The governing body of an institution that receives a grant will be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

<u>FISCAL IMPACT</u>:

The Office of Legislative Services (OLS) is unable to estimate the cost of this bill (net increase to the State) because the cost of funding debt service is determined by the timing of the bond sale, the actual amount of bonds sold, the interest rate at the time the bonds are sold, and the term limit for the bonds which is not to exceed 30 years.

Based on the provisions of the bill, the State would pay debt service on two-thirds or 66 percent of the principal amount of $500 million allocated to the public sector ($330 million). For the private institutions of higher education the State would pay debt service on 50 percent of the principal amount of $50 million authorized for those institutions ($25 million). The principal amount of bonds on which the institutions would pay debt service would be 33 percent of $500 million ($170 million) in the case of public institutions and 50 percent of $50 million ($25 million) in the case of private institutions.

The Governor's FY 2000 Budget recommends funding of approximately $12.4 million as the State's estimated share on the first year's principal and interest payment. According to OMB, at the time the debt service amount was calculated for budget purposes, it was based on the bonds being sold over a three year period with a 20 year repayment plan.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3078

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JUNE 30, 1999

Assembly Bill No. 3078 (1R) of 1999 creates the "Higher Education Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. An institution is required to use the grants for existing renewal and renovation needs, but may use up to 5 percent of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

Bonds, notes or other obligations in the maximum amount of $550,000,000 would be issued by the authority for a maximum term of 30 years in order to finance the grants. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows: $169,000,000 for Rutgers, The State University; $95,062,500 for the University of Medicine and Dentistry of New Jersey; $60,937,500 for the New Jersey Institute of Technology; $175,000,000 for the State colleges and universities; and $50,000,000 for the private institutions of higher education.

Under the bill, the State Treasurer would enter into a contract with the authority for the State's share of the two-thirds principal and interest payments on the bonds on behalf of the public four year institutions of higher education and one-half of the principal and interest payments on behalf of the private institutions of higher education, plus any additional amounts payable in connection with an agreement entered into by the authority in connection with bonds or refunding of bonds issued pursuant to the bill.

The authority would enter into a contractual agreement with each public institution receiving a grant from the capital improvement fund to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at that institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. The contractual agreement entered into with a private institution would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

The Office of Legislative Services (OLS) is unable to estimate the cost of this bill (net increase to the State) because the cost of funding debt service is determined by the timing of the bond sale, the actual amount of bonds sold, the interest rate at the time the bonds are sold, and the term limit for the bonds which is not to exceed 30 years.

Based on the provisions of the bill, the State would pay debt service on two-thirds or 66 percent of the principal amount of $500 million allocated to the public sector ($330 million). For the private institutions of higher education the State would pay debt service on 50 percent of the principal amount of $50 million authorized for those institutions ($25 million). The principal amount of bonds on which the institutions would pay debt service would be 33 percent of $500 million ($165 million) in the case of public institutions and 50 percent of $50 million ($25 million) in the case of private institutions.

The Governor's FY 2000 Budget recommends funding of approximately $12.4 million as the State's estimated share on the first year's principal and interest payment. According to OMB, at the time the debt service amount was calculated for budget purposes, it was based on the bonds being sold over a three year period with a 20 year repayment plan.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

SENATE, No. 1822

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED MARCH 22, 1999

Sponsored by:
Senator ROBERT J. MARTIN
District 26 (Essex, Morris and Passaic)
Senator BERNARD F. KENNY
District 33 (Hudson)

Co-Sponsored by:
Senators Gormley and Ciesla

SYNOPSIS

Establishes the Higher Education Capital Improvement Fund to finance facilities projects at institutions of higher education.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/21/1999)

AN ACT concerning facilities improvements at institutions of higher education and supplementing P.L. 1970, c. 13 (C. 5:9-1 et seq.) and chapter 72A of Title 18A of the New Jersey Statutes.

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

1. This act shall be known and may be cited as the "Higher Education Capital Improvement Fund Act."

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing education and training for the work force of the future, by advancing knowledge and technology through research, and by providing lifelong learning opportunities for all citizens.

b. New Jersey has made a significant investment in its public and private institutions of higher education, and that investment must be protected to insure the continuing availability of affordable, accessible, and excellent higher educational opportunities within the State.

c. If New Jersey is to continue the expansion of its economic development through an adequately trained work force that retains and attracts industry to the State, the facilities and technology infrastructure at New Jersey's public and private institutions of higher education must be preserved and enhanced.

d. In order for New Jersey students and businesses to be competitive with their peers in today's global and technological society, the public and private sectors must continually take steps to preserve and enhance the facilities and technology at our colleges and universities. To do otherwise would result in the loss of potential students to more technologically advanced and well-developed and maintained institutions in other states.

e. In order to support the State's economy and preserve and enhance our higher education system, the State recently provided additional funds to capital needs at the two-year public colleges. There remains, however, a crucial need to provide additional funds to renew, renovate, improve, expand, construct, and reconstruct facilities and technology infrastructure at New Jersey's four-year public and private institutions of higher education.

