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LAW/RWH

[Second Reprint]

SENATE, No. 1609

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED APRIL 7, 2008

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SYNOPSIS

Provides for improved structure and fiscal management of higher education in New Jersey.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 22, 2009, with amendments.

(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning the structure ²[, financing,]² and fiscal
2 management of higher education in New Jersey, amending
3 various parts of the statutory law, and supplementing ²[chapters]
4 chapter² 3B ²[and 72A]² of the New Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) As used in this act:
10 “Commission” means the New Jersey Commission on Higher
11 Education established pursuant to section 13 of P.L.1994, c.48
12 (C.18A:3B-13);

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

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

19
20 2. (New section) The Governor shall appoint, with the advice
21 and consent of the Senate, a Secretary of Higher Education who
22 shall serve at the pleasure of the Governor during the Governor’s
23 term of office and until a successor is appointed and qualified. The
24 appointment shall be made after consultation with and
25 recommendations from the New Jersey Commission on Higher
26 Education ¹and the New Jersey Presidents’ Council¹ except that the
27 person holding the office of executive director of the commission
28 on the effective date of this act shall be the initial Secretary of
29 Higher Education. The secretary shall hold cabinet-level rank and
30 shall serve as executive director of the commission.

31
32 ¹[3. (New section) a. In addition to the authority granted to the
33 New Jersey Commission on Higher Education pursuant to section
34 14 of P.L.1994, c.48 (C.18A:3B-14), the commission shall design,
35 administer, and enforce financial accountability standards for the
36 operation of public research universities and State colleges. The
37 commission shall review the standards of the Financial Accounting
38 Standards Board and the Government Accounting Standards Board
39 and shall design standards that are relevant to the operations of
40 publicly-funded institutions of higher education.

41 b. In accordance with the standards established pursuant to
42 subsection a. of this section, the commission shall establish internal

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted February 9, 2009.

²Senate SBA committee amendments adopted June 22, 2009.

1 control standards for each public research university and State
2 college.]¹

3
4 ¹[4.] 3.¹ (New section) a. The governing board of a public
5 research university or a State college shall establish an audit
6 committee ¹[composed of a minimum of five voting members of
7 the board]¹. The chairman of the committee ¹[shall be financially
8 literate as that qualification is determined by the commission. At
9 least one member of the committee]¹ shall have accounting or
10 related financial management expertise and the governing board
11 shall make efforts to ensure that a majority of the members of the
12 committee have such expertise.

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

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

18 (2) assisting the board in ¹[establishing and ensuring the
19 independence] overseeing and evaluating the performance¹ of
20 outside auditors retained by the institution;

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

23 (4) ¹[evaluating and investigating] ensuring that¹ allegations of
24 misconduct or conflict of interest are evaluated and investigated¹;
25 and

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

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

30 d. The ¹[deliberations of the audit committee shall be recorded
31 through the preparation of committee meeting minutes] committee
32 shall keep minutes of its meetings¹.

33
34 ¹[5.] 4.¹ (New section) The governing board of a public
35 research university or a State college shall ¹[directly employ]
36 approve the appointment of¹ an internal ¹[audit staff to] auditor,
37 who shall have a direct reporting relationship to the board, the
38 president, and the chief financial officer. The internal auditor shall¹
39 periodically test and report on the institution's internal controls to
40 the audit committee, the institution's president, chief financial
41 officer, and other senior members of the institution's administrative
42 staff.

43
44 ¹[6.] 5.¹ (New section) a. The governing board of a public
45 research university or a State college shall retain an independent
46 outside auditor who is a certified public accountant to conduct ¹an¹

1 annual '[audits] audit' of the institution's financial accounts in
2 accordance with 'nationally recognized auditing and accounting'
3 standards '[established] adopted' by the commission. The
4 independent auditor shall be selected by a majority vote of the
5 '[full membership of the board] members of the board present'
6 upon the recommendation of the audit committee.

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

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

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

26

27 '[7.] 6.' (New section) a. The president and chief financial
28 officer of a public research university or a State college shall
29 'submit the annual audit to the commission and shall' certify 'that
30 they have reviewed the' financial statements '[submitted to the
31 commission] and that, based on their knowledge, the financial
32 statements do not contain any untrue statement of a material fact or
33 omission of a material fact that makes the statements misleading
34 and that, based on their knowledge, the financial statements present
35 in all material respects the financial condition and results of
36 operations of the institution'.

37 b. '[The governing board of a] A' public research university or
38 a State college shall retain institutional financial '[records]
39 statements' for a minimum period of time '[as established by the
40 commission] in accordance with accounting principles of the
41 Governmental Accounting Standards Board'.

42

43 '[8. (New section) The governing board of a public research
44 university or a State college shall require a criminal history record
45 check of any person initially employed on or after the effective date
46 of this act. The check shall be conducted in accordance with

1 procedures established by the commission. The Secretary of Higher
2 Education is authorized to receive criminal history record
3 information from the State Bureau of Identification in the Division
4 of State Police and the Federal Bureau of Investigation consistent
5 with applicable State and federal laws, rules, and regulations.】¹

6
7 ‘【9.】 7.’¹ (New section) In accordance with standards
8 established by the ‘【commission】 Attorney General’¹, the governing
9 board of a public research university or State college shall establish
10 written policies and procedures that provide confidentiality in the
11 reporting of alleged wrongdoing at the institution and protect
12 employees from retaliatory action in accordance with the provisions
13 of the “Conscientious Employee Protection Act,” P.L.1986, c.105
14 (C.34:19-1 et seq.).

15
16 ‘【10.】 8.’¹ (New section) The commission shall submit to the
17 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
18 c.164 (C.52:14-19.1), recommendations for the establishment of
19 penalties for noncompliance with the provisions of sections ‘【5】 4’¹
20 through ‘【9】 7’¹ of this act ¹, unless such penalties are otherwise
21 established by law,¹ including, but not limited to, fines and
22 disciplinary action to be imposed upon a public research university
23 or a State college or a member of the governing board or an
24 employee of the institution.

25
26 ‘【11.】 9.’¹ (New section) a. In addition to the authority granted
27 to the Commission on Higher Education pursuant to section 14 of
28 P.L.1994, c.48 (C.18A:3B-14), the commission shall develop and
29 enforce a code of standards to define and regulate the types of
30 activities in which a governmental affairs agent is permitted to
31 engage on behalf of a public research university or a State college.

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

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

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

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

45 Under the code of standards, the commission shall not prohibit a
46 governmental affairs agent from engaging on behalf of a public
47 research university or a State college concerning legitimate

1 nonpartisan and bipartisan activities that are vital to the election
2 process including, but not limited to, the scheduling and holding of
3 on-campus political debates, voter-registration drives, and similar
4 nonpartisan and bipartisan events and activities.

5
6 **'[12.] 10.'** (New section) a. Notwithstanding any law, rule or
7 regulation to the contrary, a governmental affairs agent who is
8 retained by a governing board of a public research university or a
9 State college shall file a notice of representation pursuant to section
10 4 of P.L.1971, c.183 (C.52:13C-21), quarterly reports specific to
11 that representation pursuant to section 5 of P.L.1971, c.183
12 (C.52:13C-22), and annual reports specific to that representation
13 pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1). This
14 requirement shall not be deemed to require filings by any person
15 performing services as an employee of the public research
16 university or State college.

17 b. The Election Law Enforcement Commission shall transmit to
18 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
19 19.1), a copy of an annual report filed by a governmental affairs
20 agent pursuant to subsection a. of this section within 30 days
21 following the filing of the report.

22
23 **'[13.] 11.'** (New section) Any proposed contract to retain the
24 services of a governmental affairs agent shall be considered by the
25 governing board of a public research university or a State college at
26 a public meeting and approval of the contract shall require the
27 adoption of a resolution by a majority of the board members
28 'present at the meeting'.

29
30 **'[14.] 12.'** (New section) a. The governing board of a public
31 research university or a State college shall establish **'[a**
32 professional services committee composed of a minimum of five
33 voting members of the board. The professional services committee
34 shall have a written charter that addresses the committee's purpose
35 and responsibilities] policies concerning professional services
36 contracts' which, at a minimum, shall include **'[**:

37 (1) evaluating and recommending board action concerning
38 professional services contracts; and

39 (2) reviewing] procedures for the review of' proposed
40 professional services contracts to verify the need for the proposed
41 services, determine whether conflicts of interest exist between the
42 vendor and the institution, ensure appropriate procurement
43 procedures are utilized, determine whether the proposed
44 compensation is reasonable, and monitor the services delivered by
45 the vendor.

46 b. The **'[professional services committee] institution'** shall
47 prepare an annual **'[professional services committee]'** report 'on

1 professional services contracts¹ for submission to the institution's
2 governing board.

3
4 ¹[15.] 13.¹ (New section) The governing board of a public
5 research university or a State college shall establish an executive
6 committee composed of the chairman of the governing board, the
7 vice-chairman, and the chairmen of any committees established by
8 he board, and such other voting members as may be appointed by
9 the board. The executive committee shall have a written charter
10 that defines the committee's purpose, responsibilities, and its
11 authority to act on behalf of the governing board between meetings
12 of the full board.

13 The ¹[deliberations of the executive committee shall be recorded
14 through the preparation of committee meeting minutes] committee
15 shall keep minutes of its meetings¹.

16
17 ¹[16.] 14.¹ (New section) a. The governing board of a public
18 research university or a State college shall establish a compensation
19 committee ¹[composed of a minimum of five voting members of
20 the board]¹ . The compensation committee shall have a written
21 charter that addresses the committee's purpose and responsibilities
22 which shall include, but not be limited to:

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

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

32 b. The recommendations of the compensation committee shall
33 be voted upon by the committee ¹[and the committee's
34 deliberations shall be recorded through the preparation of
35 committee meeting minutes]. The committee shall keep minutes of
36 its meetings¹ .

37
38 ¹[17.] 15.¹ (New section) a. The governing board of a public
39 research university or a State college shall establish a nominations
40 and governance committee ¹[composed of a minimum of five
41 voting members of the board]¹ . The ¹nominations and¹
42 governance committee shall have a written charter that defines the
43 committee's purpose and responsibilities which shall include, but
44 need not limited to:

45 (1) ¹[monitoring and reporting all] overseeing¹ matters directly
46 affecting the governance of the institution;

1 (2) periodically reviewing and updating '[institutional] board'
2 by-laws;

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

5 (4) referring candidates to the governing board for the
6 consideration of the board in making its recommendations to the
7 Governor on potential new members '[pursuant to N.J.S.18A:64-
8 3]' .

9 b. In identifying candidates for appointment to the governing
10 board, the committee shall seek individuals with skills that are
11 appropriate to the mission of the institution and which compliment
12 the range of expertise contributed to the governing board by its
13 existing members. The committee shall seek candidates of diverse
14 background and experience, as well as those with ties to the
15 institution.

16 The recommendations of the nominations and governance
17 committee shall be voted upon by the committee '[and the
18 committee's deliberations shall be recorded through the preparation
19 of committee meeting minutes] . The committee shall keep
20 minutes of its meetings' .

21 c. The governing board of a public research university or a State
22 college shall establish '[bylaws] criteria' for the identification,
23 qualification, and recommendation of prospective candidates for
24 appointment to the board. The '[bylaws] criteria' shall include
25 qualification criteria that are consistent with the statutory
26 responsibilities of the board and tailored to the institution.

27

28 '[18.] 16.' (New section) The governing board of a public
29 research university or a State college shall develop and implement
30 fundraising and development strategies that '[require] encourage'
31 the active involvement of all board members and that, as may be
32 appropriate, assist fundraising by institutional foundations.

33

34 '17. (New section) A public research university and State
35 college shall provide information, orientation, and training to each
36 of its governing board members on the legal and ethical
37 responsibilities of a member of the governing board.'

38

39 '[19.] 18.' (New section) '[A] a. When a' public '[institution
40 of higher education seeking to change] research university or a
41 State college determines to seek a change to' its programmatic
42 mission ' , the university or college' shall submit to the commission:

43 '[a. a preliminary request for approval to pursue planning
44 activities regarding a possible change in the programmatic mission
45 of the institution] (1) a notice of the intent to seek a change to the
46 institution's programmatic mission'; and

1 **'[b.] (2)'** a petition for approval for a change in the
2 programmatic mission of the institution 'when such petition is
3 ready for submission'. The petition shall include information on
4 the long-term costs of the change in programmatic mission and a
5 cost-benefit analysis of the expected impact of the change that
6 considers the expected needs of the State and the potential impact
7 of the change on other academic programs of the institution.

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

10
11 **'[20.] 19.'** (New section) The commission shall convene a
12 meeting, at least once a year, of representatives of all public and
13 independent institutions of higher education to discuss issues
14 related to the development and implementation of new degree
15 programs.

16
17 **'[21.] ²[20.'** (New section) a. A public **'[institution of higher**
18 **education] research university or a State college'** shall submit a
19 long-range facilities plan 'on projects to be developed with State
20 funds' to the commission for its review and recommendations.
21 'The long range facilities plan shall be amended at least once every
22 five years.' The plan shall detail the facilities needs of the
23 institution and the institution's plans to address those needs for the
24 ensuing five years.

25 b. In developing its response to the plan, the commission shall
26 consider the 'overall facilities needs of the institution,' long-term
27 fiscal implications of the **'[expenditure] plan'** including the debt
28 burden of the institution, the relation of the facilities 'plan' to the
29 academic and student service programs of the institution, and the
30 extent and cost of any deferred maintenance of the institution. 'The
31 commission shall issue its response to the plan within one full
32 semester of its receipt.

33 c. An amendment to a long-range facilities plan may be
34 submitted at any time to the commission for its review and
35 recommendations.'²

36
37 ²**'21. (New section) a.** A State college or county college may
38 enter into a contract with a private entity that permits the private
39 entity to assume full financial and administrative responsibility for
40 the on-campus construction, reconstruction, repair, alteration,
41 improvement or extension of a building, structure, or facility of the
42 institution, provided that the project is financed in whole by the
43 private entity and that the State or institution of higher education, as
44 applicable, retains full ownership of the land upon which the project
45 is completed and of any building, structure, or other property
46 resulting from the project.

1 b. A private entity that assumes financial and administrative
 2 responsibility for a project pursuant to subsection a. of this section
 3 shall be subject to the procurement and contracting requirements of
 4 all statutes applicable to the institution of higher education at which
 5 the project is completed, including, but not limited to, the “State
 6 College Contracts Law,” P.L.1986, c.43 (C.18A:64-52 et seq.), and
 7 the “County College Contracts Law,” P.L.1982, c.189 (C.18A:64A-
 8 25.1 et seq.).

9 c. Each worker employed in the construction or rehabilitation of
 10 facilities by a private entity that has entered into a contract with a
 11 State or county college pursuant to subsection a. of this section
 12 shall be paid not less than the prevailing wage rate for the worker’s
 13 craft or trade as determined by the Commissioner of Labor and
 14 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
 15 56.25 et seq.).’²

16
 17 ²[22.] 20.² (New section) a. When the governing board of a
 18 public ¹[institution of higher education] research university or a
 19 State college¹, after study and investigation, determines that it is
 20 advisable for the institution to establish ¹[an extension site] a
 21 branch campus out-of-state or out-of-country¹ that will serve at least
 22 ¹[100] 500¹ students of the institution, the board shall submit the
 23 plan for the ¹[extension site] branch campus¹ to the commission for
 24 its review and recommendations. The plan shall include: a
 25 description of the higher educational needs of the country or region
 26 in which the ¹[site] branch campus¹ shall be located; a description
 27 of the proposed ¹[extension site] branch campus¹ and its proposed
 28 programs and curriculum; and an estimate of the cost of
 29 establishing and maintaining the ¹[site] branch campus¹ including
 30 the cost of any planned acquisition or construction of facilities; and
 31 any other information or data deemed necessary by the commission.

32 b. In developing its response to the plan, the commission shall
 33 consider whether there is a need for the institution to acquire ¹[an
 34 extension site] a branch campus¹ and whether the institution has the
 35 financial capacity to support the ¹[site] campus¹.

36
 37 ²[¹23. (New section) The commission shall appoint and convene
 38 a network of academics and researchers from New Jersey’s public
 39 and independent institutions of higher education to propose and
 40 develop economic development policies and programs for the
 41 higher education community. ¹]²

42
 43 ¹[23.] ²[¹24.] 21.² (New section) Whenever, in any law, rule,
 44 regulation, order, contract, document, judicial or administrative
 45 proceeding or otherwise, reference is made to the executive director

1 of the New Jersey Commission on Higher Education, the same shall
2 mean and refer to the Secretary of Higher Education.

3
4 ¹[24.] ²[25.]¹ (New section) As required pursuant to the
5 provisions of sections 5 through 8 of P.L.2004, c.127 (C.18A:72A-
6 5.1 through 18A:72A-5.4), each worker employed in the
7 construction or rehabilitation of facilities that are constructed or
8 rehabilitated pursuant to an arrangement in which an affiliate
9 participates with the authority in undertaking the financing and
10 construction of a project, shall be paid not less than the prevailing
11 wage rate for the worker's craft or trade as determined by the
12 Commissioner of Labor and Workforce Development pursuant to
13 P.L.1963, c.150 (C.34:11-56.25 et seq.).]²

14
15 ¹[25.] ²[26.]¹ (New section) ¹a.¹ An affiliate ¹that borrows
16 funds from the New Jersey Educational Facilities Authority¹ shall
17 comply with the procurement and contracting requirements of all
18 statutes applicable to the institution of higher education which the
19 affiliate is controlled by, or is under common control with,
20 including, but not limited to, the "State College Contracts Law,"
21 P.L.1986, c.43 (C.18A:64-52 et seq.), and the "County College
22 Contracts Law," P.L.1982, c. 189 (C.18A:64A-25.1 et seq.).

23 ¹b. The tenant of an affiliate that borrows funds from the New
24 Jersey Educational Facilities Authority may, in order to improve or
25 adapt an affiliate property for its purposes, enter into construction
26 contracts, purchase orders, and other contracts with respect to the
27 commercial interior fit-out of the affiliate property and such
28 contracts and purchase orders shall be subject to the procurement
29 and contracting requirements of all statutes applicable to the
30 institution of higher education which the affiliate is controlled by,
31 or is under common control with, including, but not limited to, the
32 "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et
33 seq.), and the "County College Contracts Law," P.L.1982, c.189
34 (C.18A:64A-25.1 et seq.).

35 ¹c. Each worker employed in the fit-out of an affiliate property
36 pursuant to this section shall be paid not less than the prevailing
37 wage rate for the worker's craft or trade as determined by the
38 Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.).

40 ¹d. As used in this section, "commercial interior fit out" means
41 the interior design and installation by tenants of new or existing
42 office, commercial, residential, or other space, typically exclusive
43 of structural components and core and shell elements.¹]²

44
45 ¹[26.] ²[27.]¹ (New section) A public institution of higher
46 education and the authority may enter into a loan agreement in
47 connection with a project which includes the provision of working

1 capital to such institution. In no event shall working capital be
2 considered to be a non-revenue producing facility under chapter
3 72A of Title 18A of the New Jersey Statutes. Any loan agreement
4 entered into under the provisions of this section may contain such
5 provisions as may be agreeable to the public institution of higher
6 education and the authority and as may be necessary or desirable to
7 secure such loan including, without limitation, provisions for the
8 granting of a security interest in personal property or receivables or
9 a mortgage on all or any portion of the real property of the public
10 institution.]²

11

12 ¹[27.] ²[28.¹] 22.² (New section) The Commission on Higher
13 Education shall adopt regulations pursuant to the provisions of the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), to implement the provisions of this act.

16

17 ¹[28.] ²[29.¹] 23.² Section 13 of P.L.1994, c.48 (C.18A:3B-13)
18 is amended to read as follows:

19 13. a. There is established the New Jersey Commission on
20 Higher Education which shall consist of ~~11~~ 15 members: ~~6~~
21 10 public members, to be appointed by the Governor with the
22 advice and consent of the Senate without regard for political
23 affiliation; two public members to be appointed by the Governor,
24 one upon the recommendation of the President of the Senate and
25 one upon the recommendation of the Speaker of the General
26 Assembly; the chairperson of the New Jersey Presidents' Council,
27 ex officio; one faculty member from an institution of higher
28 education to be appointed by the Governor with the advice and
29 consent of the Senate; and the chairperson of the Board of Higher
30 Education Student Assistance Authority, ex officio, or a designee
31 from the public members of the authority. The public members
32 shall reflect the diversity of the State. Notwithstanding the above,
33 for a period of four years from July 1, 1994 the commission shall
34 consist of 16 members, as follows: 10 public members, appointed
35 by the Governor with the advice and consent of the Senate without
36 regard for political affiliation, six of whom shall have experience as
37 a current member of the governing board of an institution of higher
38 education; four public members to be appointed by the Governor,
39 two upon the recommendation of the President of the Senate and
40 two upon the recommendation of the Speaker of the General
41 Assembly; the chairperson of the New Jersey Presidents' Council,
42 ex officio; and the chairperson of the Board of the Higher Education
43 Student Assistance Authority, ex officio, or a designee from the
44 public members of the authority. The executive director of the
45 commission shall be an ex officio, non-voting member of the
46 commission. In addition, the Governor shall appoint two students
47 in attendance at public or independent institutions of higher
48 education in the State from recommendations submitted by student

1 government associations of New Jersey colleges and universities,
2 who shall serve for a one-year term on the commission as voting
3 members.

4 b. Public members who are not experienced as governing board
5 members shall serve for a term of six years from the date of their
6 appointment and until their successors are appointed and qualified;
7 except that of the initial appointees who are not serving on the
8 governing board of an institution: one shall serve a term of one
9 year; one shall serve a term of two years; one shall serve a term of
10 three years; one shall serve a term of four years; two shall serve a
11 term of five years; and two shall serve a term of six years. A public
12 member who does not have experience as a current member of a
13 governing board shall serve until the member's successor is
14 appointed and qualified.

15 In the case of the initial terms of the additional members of the
16 board appointed pursuant to P.L. ,c. (C.)(pending before the
17 Legislature as this bill), one member shall serve a term of four
18 years, one member shall serve a term of five years, and two
19 members shall serve a term of six years.

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

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

33 c. The Governor shall make the necessary appointments within
34 15 days of the effective date of this act. The commission shall hold
35 its first meeting within 30 days of the appointment and qualification
36 in office of its members, at which time the Governor shall appoint,
37 for a two-year term, the chairman of the commission from among
38 those public members not serving on the board of trustees of an
39 institution. Upon the completion of the chairman's term, and every
40 two years thereafter, the commission shall elect, from among those
41 public members who are not serving on the board of trustees of an
42 institution, a chairman who shall serve a two-year term. The
43 chairman may be removed by the Governor for cause after an
44 opportunity to be heard.

45 d. The commission shall be established in the Executive Branch
46 of the State Government and for the purposes of complying with the
47 provisions of Article V, Section IV, paragraph 1 of the New Jersey
48 Constitution, the commission is allocated in but not of the

1 Department of State, but notwithstanding this allocation, the
2 commission shall be independent of any supervision or control by
3 the department or by any board or officer thereof. The commission
4 shall submit its budget request directly to the Division of Budget
5 and Accounting in the Department of the Treasury.

6 e. The Secretary of Higher Education shall serve as executive
7 director of the commission. The commission shall appoint [an
8 executive director and] such [other] personnel as may be deemed
9 necessary. The [executive director and] professional staff shall
10 serve at the commission's pleasure and shall receive such
11 compensation as provided by law.

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

14 (cf: P.L. 1999, c.316)

15

16 ¹[29.] ²[30. ¹] 24.² Section 14 of P.L.1994, c.48 (C.18A:3B-14)
17 is amended to read as follows:

18 14. The commission shall be responsible for:

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

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

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

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

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

44 f. final administrative decisions over new academic programs
45 that go beyond the programmatic mission of the institution and final
46 administrative decisions over a change in the programmatic mission
47 of an institution. In addition, within 60 days of referral of a
48 proposed new program determined to be unduly expensive or

- 1 duplicative by the council, the commission may deny approval of
2 programs which do not exceed the programmatic mission of the
3 institution, but which are determined by the New Jersey Presidents'
4 Council to be unduly duplicative or expensive;
- 5 g. reviewing requests for State support from the institutions in
6 relation to the mission of the institution and Statewide goals and
7 proposing a coordinated budget policy statement to the Governor
8 and Legislature;
- 9 h. communicating with the State Board of Education and
10 Commissioner of Education to advance public education at all
11 levels including articulation between the public schools and higher
12 education community;
- 13 i. applying for and accepting grants from the federal
14 government, or any agency thereof, or grants, gifts or other
15 contributions from any foundation, corporation, association or
16 individual, and complying with the terms, conditions and
17 limitations thereof, for the purpose of advancing higher education.
18 Any money so received may be expended by the commission upon
19 warrant of the director of the Office of Management and Budget in
20 the Department of the Treasury on vouchers certified by the
21 executive director of the commission;
- 22 j. acting as the lead agency of communication with the federal
23 government concerning higher education issues, except that the
24 Higher Education Student Assistance Authority shall act, in
25 cooperation with the commission, as the lead agency on issues of
26 student assistance;
- 27 k. exercising all of the powers and duties previously exercised
28 by the Board of Higher Education, the Department of Higher
29 Education, and the Chancellor of Higher Education, under the "New
30 Jersey Higher Education Building Construction Bond Act of 1971,"
31 P.L.1971, c.164, the "New Jersey Medical Education Facilities
32 Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and
33 Technology Bond Act of 1984," P.L.1984, c.99 and the "Jobs,
34 Education and Competitiveness Bond Act of 1988," P.L.1988, c.78,
35 the "Higher Education Equipment Leasing Fund Act," P.L.1993,
36 c.136, and the "Higher Education Facilities Trust Fund Act,"
37 P.L.1993, c.375;
- 38 l. exercising any other power or responsibility necessary in
39 order to carry out the provisions of this act; **[and]**
- 40 m. consulting with the Higher Education Student Assistance
41 Authority on student assistance matters;
- 42 n. advising and making recommendations for consideration to
43 the Governor and the governing board of a public **'[institution of**
44 higher education in the appointment of members to that governing
45 board] research university or a State college for members of that
46 governing board appointed by the Governor¹; and

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

4 (cf: P.L.1999, c.46, s.32)

5

6 ¹[30.] ²[31.¹] 25.² Section 301 of P.L.1994, c.48 (C.18A:3B-

7 34) is amended to read as follows:

8 301. a. The ¹[Chairman of the Commission on Higher
9 Education] Secretary of Higher Education¹, ¹[at the request] with
10 the concurrence¹ of the Governor ¹[or upon his own
11 determination]¹, shall have authority to visit public institutions of
12 higher education to examine their manner of conducting their affairs
13 and to enforce an observance of the laws of the State.