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, the "Higher Education Capital Improvement Fund," hereinafter referred to as the "capital improvement fund." The capital improvement fund shall be maintained as a separate account

and administered by the authority to carry out the provisions of this act. The capital improvement fund shall consist of:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 7 of P.L. , c. (C.) (now pending before the Legislature as this bill) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds, notes or other obligations;

b. all moneys appropriated by the State for the purposes of the capital improvement fund; and

c. all interest and investment earnings received on moneys in the capital improvement fund.

4. The capital improvement fund shall be used to provide debt service support to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. Each institution shall use the debt service support for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. If all such renewal and renovation is completed or is accounted for through other funding sources, or if an institution is granted an exemption by the Commission on Higher Education for the purpose of maximizing federal grant fund recoveries, then debt service support funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act, "renewal and renovation" means making the changes necessary to address deferred capital maintenance needs, to meet all State and federal health and safety standards, or to provide a safe and appropriate educational or working environment.

As used in this act, "technology infrastructure" means video, voice, and data telecommunications equipment and linkages with a life expectancy of at least 10 years.

5.a. The debt service support from the fund shall be allocated as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

b. The commission may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the commission for debt service support within 24 months of the effective date of this act.

c. The facilities and technology infrastructure funded by debt service support from the capital improvement fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the commission shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

6. a. The governing board of a four-year public or private institution of higher education may determine, by resolution, to apply for debt service support from the capital improvement fund. Upon adoption of the resolution, the board shall file an application with the commission, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

b. In order to ensure the most effective utilization of the moneys in the capital improvement fund and to guide governing boards which elect to apply for debt service support, the commission shall establish a list of debt service support criteria and shall specify the information to be included in a debt service support application.

c. The commission shall review the application and, by resolution, approve or disapprove the debt service support. When debt service support is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the debt service support to the authority.

d. The commission shall submit to the Legislature a copy of the resolution approving the debt service support along with the amount of the debt service support. If the Legislature does not disapprove the debt service support by the adoption of a concurrent resolution within 45 days, the debt service support shall be deemed to be authorized.

e. When debt service support is awarded pursuant to this act, it shall be contingent upon the governing board of the recipient institution entering into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year of the date on which the funds for the debt service support are made available.

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

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

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

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

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

8. a. The authority shall require that if an institution of higher education fails or is unable to pay the authority in full, when due, any obligations of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the institution" means any amount payable by the institution for the principal and interest on the bonds, notes or other obligations of the authority for the institution's capital

improvement fund debt service support.

b. The amount retained by the State Treasurer shall be deducted from the appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, or entitle the institution to receive, any additional appropriation or apportionment.

9. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any capital improvement fund established to provide debt service support to New Jersey's four-year public and private institutions of higher education for the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure shall be considered eligible for State aid from the net proceeds of the State lottery, as shall be provided by law.

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

11. This act shall take effect immediately.

STATEMENT

This bill creates the "Higher Education Capital Improvement Fund," within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide debt service support to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure.

In order to finance the debt service support, bonds, notes or other obligations in the maximum amount of $550,000,000 would be issued by the authority for a maximum term of 30 years. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates the debt service support as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

Pursuant to the bill, the authority would enter into a contractual agreement with each institution receiving capital improvement fund debt service support. An agreement with a four-year public institutions of higher education would include provisions to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

In order to receive debt service support from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for debt service support. The application would be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each debt service support approved, the commission would establish the amount and notify the authority of the approval and the amount of the debt service support. The commission would also notify the Legislature of each debt service support approval and the amount of the debt service support. If the Legislature does not disapprove the debt service support by the adoption of a concurrent resolution within 45 days, the debt service support would be deemed to be authorized. The governing body of an institution which receives debt service support would be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1822

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 7, 1999

The Senate Education Committee reports favorably and with committee amendments Senate Bill No. 1822.

As amended, this bill creates the "Higher Education and Public Library Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renovation and construction of facilities and technology infrastructure and to provide grants for the project costs of public libraries.

An institution of higher education is required to use the grants for existing renewal and renovation needs, but may use up to 5% of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

Bonds, notes or other obligations in the maximum amount of $625,000,000 would be issued by the authority for a maximum term of 30 years in order to finance the grants. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities;

$50,000,000 for the private institutions of higher education;

$25,000,000 for public libraries in area service districts which are Abbott districts; and

$50,000,000 for public libraries in all other area service districts in the State.