14 b. The ¹[chairman] secretary¹, ¹[at the request] with the
15 concurrence¹ of the Governor ¹[or upon his own determination]¹,
16 may administer oaths and examine witnesses under oath in any part
17 of the State with regard to any matter pertaining to higher
18 education, and may cause the examination to be reduced to writing.
19 Any person willfully giving false testimony upon being sworn or
20 affirmed to tell the truth shall be guilty of a misdemeanor.

21 c. The ¹[chairman] secretary¹, ¹[at the request] with the
22 concurrence¹ of the Governor ¹[or upon his own determination]¹,
23 may issue subpoenas pursuant to this section compelling the
24 attendance of witnesses and the production of books and papers in
25 any part of the State. Any person who shall neglect or refuse to
26 obey the command of the subpoena or who, after appearing, shall
27 refuse to be sworn and testify, unless such refusal is on grounds
28 recognized by law, shall in either event be subject to a penalty of
29 \$1,000.00 for each offense to be recovered in a civil action. Such
30 penalty when recovered shall be paid into the State Treasury.

31 (cf: P.L.1994, c.48, s.301)

32

33 ¹[31.] ²[32.¹] 26.² Section 305 of P.L.1994, c.48 (C.18A:3B-

34 35) is amended to read as follows:

35 305. Each public institution of higher education shall prepare
36 and make available to the public an annual report on the condition
37 of the institution which shall include, but need not be limited to a
38 profile of the student body including graduation rates, SAT or other
39 test scores, the percentage of New Jersey residents in the student
40 body, the number of scholarship students and the number of
41 Educational Opportunity Fund students in attendance; a profile of
42 the faculty including the ratio of full to part-time faculty members,
43 and major research and public service activities; a profile of the
44 trustees or governors as applicable; and, a profile of the institution,
45 including degree and certificate programs, status of accreditation,
46 major capital projects, any new collaborative undertakings or
47 partnerships, any new programs or initiatives designed to respond to

1 specific State needs, an accounting of demonstrable efficiency and
2 quality improvements, and any other information which the
3 commission and the institution deem appropriate. The form and
4 general content of the report shall be established by the
5 Commission on Higher Education.

6 (cf: P.L.1994, c.48, s.305)

7
8 ¹[32.] ²[33.1] 27.² N.J.S.18A:64-3 is amended to read as
9 follows:

10 18A:64-3. The composition and size of the board of trustees
11 shall be determined by the board; however, each board shall have
12 not less than seven nor more than 15 members. The members shall
13 be [citizens of the State] appointed by the Governor[; except that
14 the Governor may appoint up to three alumni of the institution who
15 are not citizens of the State to serve as members of the board.
16 Members shall be appointed] with the advice and consent of the
17 Senate. Each board of trustees shall recommend potential new
18 members to the Governor. The terms of office of appointed
19 members shall be for six years beginning on July 1 and ending on
20 June 30. Each member shall serve until his successor shall have
21 been appointed and qualified and vacancies shall be filled in the
22 same manner as the original appointments for the remainders of the
23 unexpired terms. Any member of a board of trustees may be
24 removed by the Governor for cause upon notice and opportunity to
25 be heard.

26 (cf: P.L1999, c.324)

27
28 ¹[33.] ²[34.1] 28.² Section 6 of P.L.1995, c.400 (C.18A:64E-
29 17) is amended to read as follows:

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

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

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

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

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

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

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

27 (cf: P.L.1995, c.400, s.6)

28

29 ¹[34.] ²[35.1] 29.² Section 4 of P.L.1970, c.102 (C.18A:64G-4)
30 is amended to read as follows:

31 4. a. The government, control, conduct, management and
32 administration of the university shall be vested in the board of
33 trustees of the university. The membership of the board of trustees
34 shall consist of the Commissioner of Health and Senior Services,
35 who shall serve ex officio, without vote, and 19 voting members
36 appointed by the Governor as follows: two members shall be
37 appointed by the Governor upon recommendation of the Senate
38 President; two members shall be appointed by the Governor upon
39 recommendation of the Speaker of the General Assembly; and 15
40 members shall be appointed by the Governor with the advice and
41 consent of the Senate. A voting member shall serve for a term of
42 five years and shall serve until his successor is appointed and has
43 qualified. **[**The voting members of the board shall be residents of
44 the State, except that the Governor may appoint up to three
45 members who are not residents of the State to serve as voting
46 members of the board. The voting members shall represent the
47 gender, racial, and ethnic diversity of the State. The voting
48 members shall include at least two members from the seven

1 northern counties, two members from the seven central counties,
2 and two members from the seven southern counties.】 No trustee
3 shall be appointed who is an employee or paid official of any
4 hospital affiliated with the university. Any vacancies in the voting
5 membership of the board occurring other than by expiration of term
6 shall be filled in the same manner as the original appointment but
7 for the unexpired term only. Each voting member of the board of
8 trustees before entering upon his duties shall take and subscribe an
9 oath to perform the duties of his office faithfully, impartially and
10 justly to the best of his ability. A record of such oath shall be filed
11 in the office of the Secretary of State. Each voting member of the
12 board may be removed from office by the Governor, for cause, after
13 a public hearing.

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

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

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

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

33 (cf: P.L.2006, c.95, s.1)

34

35 ¹[35.] ²[36.]¹ N.J.S.18A:72A-1 is amended to read as follows:

36 18A:72A-1. It is hereby declared that a serious public
37 emergency exists affecting and threatening the welfare, comfort,
38 health, safety and prosperity of the people of the state and resulting
39 from the fact that financial resources are lacking with which to
40 construct required dormitory and other educational facilities at
41 public and private institutions of higher education and that there is a
42 shortage of working capital for the development, establishment, and
43 operation of public and private institutions of higher education;
44 that it is essential that this and future generations of youth be given
45 the fullest opportunity to learn and to develop their intellectual and
46 mental capacities; that it is essential that institutions for higher
47 education within the state be provided with appropriate additional
48 means to assist such youth in achieving the required levels of

1 learning and development of their intellectual and mental
2 capacities; that it is essential that all resources of the state be
3 employed in order to meet the tremendous demand for higher
4 educational opportunities; that all institutions of higher education in
5 the state, both public and private, are an integral part of the total
6 educational effort in the state for providing higher educational
7 opportunities, and that it is the purpose of this chapter to provide a
8 measure of assistance and an alternative method to enable
9 institutions of higher education in the state to provide the facilities
10 which are sorely needed to accomplish the purposes of this chapter
11 and to provide working capital to public and private institutions of
12 higher education, all to the public benefit and good, to the extent
13 and manner provided herein.

14 (cf: N.J.S.18A:72A-1)]²

15

16 ¹[36.] ²[37.] N.J.S.18A:72A-3 is amended to read as follows:

17 18A:72A-3. As used in this act, the following words and terms
18 shall have the following meanings, unless the context indicates or
19 requires another or different meaning or intent:

20 "Affiliate" means a person that directly, or indirectly through
21 one or more intermediaries, controls, or is controlled by, or is under
22 common control with, a public institution of higher education or
23 private college;

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

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

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

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

40 "Educational facility" means a structure suitable for use as a
41 dormitory, dining hall, student union, administration building,
42 academic building, library, laboratory, research facility, classroom,
43 athletic facility, health care facility, teaching hospital, and parking
44 maintenance storage or utility facility and other structures or
45 facilities related thereto or required or useful for the instruction of
46 students or the conducting of research or the operation of [an] a
47 participating institution [for higher education], and public libraries,
48 and the necessary and usual attendant and related facilities,

1 inventory, and equipment, but shall not include any facility used or
2 to be used for sectarian instruction or as a place for religious
3 worship;

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

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

11 "Participating **[college]** institution" means a public institution of
12 higher education or private college or an affiliate of a public
13 institution of higher education or private college which, pursuant to
14 the provisions of this chapter, participates with the authority in
15 undertaking the financing and construction or acquisition of a
16 project for which a public institution of higher education or private
17 college has requested assistance from the authority;

18 "Project" means a dormitory or an educational facility or any
19 combination thereof, **[or]** a county college capital project, the
20 provision of working capital or the acquisition of any other tangible
21 or intangible assets that are necessary or useful in the development,
22 establishment or operation of a participating institution;

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

27 "Private institution of higher education" means independent
28 colleges or universities incorporated and located in New Jersey,
29 which by virtue of law or character or license, are nonprofit
30 educational institutions authorized to grant academic degrees and
31 which provide a level of education which is equivalent to the
32 education provided by the State's public institutions of higher
33 education as attested by the receipt of and continuation of regional
34 accreditation by the Middle States Association of Colleges and
35 Schools, and which are eligible to receive State aid;

36 "Public institution of higher education" means Rutgers, The State
37 University, the State colleges, the New Jersey Institute of
38 Technology, the University of Medicine and Dentistry of New
39 Jersey, the county colleges and any other public university or
40 college now or hereafter established or authorized by law;

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

43 "University" means Rutgers, The State University;

44 "Working capital" means, with respect to any public institution
45 of higher education or private college situated within the State,
46 funds to be used in, or reserved for, the operation of the institution
47 'which are borrowed and repaid within the same budget year'.

48 (cf: P.L.2000, c.56, s.10)]²

1 ¹[37.] ²[38.¹] 30.² N.J.S.18A:72A-4 is amended to read as
2 follows:

3 18A:72A-4. (a) There is hereby established in but not of the
4 Department of the Treasury a public body corporate and politic,
5 with corporate succession to be known as the "New Jersey
6 educational facilities authority." Notwithstanding this allocation,
7 the authority shall be independent of any supervision or control by
8 the department or any officer thereof. The authority shall constitute
9 a political subdivision of the State established as an instrumentality
10 exercising public and essential governmental functions, and the
11 exercise by the authority of the powers conferred by this chapter
12 shall be deemed and held to be an essential governmental function
13 of the State.

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

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

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

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

46 (f) The powers of the authority shall be vested in the members
47 thereof in office from time to time and a majority of the total
48 authorized membership of the authority shall constitute a quorum at

1 any meeting thereof. Action may be taken and motions and
2 resolutions adopted by the authority at any meeting thereof by the
3 affirmative vote of a majority of the members present, unless in any
4 case the bylaws of the authority shall require a larger number. No
5 vacancy in the membership of the authority shall impair the right of
6 a quorum to exercise all the rights and perform all the duties of the
7 authority.

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

23 (h) Notwithstanding any other law to the contrary, it shall not be
24 or constitute a conflict of interest for a trustee, director, officer or
25 employee of a participating [college] ²[institution] college² to
26 serve as a member of the authority; provided such trustee, director,
27 officer or employee shall abstain from discussion, deliberation,
28 action and vote by the authority under this chapter in specific
29 respect to such participating [college] ²[institution] college² of
30 which such member is a trustee, director, officer or employee.

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

46 ¹[Notwithstanding the foregoing provisions of this subsection
47 (i), with regard to the sale of bonds of the authority, the authority
48 shall furnish to the Governor a certified copy of the minutes of the

1 meeting at which the bonds are sold and the Governor shall indicate
2 approval or disapproval of the action prior to the issuance of the
3 bonds.]¹

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

14 (cf: P.L.1999, c.217, s.11)

15

16 ¹[38.] ²[39.]¹ N.J.S.18A:72A-5 is amended to read as follows:

17 18A:72A-5. The authority shall have power:

18 (a) To adopt bylaws for the regulation of its affairs and the
19 conduct of its business;

20 (b) To adopt and have an official common seal and alter the
21 same at pleasure;

22 (c) To maintain an office at such place or places within the State
23 as it may designate;

24 (d) To sue and be sued in its own name, and plead and be
25 impleaded;

26 (e) To borrow money and to issue bonds and notes and other
27 obligations of the authority and to provide for the rights of the
28 holders thereof as provided in this chapter;

29 (f) To acquire, lease as lessee, hold and dispose of real and
30 personal property or any interest therein, in the exercise of its
31 powers and the performance of its duties under this chapter;

32 (g) To acquire in the name of the authority by purchase or
33 otherwise, on such terms and conditions and in such manner as it
34 may deem proper, or by the exercise of the power of eminent
35 domain, any land or interest therein and other property which it may
36 determine is reasonably necessary for any project, including any
37 lands held by any county, municipality or other governmental
38 subdivision of the State; and to hold and use the same and to sell,
39 convey, lease or otherwise dispose of property so acquired, no
40 longer necessary for the authority's purposes;

41 (h) To receive and accept, from any federal or other public
42 agency or governmental entity, grants or loans for or in aid of the
43 acquisition or construction of any project, and to receive and accept
44 aid or contributions from any other source, of either money,
45 property, labor or other things of value, to be held, used and applied
46 only for the purposes for which such grants, loans and contributions
47 may be made;

- 1 (i) To prepare or cause to be prepared plans, specifications,
2 designs and estimates of costs for the construction and equipment of
3 projects for participating **【colleges】** institutions under the
4 provisions of this chapter, and from time to time to modify such
5 plans, specifications, designs or estimates;
- 6 (j) By contract or contracts or by its own employees to
7 construct, acquire, reconstruct, rehabilitate and improve, and
8 furnish and equip, projects for participating **【colleges】** institutions;
9 however, in any contract or contracts undertaken by the authority
10 for the construction, reconstruction, rehabilitation or improvement
11 of any public college project where the cost of such work will
12 exceed \$25,000, the contracting agent shall advertise for and
13 receive in the manner provided by law:
- 14 (1) separate bids for the following categories of work;
- 15 (a) the plumbing and gas fitting work;
- 16 (b) the heating and ventilating systems and equipment;
- 17 (c) the electrical work, including any electrical power plants;
- 18 (d) the structural steel and ornamental iron work;
- 19 (e) all other work and materials required for the completion of
20 the project, or
- 21 (2) bids for all work and materials required to complete the
22 entire project if awarded as a single contract; or
- 23 (3) both (1) and (2) above.
- 24 All bids submitted shall set forth the names and license numbers
25 of, and evidence of performance security from, all subcontractors to
26 whom the bidder will subcontract the work described in the
27 foregoing categories (1)(a) through (1)(e).
- 28 Contracts shall be awarded to the lowest responsible bidder
29 whose bid, conforming to the invitation for bids, will be the most
30 advantageous to the authority;
- 31 (k) To determine the location and character of any project to be
32 undertaken pursuant to the provisions of this chapter, and to
33 construct, reconstruct, maintain, repair, operate, lease, as lessee or
34 lessor, and regulate the same; to enter into contracts for any or all
35 such purposes; to enter into contracts for the management and
36 operation of a project, and to designate a participating **【college】**
37 institution as its agent to determine the location and character of a
38 project undertaken by such participating **【college】** institution under
39 the provisions of this chapter and, as the agent of the authority, to
40 construct, reconstruct, maintain, repair, operate, lease, as lessee or
41 lessor, and regulate the same, and, as agent of the authority, to enter
42 into contracts for any and all such purposes including contracts for
43 the management and operation of such project;
- 44 (l) To establish rules and regulations for the use of a project or
45 any portion thereof and to designate a participating **【college】**
46 institution as its agent to establish rules and regulations for the use
47 of a project undertaken by such participating **【college】** institution;

1 (m) Generally to fix and revise from time to time and to charge
2 and collect rates, rents, fees and other charges for the use of and for
3 the services furnished or to be furnished by a project or any portion
4 thereof and to contract with holders of its bonds and with any other
5 person, party, association, corporation or other body, public or
6 private, in respect thereof;

7 (n) To enter into any and all agreements or contracts, execute
8 any and all instruments, and do and perform any and all acts or
9 things necessary, convenient or desirable for the purposes of the
10 authority or to carry out any power expressly given in this chapter;

11 (o) To invest any moneys held in reserve or sinking funds, or
12 any moneys not required for immediate use or disbursement, at the
13 discretion of the authority, in such obligations as are authorized by
14 law for the investment of trust funds in the custody of the State
15 Treasurer;

16 (p) To enter into any lease relating to higher education
17 equipment with a public or private institution of higher education
18 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
19 al.);

20 (q) To enter into loan agreements with any county, to hold
21 bonds or notes of the county evidencing those loans, and to issue
22 bonds or notes of the authority to finance county college capital
23 projects pursuant to the provisions of the "County College Capital
24 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

25 (r) To issue bonds and notes and other obligations of the
26 authority under the direction of law for the purpose of providing
27 financial assistance for the installation of fire prevention and safety
28 systems in dormitories.

29 (cf: P.L.2000, c.56, s.11)]²

30

31 ¹[39.] ²[40.]¹ N.J.S.18A:72A-11 is amended to read as follows:

32 18A:72A-11. The authority is authorized to fix, revise, charge
33 and collect rates, rents, fees and charges for the use of and for the
34 services furnished or to be furnished by each project and to
35 contract with any person, partnership, association or corporation, or
36 other body, public or private, in respect thereof. Such rates, rents,
37 fees and charges shall be fixed and adjusted in respect of the
38 aggregate of rents, rates, fees and charges from such project so as to
39 provide funds sufficient with other revenues or moneys, if any:

40 (a) to pay the cost of maintaining, repairing and operating the
41 project and each and every portion thereof, to the extent that the
42 payment of such cost has not otherwise been adequately provided
43 for;

44 (b) to pay the principal of and the interest on outstanding bonds
45 of the authority issued in respect of such project as the same shall
46 become due and payable; and

1 (c) to create and maintain reserves required or provided for in
2 any resolution authorizing, or trust agreement securing, such bonds
3 of the authority.

4 Such rates, rents, fees and charges shall not be subject to
5 supervision or regulation by any department, commission, board,
6 body, bureau or agency of this state other than the authority. A
7 sufficient amount of the revenues derived in respect of a project,
8 except such part of such revenues as may be necessary to pay the
9 cost of maintenance, repair and operation and to provide reserves
10 for renewals, replacements, extensions, enlargements and
11 improvements as may be provided for in the resolution authorizing
12 the issuance of any bonds of the authority or in the trust agreement
13 securing the same, shall be set aside at such regular intervals as may
14 be provided in such resolution or trust agreement in a sinking or
15 other similar fund which is hereby pledged to, and charged with,
16 the payment of the principal of and the interest on such bonds as the
17 same shall become due, and the redemption price or the purchase
18 price of bonds retired by call or purchase as therein provided. Such
19 pledge shall be valid and binding from the time when the pledge is
20 made; the rates, rents, fees and charges and other revenues or other
21 moneys so pledged and thereafter received by the authority shall
22 immediately be subject to the lien of such pledge without any
23 physical delivery thereof or further act, and the lien of any such
24 pledge shall be valid and binding as against all parties having
25 claims of any kind in tort, contract or otherwise against the
26 authority, irrespective of whether such parties have notice thereof.
27 Neither the resolution nor any trust agreement by which a pledge is
28 created need be filed or recorded except in the records of the
29 authority. The use and disposition of moneys to the credit of such
30 sinking or other similar fund shall be subject to the provisions of
31 the resolution authorizing the issuance of such bonds or of such
32 trust agreement. Except as may otherwise be provided in such
33 resolution or such trust agreement, such sinking or other similar
34 fund shall be a fund for all such bonds issued to finance projects at
35 a participating **[college]** institution without distinction or priority
36 of one over another; provided the authority in any such resolution
37 or trust agreement may provide that such sinking or other similar
38 fund shall be the fund for a particular project at a participating
39 **[college]** institution and for the bonds issued to finance a particular
40 project and may, additionally, permit and provide for the issuance
41 of bonds having a subordinate lien in respect of the security herein
42 authorized to other bonds of the authority and, in such case, the
43 authority may create separate sinking or other similar funds in
44 respect of such subordinate lien bonds.

45 (cf: N.J.S.18A:72A-11)]²

46

47 ¹[40.] ²[41.¹] 31.² Section 1 of P.L.1980, c.31 (C.18A:72A-
48 11.1) is amended to read as follows:

1 1. In addition to other powers and duties which have been
2 granted to the authority, whenever any **[public or private college]**
3 ²**[participating institution] public or private college²** has
4 constructed or acquired any work or improvement which would
5 otherwise qualify under this act except for the fact that such
6 construction or acquisition was undertaken and financed without
7 assistance from the authority, the authority may purchase such work
8 or improvement, and lease the same to such **[college]**
9 ²**[participating institution] college²**, or may lend funds to such
10 **[college] ²[participating institution] college²** for the purpose of
11 enabling the latter to retire obligations incurred for such
12 construction or acquisition; except that the amount of any such
13 price or loan shall not exceed the original project cost ¹and
14 administrative costs, reserves, and other costs associated with the
15 retirement of such obligations¹. All powers, rights, obligations and
16 duties granted to or imposed upon the authority, **[colleges]**
17 ²**[participating institutions]colleges²**, State departments and
18 agencies or others by this chapter in respect to projects shall apply
19 to the same extent with respect to transactions pursuant to this
20 section; except that any action otherwise required to be taken at a
21 particular time in the progression of a project may, where the
22 circumstances are so required in connection with a transaction
23 under this section, be taken with the same effect as if taken at that
24 particular time.

25 (cf: P.L.1980, c.31, s.1)

26

27 ¹**[41.]²[42.¹** N.J.S.18A:72A-19 is amended to read as follows:

28 18A:72A-19. The state of New Jersey does pledge to and agree
29 with the holders of the bonds, notes and other obligations issued
30 pursuant to authority contained in this chapter, and with those
31 parties who may enter into contracts with the authority pursuant to
32 the provisions of this chapter, that the state will not limit, alter or
33 restrict the rights hereby vested in the authority and the
34 participating **[colleges] institutions** to maintain, construct,
35 reconstruct and operate any project as defined in this chapter or to
36 establish and collect such rents, fees, receipts or other charges as
37 may be convenient or necessary to produce sufficient revenues to
38 meet the expenses of maintenance and operation thereof and to
39 fulfill the terms of any agreements made with the holders of bonds
40 authorized by this chapter, and with the parties who may enter into
41 contracts with the authority pursuant to the provisions of this
42 chapter, or in any way impair the rights or remedies of the holders
43 of such bonds or such parties until the bonds, together with interest
44 thereon, are fully paid and discharged and such contracts are fully
45 performed on the part of the authority. The authority as a public
46 body corporate and politic shall have the right to include the pledge

1 herein made in its bonds and contracts.

2 (cf: N.J.S.18A:72A-19)]²

3

4 ¹[42.] ²[43.]¹ N.J.S.18A:72A-26 is amended to read as follows:

5 18A:72A-26. In order to provide new dormitories and to enable
6 the construction and financing thereof, to refinance indebtedness
7 hereafter created by the authority for the purpose of providing a
8 dormitory or dormitories or additions or improvements thereto, or
9 for any one or more of said purposes, but for no other purpose
10 unless authorized by law, each of the following bodies shall have
11 the powers hereafter enumerated to be exercised upon such terms
12 and conditions, including the fixing of any consideration or rental to
13 be paid or received, as it shall determine by resolution as to such
14 property and each shall be subject to the performance of the duties
15 hereafter enumerated, that is to say, the treasurer as to such as are
16 located on land owned by the State or by the authority, the board of
17 governors of the university, the board of trustees of the New Jersey
18 Institute of Technology or the University of Medicine and Dentistry
19 of New Jersey, the board of trustees of a State college [or] , the
20 board of trustees of a county college , or the governing body of an
21 affiliate of a public institution of higher education as to such as are
22 located on land owned by the university or by the particular
23 [college] public institution of higher education respectively,
24 namely:

25 a. The power to sell and to convey to the authority or any other
26 entity which is a participating institution title in fee simple in any
27 such land and any existing dormitories thereon owned by the State
28 or owned by the board of trustees of a county college or the power
29 to sell and to convey to the authority or any other entity which is a
30 participating institution such title as the university or the college
31 respectively may have in any such land and any existing dormitories
32 thereon.

33 b. The power to lease to the authority or any other entity which
34 is a participating institution any such land and any existing
35 dormitories thereon [so] owned for a term or terms not exceeding
36 50 years each.

37 c. The power to lease or sublease from the authority or any other
38 entity which is a participating institution, and to make available,
39 any such land and existing dormitories conveyed or leased to the
40 authority or any other entity which is a participating institution
41 under subsections a. and b. of this section, and any new dormitories
42 erected upon such land or upon any other land owned by the
43 authority or any other entity which is a participating institution, any
44 rentals to be payable, as to the university or as to any such college
45 from available funds other than moneys appropriated to it by the
46 State.

1 d. The power and duty, upon receipt of notice of any assignment
2 by the authority or any other entity which is a participating
3 institution of any lease or sublease made under subsection c. of this
4 section, or of any of its rights under any such lease or sublease, to
5 recognize and give effect to such assignment, and to pay to the
6 assignee thereof rentals or other payments then due or which may
7 become due under any such lease or sublease which has been so
8 assigned by the authority or any other entity which is a participating
9 institution.