Under the bill, the authority would enter into a contractual agreement with each institution receiving a capital improvement fund grant. An agreement with a four-year public institution of higher education would include provisions to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

In order to receive a grant from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for a grant. The application would be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each grant approved, the commission would establish the amount and notify the authority of the approval and the amount of the grant. The commission would also notify the Legislature of each grant and its amount. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant would be deemed to be authorized. The governing body of an institution which receives a grant would be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

The bill provides for the creation of a Public Library Construction Advisory Board to be comprised of seven members as follows: the Secretary of State or a designee who would serve as the chair, the State Librarian or a designee, a member of the State Library Advisory Council or the council’s designee, and four members with library, construction, or finance experience to be appointed by the Governor with the advice and consent of the Senate.

Moneys in the capital improvement fund which are designated for public libraries would be distributed as grants to public libraries for part of such eligible project costs as construction, expansion, acquisition of land, site grading, architectural services, and acquisition of equipment.

The authority would enter into a contractual agreement with the appropriate county or municipality in which a library is located that is receiving a capital improvement fund grant. An agreement with the appropriate county or municipality for Abbott district libraries would include provisions to insure that the county or municipality would provide an amount equal to the amount of the grant amount, and an agreement with the appropriate county or municipality for all other libraries would include provisions to insure that the county or municipality would provide an amount equal to 300% of the grant amount. In addition, the authority could enter into a loan agreement with any county or municipality receiving grant funds to finance the county or municipality's matching amount for the project.

The board would prescribe procedures for applying for the grant and terms and conditions for receiving a grant. An application would be reviewed, approved or denied by the board in accordance with those procedures. The board would review a grant application and, by resolution, approve or disapprove the grant. The board is required to submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant, and if the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant would be deemed to be authorized.

The committee adopted amendments which: 1) include in the bill a new section of definitions; 2) replace the term "debt service support" with the term "grant" to designate an award from the capital improvement fund; 3) permit an institution of higher education to use 5% of a grant for certain code-related renovations; 4) include the purpose of replacing a building when renovation costs exceed the cost of replacement within the exemptions granted by the commission; 5) authorize the commission to allocate any additional moneys in the capital improvement fund; 6) increase the amount of the capital improvement fund to $625,000,000 in order to include public libraries in the grant program; and 7) establish a Public Library Construction Advisory Board along with procedures for awarding grants for public library projects. In addition, the committee amended several statutes in order to: 1) permit institutions of higher education to indemnify the New Jersey Educational Facilities Authority; 2) remove the interest rate cap of 6% on bonds issued by the authority; 3) authorize the authority to enter into certain agreements in connection with the issuance of bonds; and 4) reduce the time-frame the Legislature has to disapprove a non-revenue producing facility at a public institution of higher education from 60 days to 45 days.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 1822

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 1999

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1822 (1R).

This bill creates the "Higher Education Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renovation and construction of facilities and technology infrastructure.

An institution of higher education is required to use the grants for existing renewal and renovation needs, but may use up to 5% of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

The authority would issue its bonds, notes or other obligations to finance the grants. The total outstanding principal amount of those obligations could not exceed $550,000,000, and no such obligation could have a term exceeding 30 years. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows:

$169,000,000 for Rutgers, The State University;

$95,062,500 for the University of Medicine and Dentistry of New Jersey;

$60,937,500 for the New Jersey Institute of Technology;

$175,000,000 for the State colleges and universities; and

$50,000,000 for the private institutions of higher education.

Under the bill, the authority would enter into a contractual agreement with each institution receiving a capital improvement fund grant. An agreement with a four-year public institution of higher education would include provisions to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at the institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. An agreement with a four-year private institution of higher education would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

In order to receive a grant from the capital improvement fund, the governing board of a four-year public or private institution of higher education would determine, by resolution, to apply for a grant. The application would be submitted to the Commission on Higher Education along with a complete description of the project to be financed and an identification of any additional sources of revenue to be used. For each grant approved, the commission would establish the amount and notify the authority of the approval and the amount of the grant. The commission would also notify the Legislature of each grant and its amount. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant would be deemed to be authorized. The governing body of an institution which receives a grant would be required to enter into a contract or contracts for the commencement of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure within one year after the date the funds are made available to the institution.

COMMITTEE AMENDMENTS

Committee amendments to the bill delete provisions extending eligibility to receive capital construction grants under the legislation to public libraries and, in conjunction with that change, reduce the maximum amount of bonds that could be issued under the legislation from $625 million to $550 million.

FISCAL IMPACT

This bill authorizes the Higher Educational Facilities Authority to issue $550 million in bonds to finance higher education facilities construction. These bonds would not be a debt or liability of the State.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1822

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 22, 1999

Senate Bill No. 1822 (2R) of 1999 creates the "Higher Education Capital Improvement Fund" within the New Jersey Educational Facilities Authority. The capital improvement fund would be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. An institution is required to use the grants for existing renewal and renovation needs, but may use up to 5 percent of a grant for certain code-related renovations in student-support facilities. If all renewal and renovation is completed or accounted for through other funding sources, or if an institution is granted certain exemptions, the grant funds may then be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

Bonds, notes or other obligations in the maximum amount of $550,000,000 would be issued by the authority for a maximum term of 30 years in order to finance the grants. The bonds, notes and other obligations would not be a debt or liability of the State or of any political subdivision of the State other than the authority.