10 (cf: P.L.1994, c.48, s.238)]²

11
12 ¹[43.] ²[44.]¹ N.J.S.18A:72A-27.1 is amended to read as
13 follows:

14 18A:72A-27.1. In addition to the powers and duties with respect
15 to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the
16 treasurer, the board of governors of the university, the board of
17 trustees of the New Jersey Institute of Technology, the board of
18 trustees of a State college, the board of trustees of a county college
19 **[and]** , the board of trustees of the University of Medicine and
20 Dentistry of New Jersey and the governing body of an affiliate of a
21 public institution of higher education shall also have the same
22 power and be subject to the same duties in relation to any
23 conveyance, lease or sublease made under subsection a., b., or c. of
24 section 18A:72A-26, with respect to revenue producing facilities;
25 that is to say, structures or facilities which produce revenues
26 sufficient to pay the rentals due and to become due under any lease
27 or sublease made under subsection c. of section 18A:72A-26
28 including, without limitation, student unions and parking facilities.

29 (cf: P.L.1994, c.48, s.239)]²

30
31 ¹[44.] ²[45.]¹ N.J.S.18A:72A-29 is amended to read as follows:

32 18A:72A-29. All lands and other assets real or personal
33 presently titled in the name of the State Board of Higher Education
34 or the State Department of Higher Education, which are occupied
35 by a public institution of higher education shall be titled in the
36 name of the State of New Jersey only. All conveyances, leases and
37 subleases, pursuant to this chapter shall be made, executed and
38 delivered in the name of the State and shall be signed by the State
39 Treasurer and sealed with the seal of the State.

40 To the extent not otherwise expressly provided under existing
41 law, all powers and duties conferred upon the university or an
42 affiliate pursuant to this chapter shall be exercised and performed
43 by resolution of its board of governors and all powers and duties
44 conferred upon any of said colleges pursuant to this chapter shall be
45 exercised and performed by resolution of its board of trustees.

46 All conveyances, leases and subleases made pursuant to this
47 chapter, when duly authorized by the university, shall be made,

1 executed and delivered in the name of the university and shall be
2 signed by its president or a vice president and sealed with the seal
3 of the university and all conveyances, leases and subleases made
4 pursuant to this chapter, when duly authorized by any of said
5 colleges, shall be made, executed and delivered in the name of the
6 college and shall be signed by the president or a vice president and
7 sealed with the seal of the college.

8 (cf: P.L.1999, c.46, s.50)]²

9

10 '[45.]²[46.]¹ N.J.S.18A:72A-30 is amended to read as follows:

11 18A:72A-30. In addition to the foregoing powers, the authority
12 with respect to private colleges, shall have power:

13 (a) upon application of the [participating college] private
14 college to construct, acquire or otherwise provide projects for the
15 use and benefit of the [participating college] private college and
16 the students, faculty and staff of such [participating college]
17 private college. The [participating college] private college for
18 which such a project is undertaken by the authority shall approve
19 the plans and specifications and location of such project;

20 (b) to operate and manage any project provided pursuant to this
21 section, or the authority may lease any such project to the
22 [participating college] private college for which such project is
23 provided. At such time as the liabilities of the authority incurred
24 for any such project have been met and the bonds of the authority
25 issued therefor have been paid, or such liabilities and bonds have
26 otherwise been discharged, the authority shall transfer title to all the
27 real and personal property of such project vested in the authority, to
28 the [participating college] private college in connection with which
29 such project is then being operated, or to which such project is then
30 leased; provided, however, that if at any time prior thereto such
31 [participating college] private college ceases to offer educational
32 facilities, then such title shall vest in the state of New Jersey.

33 Any lease of a project authorized by this section shall be a
34 general obligation of the lessee and may contain provisions, which
35 shall be a part of the contract with the holders of the bonds of the
36 authority issued for such project, as to:

37 (i) pledging all or any part of the moneys, earnings, income and
38 revenues derived by the lessee from such project or any part or parts
39 thereof, or other personal property of the lessee, to secure payments
40 required under the terms of such lease;

41 (ii) the rates, rentals, fees and other charges to be fixed and
42 collected by the lessee, the amounts to be raised in each year
43 thereby, and the use and disposition of such moneys, earnings,
44 income and revenues;

45 (iii) the setting aside of reserves and the creation of special funds
46 and the regulation and disposition thereof;

1 (iv) the procedure, if any, by which the terms of such lease may
2 be amended, the amount of bonds the holders of which must
3 consent thereto, and the manner in which such consent may be
4 given;

5 (v) vesting in a trustee or trustees such specified properties,
6 rights, powers and duties as shall be deemed necessary or desirable
7 for the security of the holders of the bonds of the authority issued
8 for such projects;

9 (vi) the obligations of the lessee with respect to the replacement,
10 reconstruction, maintenance, operation, repairs and insurance of
11 such project;

12 (vii) defining the acts or omissions to act which shall constitute a
13 default in the obligations and duties of the lessee, and providing for
14 the rights and remedies of the authority and of its bondholders in
15 the event of such default;

16 (viii) any other matters, of like or different character, which may
17 be deemed necessary or desirable for the security or protection of
18 the authority or the holders of its bonds.

19 (cf: N.J.S.18A:72A-30)]²

20

21 ¹[46.] ²[47.¹] 32.² Section 2 of P.L.1993, c.136 (C.18A:72A-
22 41) is amended to read as follows:

23 2. The Legislature finds and declares that:

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

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

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

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

41 (cf: P.L.1993, c.136, s.2)

42

43 ²[¹48.] 33.² Section 5 of P.L.1993, c.136 (C.18A:72A-42) is
44 amended to read as follows:

45 5. a. There is created within the New Jersey Educational
46 Facilities Authority, established pursuant to chapter 72A of Title
47 18A of the New Jersey Statutes, hereinafter referred to as the
48 "authority," a higher education equipment leasing fund to finance

1 the purchase of higher education equipment at public and private
2 institutions of higher education. The authority shall issue bonds to
3 finance the purchase of higher education equipment for lease to
4 public and private institutions of higher education and to finance the
5 administrative costs associated with the approval process and the
6 issuance of bonds provided that the total outstanding principal
7 amount of the bonds shall not exceed \$100,000,000, except that all
8 administrative costs associated with the approval process and the
9 issuance of bonds shall not be included within the total aggregate
10 principal amount of bonds issued, and the term of any bond issued
11 shall not exceed 10 years. In computing the foregoing limitation as
12 to amount, there shall be excluded all bonds which shall be issued
13 for refunding purposes, provided that the refunding shall be
14 determined by the authority to result in a debt service savings. The
15 State Treasurer is hereby authorized to enter into a contract with the
16 authority pursuant to which the State Treasurer, subject to available
17 appropriation, shall pay the amount necessary to pay the principal
18 and interest on bonds and notes of the authority issued pursuant to
19 this section. In entering into a lease agreement with a public or
20 private institution of higher education, the authority shall include
21 such lease provisions as may be necessary to insure that the
22 institution shall pay an amount equal to 25% of the amount
23 necessary to pay the principal and interest on the bonds and notes of
24 the authority issued pursuant to this section to finance the purchase
25 of higher education equipment at that institution. Upon receipt of
26 such moneys from the public or private institution of higher
27 education, the authority shall remit the moneys immediately to the
28 State Treasurer.

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

40 c. Bonds or notes issued pursuant to this act shall not be in any
41 way a debt or liability of the State or of any political subdivision
42 thereof other than the authority and shall not create or constitute
43 any indebtedness, liability or obligation of the State or of any
44 political subdivision thereof, or be or constitute a pledge of the faith
45 and credit of the State or of any political subdivision thereof, but all
46 bonds or notes, unless funded or refunded by the bonds or notes of
47 the authority, shall be payable solely from revenues of funds
48 pledged or available for their payment as authorized by this act.

1 Each bond shall contain on its face a statement to the effect that the
2 authority is obligated to pay the principal thereof, redemption
3 premium, if any, or the interest thereon only from revenue or funds
4 of the authority and that neither the State nor any political
5 subdivision thereof is obligated to pay the principal thereof,
6 redemption premium, if any, or interest thereon and that neither the
7 faith and credit nor the taxing power of the State or of any political
8 subdivision thereof is pledged to the payment of the principal of,
9 redemption premium, if any, or the interest on the bonds.

10 d. The State of New Jersey does hereby pledge to and covenant
11 and agree with the holders of any bonds or notes issued pursuant to
12 authorization of P.L.1993, c.136 (C.18A:72A-40 et al.) that the
13 State shall not limit or alter the rights or powers hereby vested in
14 the authority to perform and fulfill the terms of any agreement made
15 with the holders of the bonds or notes, or to fix, establish, charge
16 and collect such rents, fees, rates, payments, or other charges as
17 may be convenient or necessary to produce sufficient revenues to
18 meet all expenses of the authority and to fulfill the terms of any
19 agreement made with the holders of the bonds and notes, together
20 with interest thereon, with interest on any unpaid installments of
21 interest, and all costs and expenses in connection with any action or
22 proceedings by or on behalf of the holders, until the bonds and
23 notes, together with interest thereon, are fully met and discharged or
24 provided for.¹

25 (cf: P.L.1993, c.136, s.5)

26

27 ¹[47.] ²[49.¹] 34.² Section 6 of P.L.1993,c.136 (C.18A:72A-43)
28 is amended to read as follows:

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

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

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

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

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

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

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

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

1 The **[State Board of]** Commission on Higher Education may
2 apportion the amounts authorized in subsection g. among any other
3 amounts authorized in subsections a. through f.

4 The **[State Board of]** Commission on Higher Education may
5 reallocate any balance in the amounts authorized in subsections a.
6 through g. of this section which have not been fully committed
7 within 18 months of the effective date of this act.

8 The **[State Board of]** Commission on Higher Education shall
9 determine the allocation of moneys deposited into the fund resulting
10 from the issuance by the authority of new bonds because of the
11 retirement of bonds previously issued by the authority.

12 (cf: P.L.1993, c.136, s.6)

13

14 ¹[48.] ²[50.¹] 35.² Section 8 of P.L.1993, c.136 (C.18A:72A-
15 45) is amended to read as follows:

16 8. The authority shall not enter into a lease agreement with an
17 institution of higher education unless the **[State Board of]**
18 Commission on Higher Education has adopted a resolution which
19 approves the purchase of the higher education equipment by the
20 institution. The **[State board]** commission shall forward a copy of
21 the resolution along with the amount of the approved purchase to
22 the authority.

23 (cf: P.L.1993, c.136, s.8)

24

25 ¹[49.] ²[51.¹] 36.² Section 10 of P.L.1993, c.136 (C.18A:72A-
26 47) is amended to read as follows:

27 10. The **[State Board of]** Commission on Higher Education
28 shall annually submit a report to the Governor and the Legislature
29 on the higher education equipment purchases at public and private
30 institutions of higher education which have been approved by the
31 **[State board]** commission and financed by the New Jersey
32 Educational Facilities Authority pursuant to lease agreements with
33 the institutions.

34 (cf: P.L.1993, c.136, s.10)

35

36 ¹[50.] ²[52.¹] 37.² Section 11 of P.L.1993, c.136 (C.18A:72A-
37 48) is amended to read as follows:

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

43 (cf: P.L.1993, c.136, s.11)

44

45 ¹[51.] ²[53.¹] 38.² Section 5 of P.L. 1993, c.375 (C.18A:72A-
46 53) is amended to read as follows:

- 1 5. The initial grants from the trust fund shall be allocated as
2 follows:
- 3 a. \$48,000,000 for facilities at the State Colleges;
4 b. \$38,880,000 for facilities at Rutgers, The State University;
5 c. \$20,160,000 for facilities at the University of Medicine and
6 Dentistry of New Jersey;
7 d. \$12,960,000 for facilities at the New Jersey Institute of
8 Technology;
9 e. \$44,000,000 for facilities at the county colleges;
10 f. \$21,000,000 for facilities at the private institutions of higher
11 education;
12 g. \$15,000,000 for South Jersey multi-institutional economic
13 development facilities. As used in this section, "South Jersey multi-
14 institutional economic development facilities" means facilities
15 which would promote economic development in the eight
16 southernmost counties of the State and which involve more than one
17 public or private institution of higher education; and
18 h. \$20,000,000 for a new facility for Rutgers, The State
19 University, School of Law, Newark.

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

23 The **[Board of]** Commission on Higher Education may
24 reallocate any balance in an amount authorized in subsections a.
25 through h. of this section which has not been approved by the
26 **[board]** commission for a grant within 18 months of the effective
27 date of this act.

28 The **[Board of]** Commission on Higher Education shall
29 determine the allocation of moneys deposited into the trust fund
30 resulting from the issuance by the authority of new bonds because
31 of the retirement of bonds previously issued by the authority.

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

38 (cf: P.L.1993, c.375, s.5)

39

40 ¹[52.] ²[54.¹] ³39.² Section 6 of P.L.1993, c.375 (C.18A:72A-
41 54) is amended to read as follows:

- 42 6. a. The governing board of a public or private institution of
43 higher education may determine, by resolution, to apply for a grant
44 from the trust fund. Upon adoption of the resolution, the board
45 shall file an application with the **[Board of]** Commission on Higher
46 Education, which application shall include a complete description

1 of the project to be financed and an identification of any additional
2 sources of revenue to be used.

3 b. The **【Board of】** Commission on Higher Education shall
4 review the application and, by resolution, approve or disapprove the
5 grant. For each grant which is approved, the **【board】** commission
6 shall establish the amount and shall forward a copy of the resolution
7 along with the amount of the grant to the authority.

8 c. The **【Board of】** Commission on Higher Education shall
9 submit to the Legislature a copy of the resolution approving the
10 grant along with the amount of the grant. If the Legislature does
11 not disapprove the grant by the adoption of a concurrent resolution
12 within 60 days, the grant shall be deemed to be authorized. In
13 addition, the resolution approving the grant for the new
14 instructional and research facility for Rutgers, The State University,
15 School of Law, Newark, shall be submitted by the **【board】**
16 commission to the Joint Budget Oversight Committee for its
17 approval prior to the **【board's】** commission's submission of the
18 resolution to the Legislature. The **【board】** commission shall
19 provide to the committee such information concerning the grant as
20 the committee may require for its consideration.

21 d. Each grant awarded under this act shall be contingent upon
22 the recipient governing board entering into a contract or contracts
23 for the commencement of the construction, reconstruction,
24 development, extension, or improvement of the facility within one
25 year of the date on which the funds of the grant are made available.
26 (cf: P.L.1993, c.375, s.6)

27

28 ¹~~【53.】~~ ²~~【55.1】~~ 40.² Section 7 of P.L.1993, c.375 (C.18A:72A-
29 55) is amended to read as follows:

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

35 (cf: P.L.1993, c.375, s.7)

36

37 ¹~~【54.】~~ ²~~【56.1】~~ 41.² Section 8 of P.L.1993, c.375 (C.18A:72A-
38 56) is amended to read as follows:

39 8. In order to ensure proper oversight and review, there is
40 created the "Higher Education Facilities Trust Fund Board" which
41 shall consist of **【six】** five members as follows: the Chair and Vice
42 Chair of the **【Board of】** Commission on Higher Education; the
43 State Treasurer or a designee; the President of the Senate or a
44 designee; and the Speaker of the General Assembly or a designee~~;~~
45 and the Chancellor of Higher Education who shall serve ex officio
46 without vote~~】~~. The board shall ensure that the revenue provided to
47 the trust fund is adequate to support the grants approved by the

1 **[Board of]** Commission on Higher Education. At the end of each
2 three-year period following the approval of this act, the board shall
3 review, in consultation with the **[Board of]** Commission on Higher
4 Education, the physical plant needs of public and private
5 institutions of higher education in the State and shall recommend to
6 the Governor and the Legislature a plan to increase, as necessary,
7 the availability and uses of grants made from the trust fund.

8 (cf: P.L.1993, c.375, s.8)

9
10 ²[¹57.] 42.² Section 9 of P.L.1993, c.375 (C.18A:72A-57) is
11 amended to read as follows:

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

39 b. Bonds or notes issued pursuant to this act shall not be in any
40 way a debt or liability of the State or of any political subdivision
41 thereof other than the authority and shall not create or constitute
42 any indebtedness, liability or obligation of the State or of any
43 political subdivision thereof, or be or constitute a pledge of the faith
44 and credit of the State or of any political subdivision thereof, but all
45 bonds or notes, unless funded or refunded by the bonds or notes of
46 the authority, shall be payable solely from revenues of funds
47 pledged or available for their payment as authorized by this act.
48 Each bond shall contain on its face a statement to the effect that the

1 authority is obligated to pay the principal thereof, redemption
2 premium, if any, or the interest thereon only from revenue or funds
3 of the authority and that neither the State nor any political
4 subdivision thereof is obligated to pay the principal thereof,
5 redemption premium, if any, or interest thereon and that neither the
6 faith and credit nor the taxing power of the State or of any political
7 subdivision thereof is pledged to the payment of the principal of,
8 redemption premium, if any, or the interest on the bonds.

9 c. The State of New Jersey does hereby pledge to and covenant
10 and agree with the holders of any bonds or notes issued pursuant to
11 the authorization of P.L.1993, c.375 (C.18A:72A-49 et al.) that the
12 State shall not limit or alter the rights or powers hereby vested in
13 the authority to perform and fulfill the terms of any agreement made
14 with the holders of the bonds or notes, or to fix, establish, charge
15 and collect such rents, fees, rates, payments, or other charges as
16 may be convenient or necessary to produce sufficient revenues to
17 meet all expenses of the authority and to fulfill the terms of any
18 agreement made with the holders of the bonds and notes, together
19 with interest thereon, with interest on any unpaid installments of
20 interest, and all costs and expenses in connection with any action or
21 proceedings by or on behalf of the holders, until the bonds and
22 notes, together with interest thereon, are fully met and discharged or
23 provided for.¹

24 (cf: P.L.1995, c.146)

25

26 ¹[55.] ²[58.] ¹43.² Section 11 of P.L.1993, c.375 (C.18A:72A-
27 58) is amended to read as follows:

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

33 (cf: P.L.1993, c.375, s.11)

34

35 ²[159.] ¹44.² Section 7 of P.L.1997, c.238 (C.18A:72A-65) is
36 amended to read as follows:

37 7. a. The authority shall from time to time issue bonds or notes
38 in an amount sufficient to finance the grants provided under this act
39 and to finance the administrative costs associated with the approval
40 process and the issuance of the bonds and notes for the purchase of
41 higher education technology infrastructure for public and private
42 institutions of higher education, provided that the total outstanding
43 principal amount of the bonds and notes shall not exceed
44 \$55,000,000, except that all administrative costs associated with the
45 approval process and the issuance of bonds shall not be included
46 within the total aggregate principal amount of bonds issued, and the
47 term of any bond issued shall not exceed 15 years. In computing
48 the foregoing limitation as to amount, there shall be excluded all

1 bonds or notes which shall be issued for refunding purposes,
2 provided that the refunding shall be determined by the authority to
3 result in a debt service savings. The State Treasurer is hereby
4 authorized to enter into a contract with the authority pursuant to
5 which the State Treasurer, subject to available appropriation, shall
6 pay the amount necessary to pay the principal and interest on bonds
7 and notes of the authority issued pursuant to this section.

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

27 c. The State of New Jersey does hereby pledge to and covenant
28 and agree with the holders of any bonds or notes issued pursuant to
29 P.L.1997, c.238 (C.18A:72A-59 et seq.) that the State shall not limit
30 or alter the rights or powers hereby vested in the authority to
31 perform and fulfill the terms of any agreement made with the
32 holders of the bonds or notes, or to fix, establish, charge and collect
33 such rents, fees, rates, payments, or other charges as may be
34 convenient or necessary to produce sufficient revenues to meet all
35 expenses of the authority and to fulfill the terms of any agreement
36 made with the holders of the bonds and notes, together with interest
37 thereon, with interest on any unpaid installments of interest, and all
38 costs and expenses in connection with any action or proceedings by
39 or on behalf of the holders, until the bonds and notes, together with
40 interest thereon, are fully met and discharged or provided for.¹

41 (cf: P.L.1997, c.238, s.7)

42

43 ²[¹60.] 45.² Section 7 of P.L.1999, c.217 (C.18A:72A-78) is
44 amended to read as follows:

45 7. a. The authority shall from time to time issue bonds, notes or
46 other obligations in an amount sufficient to finance the grants
47 provided under this act and to finance the administrative costs
48 associated with the approval process and the issuance of the bonds,

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

18 b. The State Treasurer is hereby authorized to enter into a
19 contract with the authority pursuant to which the State Treasurer,
20 subject to available appropriations, shall pay the amount necessary
21 to pay the principal and interest on bonds, notes and other
22 obligations of the authority issued pursuant to this act plus any
23 amounts payable in connection with an agreement authorized under
24 subsection e. of this section. The authority shall enter into a
25 contractual agreement with each institution receiving a capital
26 improvement fund grant, and the agreements shall be approved by a
27 resolution of the authority. All agreements with the four-year
28 public institutions of higher education shall include provisions as
29 may be necessary to insure that each institution pays an amount
30 equal to one-third of the amount necessary to pay the principal and
31 interest on the bonds, notes and other obligations of the authority
32 issued pursuant to this section to finance the projects approved at
33 the institution plus its share of any amounts payable in connection
34 with an agreement authorized under subsection e. of this section.
35 All agreements with the four-year private institutions of higher
36 education shall include provisions as may be necessary to insure
37 that each institution pays an amount equal to one-half of the amount
38 necessary to pay the principal and interest on the bonds, notes and
39 other obligations of the authority issued pursuant to this section to
40 finance the projects approved at the institution plus its share of any
41 amounts payable in connection with an agreement authorized under
42 subsection e. of this section. Upon receipt of the moneys from the
43 public or private institutions of higher education, the authority shall
44 apply the moneys in a manner specified in the contract with the
45 State Treasurer.

46 c. Bonds, notes or other obligations issued pursuant to this act
47 shall not be in any way a debt or liability of the State or of any
48 political subdivision thereof other than the authority and shall not

1 create or constitute any indebtedness, liability or obligation of the
2 State or of any political subdivision thereof, or be or constitute a
3 pledge of the faith and credit of the State or of any political
4 subdivision thereof, but all bonds, notes or other obligations, unless
5 funded or refunded by the bonds, notes or other obligations of the
6 authority, shall be payable solely from revenues of funds pledged or
7 available for their payment as authorized by this act. Each bond,
8 note or other obligation shall contain on its face a statement to the
9 effect that the authority is obligated to pay the principal thereof,
10 redemption premium, if any, or the interest thereon only from
11 revenue or funds of the authority, and that neither the State nor any
12 political subdivision thereof is obligated to pay the principal
13 thereof, redemption premium, if any, or interest thereon, and that
14 neither the faith and credit nor the taxing power of the State or of
15 any political subdivision thereof is pledged to the payment of the
16 principal of, redemption premium, if any, or the interest on the
17 bonds, notes or other obligations.

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

34 e. In connection with any bonds or refunding of bonds issued
35 pursuant to this section, the authority may also enter into any
36 revolving credit agreement; agreement establishing a line of credit
37 or letter of credit; reimbursement agreement; interest rate exchange
38 agreement; currency exchange agreement; interest rate floor cap,
39 option, put or call to hedge payment, currency, rate, spread or
40 similar exposure, or similar agreement; float agreement; forward
41 agreement; insurance contract; surety bond; commitment to
42 purchase or sell bonds; purchase or sale agreement; or commitment
43 or other contract or agreement or other security agreement approved
44 by the authority.¹

45 (cf: P.L.1999, c.217, s.7)

46

47 ²[¹61.] 46.² Section 5 of P.L.1999, c.184 (C.18A:74-28) is
48 amended to read as follows:

1 5. a. The authority shall from time to time issue bonds, notes or
2 other obligations in an amount sufficient to finance the grants
3 provided under P.L.1999, c.184 (C.18A:74-24 et al.) and to finance
4 the administrative costs associated with the approval process and
5 the issuance of the bonds, notes, or other obligations, provided
6 **[however]** that the aggregate principal amount of the bonds, notes
7 or other obligations shall not exceed \$45,000,000, except that all
8 administrative costs associated with the approval process and the
9 issuance of bonds shall not be included within the total aggregate
10 principal amount of bonds issued, and the term of any bond, note, or
11 other obligation issued shall not exceed 30 years. In computing the
12 foregoing limitation as to amount, there shall be excluded all bonds,
13 notes or other obligations which have been retired or which shall be
14 issued for refunding purposes, provided that the refunding is
15 determined by the authority to result in a debt service savings.
16 The authority shall issue the bonds, notes or other obligations in
17 such manner as it shall determine in accordance with the provisions
18 of P.L.1999, c.184 (C.18A:74-24 et al.) and the "New Jersey
19 educational facilities authority law," N.J.S.18A:72A-1 et seq.,
20 provided that no bonds, notes or other obligations shall be issued
21 pursuant to this section without the prior written consent of the
22 State Treasurer.

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

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

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

47 d. Bonds, notes or other obligations issued pursuant to
48 P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt

1 or liability of the State or of any political subdivision thereof other
2 than the authority and shall not create or constitute any
3 indebtedness, liability or obligation of the State or of any political
4 subdivision thereof, or be or constitute a pledge of the faith and
5 credit of the State or of any political subdivision thereof, but all
6 bonds, notes or other obligations, unless funded or refunded by the
7 bonds, notes or other obligations of the authority, shall be payable
8 solely from revenues of funds pledged or available for their
9 payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.).
10 Each bond, note or other obligation shall contain on its face a
11 statement to the effect that the authority is obligated to pay the
12 principal thereof, redemption premium, if any, or the interest
13 thereon only from revenue or funds of the authority, and that
14 neither the State nor any political subdivision thereof is obligated to
15 pay the principal thereof, redemption premium, if any, or interest
16 thereon, and that neither the faith and credit nor the taxing power of
17 the State or of any political subdivision thereof is pledged to the
18 payment of the principal of, redemption premium, if any, or the
19 interest on the bonds, notes or other obligations.