The bill allocates moneys in the capital improvement fund as follows: $169,000,000 for Rutgers, The State University; $95,062,500 for the University of Medicine and Dentistry of New Jersey; $60,937,500 for the New Jersey Institute of Technology; $175,000,000 for the State colleges and universities; and $50,000,000 for the private institutions of higher education.

Under the bill, the State Treasurer would enter into a contract with the authority for the State's share of the two-thirds principal and interest payments on the bonds on behalf of the public four year institutions of higher education and one-half of the principal and interest payments on behalf of the private institutions of higher education, plus any additional amounts payable in connection with an agreement entered into by the authority in connection with bonds or refunding of bonds issued pursuant to the bill.

The authority would enter into a contractual agreement with each public institution receiving a grant from the capital improvement fund to insure that the institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued to finance the projects approved at that institution plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill. The contractual agreement entered into with a private institution would include provisions to insure that the institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes, and other obligations of the authority issued to finance the institution's approved projects plus its share of any amounts payable in regard to agreements entered into by the authority in connection with bonds or refunding bonds issued pursuant to the bill.

The Office of Legislative Services (OLS) is unable to estimate the cost of this bill (net increase to the State) because the cost of funding debt service is determined by the timing of the bond sale, the actual amount of bonds sold, the interest rate at the time the bonds are sold, and the term limit for the bonds which is not to exceed 30 years.

Based on the provisions of the bill, the State would pay debt service on two-thirds or 66 percent of the principal amount of $500 million allocated to the public sector ($330 million). For the private institutions of higher education the State would pay debt service on 50 percent of the principal amount of $50 million authorized for those institutions ($25 million). The principal amount of bonds on which the institutions would pay debt service would be 33 percent of $500 million ($165 million) in the case of public institutions and 50 percent of $50 million ($25 million) in the case of private institutions.

The Governor's FY 2000 Budget recommends funding of approximately $12.4 million as the State's estimated share on the first year's principal and interest payment. According to OMB, at the time the debt service amount was calculated for budget purposes, it was based on the bonds being sold over a three year period with a 20 year repayment plan.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

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RELEASE: September 21, 1999

Governor Unveils $550 Million Plan for Higher Education Capital Improvement

Gov. Christie Whitman today signed legislation that establishes a $550 million grant program to fund the improvement of facilities and technology infrastructure at New Jersey institutions of higher education.

"In my budget address to the Legislature this past January," said Gov. Whitman. " I outlined a five-point plan for keeping college affordable. The plan called for more aid to our county colleges, more for our senior public and research institutions, and more for our independent colleges and universities. Our plan also expanded our commitment to student financial assistance and scholarships. And it responded to what college presidents, public and independent, told me was their number one priority: taking care of long-deferred capital needs."

"The budget I signed in June took care of four points in our plan. Today, we make good on the final point - that number one priority," the Governor continued. "Today I am here to sign into law a $550 million bond program for deferred maintenance and other capital projects on our four-year campuses."

"Good, affordable, and inviting colleges and universities today will mean good jobs and careers tomorrow," the Governor said. "Indeed insuring sturdy foundations in the literal sense enables higher education to continue providing the firm footing for a sound New Jersey economy well into the next century."

A-3078, sponsored by Assemblymen David Wolfe (R- Monmouth/Ocean) and Joseph Malone (R-Burlington/Monmouth/Ocean) and Senators Robert Martin (R-Essex/Morris/Passaic) and Bernard Kenny (D-Hudson), establishes the "Higher Education Capital Improvement Fund". The fund addresses maintenance needs at New Jersey's four-year public and private institutions of higher learning. The $550 million fund will be used to provide grants for the cost or a portion of the cost that schools will incur to renovate, improve, expand, construct or reconstruct facilities and technology infrastructure.

The Educational Facilities Authority will issue bonds, notes or other obligations for up to $550 million for a maximum term of 30 years. Four-year public institutions receiving grants will be required to pay the Authority a matching amount equal to one-third the principal and interest on the bonds issued to finance projects at that institution. Four-year private institutions will need to pay a matching amount equal to one-half the amount of principal and interest.

In order to receive a grant, institutions must apply by submitting an application to the Commission on Higher Education along with a description of the project and other sources of revenue that will be used. Grant amounts established by the Commission will be forwarded to the Authority and the Legislature. If a project is not turned down within 45 days it is to be considered approved. Institutions receiving grants must enter into a contract to begin the project within one year after the funds are made available.