20 e. The State of New Jersey does hereby pledge to and covenant
21 and agree with the holders of any bonds, notes or other obligations
22 issued pursuant to the authorization of P.L.1999, c.184 (C.18A:74-
23 24 et al.) that the State shall not limit or alter the rights or powers
24 hereby vested in the authority to perform and fulfill the terms of any
25 agreement made with the holders of the bonds, notes or other
26 obligations, or to fix, establish, charge and collect such rents, fees,
27 rates, payments, or other charges as may be convenient or necessary
28 to produce sufficient revenues to meet all expenses of the authority
29 and to fulfill the terms of any agreement made with the holders of
30 the bonds, notes and other obligations together with interest
31 thereon, with interest on any unpaid installments of interest, and all
32 costs and expenses in connection with any action or proceedings by
33 or on behalf of the holders, until the bonds, notes and other
34 obligations, together with interest thereon, are fully met and
35 discharged or provided for.

36 f. In connection with any bonds or refunding of bonds issued
37 pursuant to this section, the authority may also enter into any
38 revolving credit agreement; agreement establishing a line of credit
39 or letter of credit; reimbursement agreement; interest rate exchange
40 agreement; currency exchange agreement; interest rate floor cap,
41 option, put or call to hedge payment, currency, rate, spread or
42 similar exposure, or similar agreement; float agreement; forward
43 agreement; insurance contract; surety bond; commitment to
44 purchase or sell bonds; purchase or sale agreement; or commitment
45 or other contract or agreement or other security agreement approved
46 by the authority.¹

47 (cf: P.L.1999, c.184, s.5)

- 1 ¹[56.] ²[62. ¹] ²47. Section 10 of P.L.1971, c.183 (C.52:13C-
2 27) is amended to read as follows:
- 3 10. This act shall not apply to the following activities:
- 4 a. the publication or dissemination, in the ordinary course of
5 business, of news items, advertising which does not constitute
6 communication with the general public, editorials or other
7 comments by a newspaper, book publisher, regularly published
8 periodical, or radio or television station, including an owner, editor
9 or employee thereof;
- 10 b. acts of an officer or employee of the Government of this State
11 or any of its political subdivisions, or of the Government of the
12 United States or of any State or territory thereof or any of their
13 political subdivisions, in carrying out the duties of their public
14 office or employment, except as provided in section ¹[12] 10¹ of
15 P.L. .c. (C.)(pending before the Legislature as this bill);
- 16 c. acts of bona fide religious groups acting solely for the
17 purpose of protecting the public right to practice the doctrines of
18 such religious groups;
- 19 d. acts of a duly organized national, State or local committee of
20 a political party;
- 21 e. acts of a person in testifying before a legislative committee or
22 commission, at a public hearing duly called by the Governor on
23 legislative proposals or on legislation passed and pending his
24 approval, or before any officer or body empowered by law to issue,
25 promulgate or adopt administrative rules and regulations in behalf
26 of a nonprofit organization incorporated as such in this State who
27 receives no compensation therefor beyond the reimbursement of
28 necessary and actual expenses, and who makes no other
29 communication with a member of the Legislature, legislative staff,
30 the Governor, the Governor's staff, or an officer or staff member of
31 the Executive Branch in connection with the subject of his
32 testimony;
- 33 f. acts of a person in communicating with or providing benefits
34 to a member of the Legislature, legislative staff, the Governor, the
35 Governor's staff, or an officer or staff member of the Executive
36 Branch if such communication or provision of benefits is
37 undertaken by him as a personal expression and not incident to his
38 employment, even if it is upon a matter relevant to the interests of a
39 person by whom or which he is employed, and if he receives no
40 additional compensation or reward, in money or otherwise, for or as
41 a result of such communication or provision of benefits;
- 42 g. with regard to influencing governmental processes as defined
43 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
44 20) any communications, matters or acts of an attorney falling
45 within the attorney-client privilege while engaging in the practice of
46 law to the extent that confidentiality is required in order for the
47 attorney to exercise his ethical duties as a lawyer; and

1 h. with regard to influencing governmental processes as defined
2 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
3 20) any communications, matters or acts involving collective
4 negotiations, or the interpretation or violation of collective
5 negotiation agreements, of a labor organization of any kind which
6 exists or is constituted for the purpose, in whole or in part, of
7 collective bargaining, or of dealing with employers concerning the
8 grievances, terms or conditions of employment, or of other mutual
9 aid or protection in connection with employment.
10 (cf: 2004, c.27, s.18)

11
12 ²[¹63. Section 28 of P.L.1986, c.43 (C.18A:64-79) is amended
13 to read as follows:

14 28. A State college may only enter a contract exceeding 36
15 consecutive months for the:

16 a. Supplying of fuel and oil for heating and other purposes and
17 utilities for any term not exceeding in the aggregate five years; or

18 b. Plowing and removal of snow and ice for any term not
19 exceeding in the aggregate five years; or

20 c. Collection and disposal of garbage and refuse for any term
21 not exceeding in the aggregate five years; or

22 d. Purchase, lease or servicing of information technology for
23 any term of not more than five years; or

24 e. Insurance for any term of not more than five years; or

25 f. Leasing or service of automobiles, motor vehicles,
26 machinery and equipment of every nature and kind for any term not
27 exceeding in the aggregate five years; or

28 g. (Deleted by amendment, P.L.2005, c.369).

29 h. Providing of food supplies and services, including food
30 supplies and management contracts for student centers, dining
31 rooms, vending operations, and cafeterias, for a term not exceeding
32 **[five]** 30 years; or

33 i. Performance of work or services or the furnishing of
34 materials or supplies for the purpose of conserving energy in
35 buildings owned by, or operations conducted by, the contracting
36 unit, the entire price of which is to be established as a percentage of
37 the resultant savings in energy costs, for a term not exceeding 10
38 years; provided that a contract is entered into only subject to and in
39 accordance with rules and regulations adopted and guidelines
40 promulgated by the Board of Public Utilities establishing a
41 methodology for computing energy cost savings; or

42 j. Any single project for the construction, reconstruction or
43 rehabilitation of a public building, structure or facility, or a public
44 works project, including the retention of the services of an architect,
45 engineer, construction manager, or other consultant in connection
46 with the project, for the length of time necessary for the completion
47 of the actual construction; or

1 k. The management and operation of bookstores, performing
2 arts centers, residence halls, parking facilities and building
3 operations for a term not exceeding **[five] 30** years; or

4 l. The provision of banking, financial services, and e-
5 commerce services for a term not exceeding five years; or

6 m. The provision of services for maintenance and repair of
7 building systems, including, but not limited to, fire alarms, fire
8 suppression systems, security systems, and heating, ventilation, and
9 air conditioning systems for a term not exceeding five years; or

10 n. Purchase of alternative energy or the purchase or lease of
11 alternative energy services or equipment for conservation or cost
12 saving purposes for a term not exceeding 10 years.

13 All multiyear leases and contracts entered into pursuant to this
14 section, except contracts and agreements for the provision of work
15 or the supplying of equipment to promote energy conservation and
16 authorized pursuant to subsection i. of this section, shall contain a
17 clause making them subject to the availability and appropriation
18 annually of sufficient funds to meet the extended obligation or
19 contain an annual cancellation clause.¹

20 (cf: P.L.2005, c.369, s.16)]²

21

22 ²[¹64.] 48.² Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is
23 amended to read as follows:

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

37 (cf: P.L.2004, c.100)

38

39 ²[¹65. Section 28 of P.L.1982, c.189 (C.18A:64A-25.28) is
40 amended to read as follows:

41 28. Duration of certain contracts. A county college may only
42 enter into a contract exceeding 24 consecutive months for the:

43 a. Supplying of:

44 (1) Fuel for heating purposes for any term not exceeding in the
45 aggregate three years; or

- 1 (2) Fuel or oil for use in automobiles, autobuses, motor vehicles
2 or equipment for any term not exceeding in the aggregate three
3 years; or
- 4 b. Plowing and removal of snow and ice for any term not
5 exceeding in the aggregate three years; or
- 6 c. Collection and disposal of garbage and refuse for any term
7 not exceeding in the aggregate three years; or
- 8 d. Providing goods or services for the use, support or
9 maintenance of proprietary computer hardware, software
10 peripherals and system development for the hardware for any term
11 of not more than five years; or
- 12 e. Insurance, including the purchase of insurance coverages,
13 insurance consultant or administrative services, and including
14 participation in a joint self-insurance fund, risk management
15 programs or related services provided by a county college insurance
16 group, or participation in an insurance fund established by a county
17 pursuant to N.J.S.40A:10-6, for any term of not more than three
18 years; or
- 19 f. Leasing or service of automobiles, motor vehicles, electronic
20 communications equipment, machinery and equipment of every
21 nature and kind for any term not exceeding in the aggregate five
22 years; or
- 23 g. Supplying of any product or rendering of any service by a
24 company providing voice, data, transmission or switching services,
25 for a term not exceeding five years; or
- 26 h. The providing of food supplies and services, including food
27 supplies and management contracts for student centers, dining
28 rooms and cafeterias, for a term not exceeding **[three]** 30 years; or
- 29 i. The performance of work or services or the furnishing of
30 materials or supplies for the purpose of conserving energy through
31 energy efficiency equipment or demand response equipment,
32 including combined heat and power facilities, in, at, or adjacent to,
33 buildings owned by, or operations conducted by, the contracting
34 unit, the entire price of which is to be established as a percentage of
35 the resultant savings in energy costs, for a term not exceeding 15
36 years; provided that a contract is entered into only subject to and in
37 accordance with guidelines promulgated by the Board of Public
38 Utilities establishing a methodology for computing energy cost
39 savings. As used in this subsection, "combined heat and power
40 facilities" means facilities designed to produce both heat and
41 electricity from a single heat source; or
- 42 j. Any single project for the construction, reconstruction or
43 rehabilitation of a public building, structure or facility, or a public
44 works project including the retention of the services of an architect
45 or engineer in connection with the project, for the length of time
46 necessary for the completion of the actual construction; or
- 47 k. The management and operation of bookstores for a term not
48 exceeding **[five]** 30 years; or

- 1 l. Custodial or janitorial services for any term not exceeding in
2 the aggregate three years; or
3 m. Child care services for a term not exceeding three years; or
4 n. Security services for a term not exceeding three years; or
5 o. Ground maintenance services for a term not exceeding three
6 years; or
7 p. Laundering, dry-cleaning or rental of uniforms for a term not
8 exceeding three years; or
9 q. The performance of work or services or the furnishing of
10 materials and supplies for the purpose of producing class I
11 renewable energy, as that term is defined in section 3 of P.L.1999,
12 c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or
13 operations conducted by, the contracting unit, the entire price of
14 which is to be established as a percentage of the resultant savings in
15 energy costs, for a term not to exceed 15 years; provided, however,
16 that these contracts shall be entered into only subject to and in
17 accordance with guidelines promulgated by the Board of Public
18 Utilities establishing a methodology for computing energy cost
19 savings and energy generation costs.

20 All multi-year leases and contracts entered into pursuant to this
21 section, except contracts and agreements for the provision of work
22 or the supplying of equipment to promote energy conservation
23 through energy efficiency equipment or demand response
24 equipment, including combined heat and power facilities, and
25 authorized pursuant to subsection i. of this section, or the
26 production of class I renewable energy and authorized pursuant to
27 subsection q. of this section, and except contracts for insurance
28 coverages, insurance consultant or administrative services,
29 participation or membership in a joint self-insurance fund, risk
30 management programs or related services of a county college
31 insurance group, and participation in an insurance fund established
32 by a county pursuant to N.J.S.40A:10-6 or a joint insurance fund
33 established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), shall
34 contain a clause making them subject to the availability and
35 appropriation annually of sufficient funds to meet the extended
36 obligation or contain an annual cancellation clause.¹

37 (cf: P.L. 2008, c.83, s.2)]²

38

39 ²[¹66. (New section) Sections 66 through 68 of P.L. , c.
40 (C.) (pending before the Legislature as this bill) shall be known
41 and may be cited as the "Higher Education Partnership Agreements
42 Act."¹]²

43

44 ²[¹67. (New section) As used in sections 66 through 68 of
45 P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

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

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

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

42 "Municipality" means the municipal governing body or an entity
43 acting on behalf of the municipality if permitted by the federal
44 Internal Revenue Code of 1986, or, if a redevelopment agency or
45 redevelopment entity is established in the municipality pursuant to
46 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
47 provides, the redevelopment agency or entity so established.¹²

1 ²[¹68. (New section) A municipality and an institution of higher
2 education may enter into a higher education partnership agreement
3 for the development of a higher education project. The board shall
4 promulgate rules and regulations, modeled after the procedures and
5 protections set forth in the “Redevelopment Area Bond Financing
6 Law,” sections 1 through 10 of P.L.2001, c.310 (C.40A:12A-64 et
7 seq.), within 120 days following the adoption of P.L. _____, c.
8 (C. _____) (pending before the Legislature as this bill) in order to
9 effectuate the purposes of this section.¹]²

10

11 ¹[^{57.}]²[^{69.}¹]^{49.}² This act shall take effect on the 180th day
12 after the date of enactment, but the Commission on Higher
13 Education may take such anticipatory administrative action in
14 advance thereof as shall be necessary for the implementation of this
15 act.

SENATE, No. 1609

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED APRIL 7, 2008

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator JIM WHELAN

District 2 (Atlantic)

Co-Sponsored by:

Senators Weinberg and Stack

SYNOPSIS

Provides for improved structure, financing, and fiscal management of higher education in New Jersey.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/10/2009)

1 AN ACT concerning the structure, financing, and fiscal management
2 of higher education in New Jersey, amending various parts of the
3 statutory law, and supplementing chapters 3B and 72A of the
4 New Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) As used in this act:
10 “Commission” means the New Jersey Commission on Higher
11 Education established pursuant to section 13 of P.L.1994, c.48
12 (C.18A:3B-13);

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

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

19
20 2. (New section) The Governor shall appoint, with the advice
21 and consent of the Senate, a Secretary of Higher Education who
22 shall serve at the pleasure of the Governor during the Governor’s
23 term of office and until a successor is appointed and qualified. The
24 appointment shall be made after consultation with and
25 recommendations from the New Jersey Commission on Higher
26 Education except that the person holding the office of executive
27 director of the commission on the effective date of this act shall be
28 the initial Secretary of Higher Education. The secretary shall hold
29 cabinet-level rank and shall serve as executive director of the
30 commission.

31
32 3. (New section) a. In addition to the authority granted to the
33 New Jersey Commission on Higher Education pursuant to section
34 14 of P.L.1994, c.48 (C.18A:3B-14), the commission shall design,
35 administer, and enforce financial accountability standards for the
36 operation of public research universities and State colleges. The
37 commission shall review the standards of the Financial Accounting
38 Standards Board and the Government Accounting Standards Board
39 and shall design standards that are relevant to the operations of
40 publicly-funded institutions of higher education.

41 b. In accordance with the standards established pursuant to
42 subsection a. of this section, the commission shall establish internal
43 control standards for each public research university and State
44 college.

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

Matter underlined thus is new matter.

1 4. (New section) a. The governing board of a public research
2 university or a State college shall establish an audit committee
3 composed of a minimum of five voting members of the board. The
4 chairman of the committee shall be financially literate as that
5 qualification is determined by the commission. At least one
6 member of the committee shall have accounting or related financial
7 management expertise and the governing board shall make efforts
8 to ensure that a majority of the members of the committee have
9 such expertise.

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

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

15 (2) assisting the board in establishing and ensuring the
16 independence of outside auditors retained by the institution;

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

19 (4) evaluating and investigating allegations of misconduct or
20 conflict of interest; and

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

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

25 d. The deliberations of the audit committee shall be recorded
26 through the preparation of committee meeting minutes.

27

28 5. (New section) The governing board of a public research
29 university or a State college shall directly employ an internal audit
30 staff to periodically test and report on the institution's internal
31 controls to the audit committee, the institution's president, chief
32 financial officer, and other senior members of the institution's
33 administrative staff.

34

35 6. (New section) a. The governing board of a public research
36 university or a State college shall retain an independent outside
37 auditor who is a certified public accountant to conduct annual audits
38 of the institution's financial accounts in accordance with standards
39 established by the commission. The independent auditor shall be
40 selected by a majority vote of the full membership of the board
41 upon the recommendation of the audit committee.

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

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

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

13

14 7. (New section) a. The president and chief financial officer of
15 a public research university or a State college shall certify financial
16 statements submitted to the commission.

17 b. The governing board of a public research university or a State
18 college shall retain institutional financial records for a minimum
19 period of time as established by the commission.

20

21 8. (New section) The governing board of a public research
22 university or a State college shall require a criminal history record
23 check of any person initially employed on or after the effective date
24 of this act. The check shall be conducted in accordance with
25 procedures established by the commission. The Secretary of Higher
26 Education is authorized to receive criminal history record
27 information from the State Bureau of Identification in the Division
28 of State Police and the Federal Bureau of Investigation consistent
29 with applicable State and federal laws, rules, and regulations.

30

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

38

39 10. (New section) The commission shall submit to the
40 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
41 c.164 (C.52:14-19.1), recommendations for the establishment of
42 penalties for noncompliance with the provisions of sections 5
43 through 9 of this act including, but not limited to, fines and
44 disciplinary action to be imposed upon a public research university
45 or a State college or a member of the governing board or an
46 employee of the institution.

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

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

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

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

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

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

27
28 12. (New section) a. Notwithstanding any law, rule or
29 regulation to the contrary, a governmental affairs agent who is
30 retained by a governing board of a public research university or a
31 State college shall file a notice of representation pursuant to section
32 4 of P.L.1971, c.183 (C.52:13C-21), quarterly reports specific to
33 that representation pursuant to section 5 of P.L.1971, c.183
34 (C.52:13C-22), and annual reports specific to that representation
35 pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1). This
36 requirement shall not be deemed to require filings by any person
37 performing services as an employee of the public research
38 university or State college.

39 b. The Election Law Enforcement Commission shall transmit to
40 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
41 19.1), a copy of an annual report filed by a governmental affairs
42 agent pursuant to subsection a. of this section within 30 days
43 following the filing of the report.

44
45 13. (New section) Any proposed contract to retain the services
46 of a governmental affairs agent shall be considered by the
47 governing board of a public research university or a State college at

1 a public meeting and approval of the contract shall require the
2 adoption of a resolution by a majority of the board members.

3

4 14. (New section) a. The governing board of a public research
5 university or a State college shall establish a professional services
6 committee composed of a minimum of five voting members of the
7 board. The professional services committee shall have a written
8 charter that addresses the committee's purpose and responsibilities
9 which, at a minimum, shall include:

10 (1) evaluating and recommending board action concerning
11 professional services contracts; and

12 (2) reviewing proposed professional services contracts to verify
13 the need for the proposed services, determine whether conflicts of
14 interest exist between the vendor and the institution, ensure
15 appropriate procurement procedures are utilized, determine whether
16 the proposed compensation is reasonable, and monitor the services
17 delivered by the vendor.

18 b. The professional services committee shall prepare an annual
19 professional services committee report for submission to the
20 institution's governing board.

21

22 15. (New section) The governing board of a public research
23 university or a State college shall establish an executive committee
24 composed of the chairman of the governing board, the vice-
25 chairman, and the chairmen of any committees established by the
26 board, and such other voting members as may be appointed by the
27 board. The executive committee shall have a written charter that
28 defines the committee's purpose, responsibilities, and its authority
29 to act on behalf of the governing board between meetings of the full
30 board.

31 The deliberations of the executive committee shall be recorded
32 through the preparation of committee meeting minutes.

33

34 16. (New section) a. The governing board of a public research
35 university or a State college shall establish a compensation
36 committee composed of a minimum of five voting members of the
37 board. The compensation committee shall have a written charter
38 that addresses the committee's purpose and responsibilities which
39 shall include, but not be limited to:

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

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

1 b. The recommendations of the compensation committee shall
2 be voted upon by the committee and the committee's deliberations
3 shall be recorded through the preparation of committee meeting
4 minutes.

5
6 17. (New section) a. The governing board of a public research
7 university or a State college shall establish a nominations and
8 governance committee composed of a minimum of five voting
9 members of the board. The governance committee shall have a
10 written charter that defines the committee's purpose and
11 responsibilities which shall include, but need not limited to:

12 (1) monitoring and reporting all matters directly affecting the
13 governance of the institution;

14 (2) periodically reviewing and updating institutional by-laws;

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

17 (4) referring candidates to the governing board for the
18 consideration of the board in making its recommendations to the
19 Governor on potential new members pursuant to N.J.S.18A:64-3.

20 b. In identifying candidates for appointment to the governing
21 board, the committee shall seek individuals with skills that are
22 appropriate to the mission of the institution and which compliment
23 the range of expertise contributed to the governing board by its
24 existing members. The committee shall seek candidates of diverse
25 background and experience, as well as those with ties to the
26 institution.

27 The recommendations of the nominations and governance
28 committee shall be voted upon by the committee and the
29 committee's deliberations shall be recorded through the preparation
30 of committee meeting minutes.

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

37
38 18. (New section) The governing board of a public research
39 university or a State college shall develop and implement
40 fundraising and development strategies that require the active
41 involvement of all board members and that, as may be appropriate,
42 assist fundraising by institutional foundations.

43
44 19. (New section) A public institution of higher education
45 seeking to change its programmatic mission shall submit to the
46 commission:

1 a. a preliminary request for approval to pursue planning
2 activities regarding a possible change in the programmatic mission
3 of the institution; and

4 b. a petition for approval for a change in the programmatic
5 mission of the institution. The petition shall include information on
6 the long-term costs of the change in programmatic mission and a
7 cost-benefit analysis of the expected impact of the change that
8 considers the expected needs of the State and the potential impact
9 of the change on other academic programs of the institution.

10

11 20. (New section) The commission shall convene a meeting, at
12 least once a year, of representatives of all public and independent
13 institutions of higher education to discuss issues related to the
14 development and implementation of new degree programs.

15

16 21. (New section) a. A public institution of higher education
17 shall submit a long-range facilities plan to the commission for its
18 review and recommendations. The plan shall detail the facilities
19 needs of the institution and the institution's plans to address those
20 needs for the ensuing five years.

21 b. In developing its response to the plan, the commission shall
22 consider the long-term fiscal implications of the expenditure
23 including the debt burden of the institution, the relation of the
24 facilities to the academic and student service programs of the
25 institution, and the extent and cost of any deferred maintenance of
26 the institution.

27

28 22. (New section) a. When the governing board of a public
29 institution of higher education, after study and investigation,
30 determines that it is advisable for the institution to establish an
31 extension site that will serve at least 100 students of the institution,
32 the board shall submit the plan for the extension site to the
33 commission for its review and recommendations. The plan shall
34 include: a description of the higher educational needs of the country
35 or region in which the site shall be located; a description of the
36 proposed extension site and its proposed programs and curriculum;
37 and an estimate of the cost of establishing and maintaining the site
38 including the cost of any planned acquisition or construction of
39 facilities; and any other information or data deemed necessary by
40 the commission.

41 b. In developing its response to the plan, the commission shall
42 consider whether there is a need for the institution to acquire an
43 extension site and whether the institution has the financial capacity
44 to support the site.

45

46 23. (New section) Whenever, in any law, rule, regulation, order,
47 contract, document, judicial or administrative proceeding or
48 otherwise, reference is made to the executive director of the New

1 Jersey Commission on Higher Education, the same shall mean and
2 refer to the Secretary of Higher Education.

3
4 24. (New section) As required pursuant to the provisions of
5 sections 5 through 8 of P.L.2004, c.127 (C.18A:72A-5.1 through
6 18A:72A-5.4), each worker employed in the construction or
7 rehabilitation of facilities that are constructed or rehabilitated
8 pursuant to an arrangement in which an affiliate participates with
9 the authority in undertaking the financing and construction of a
10 project, shall be paid not less than the prevailing wage rate for the
11 worker's craft or trade as determined by the Commissioner of Labor
12 and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
13 56.25 et seq.).

14
15 25. (New section) An affiliate shall comply with the
16 procurement and contracting requirements of all statutes applicable
17 to the institution of higher education which the affiliate is
18 controlled by, or is under common control with, including, but not
19 limited to, the "State College Contracts Law," P.L.1986, c.43
20 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
21 P.L.1982, c. 189 (C.18A:64A-25.1 et seq.).

22
23 26. (New section) A public institution of higher education and
24 the authority may enter into a loan agreement in connection with a
25 project which includes the provision of working capital to such
26 institution. In no event shall working capital be considered to be a
27 non-revenue producing facility under chapter 72A of Title 18A of
28 the New Jersey Statutes. Any loan agreement entered into under the
29 provisions of this section may contain such provisions as may be
30 agreeable to the public institution of higher education and the
31 authority and as may be necessary or desirable to secure such loan
32 including, without limitation, provisions for the granting of a
33 security interest in personal property or receivables or a mortgage
34 on all or any portion of the real property of the public institution.

35
36 27. (New section) The Commission on Higher Education shall
37 adopt regulations pursuant to the provisions of the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
39 the provisions of this act.

40
41 28. Section 13 of P.L.1994, c.48 (C.18A:3B-13) is amended to
42 read as follows:

43 13. a. There is established the New Jersey Commission on
44 Higher Education which shall consist of **[11]** 15 members: **[six]**
45 10 public members, to be appointed by the Governor with the
46 advice and consent of the Senate without regard for political
47 affiliation; two public members to be appointed by the Governor,
48 one upon the recommendation of the President of the Senate and

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

28 b. Public members who are not experienced as governing board
29 members shall serve for a term of six years from the date of their
30 appointment and until their successors are appointed and qualified;
31 except that of the initial appointees who are not serving on the
32 governing board of an institution: one shall serve a term of one
33 year; one shall serve a term of two years; one shall serve a term of
34 three years; one shall serve a term of four years; two shall serve a
35 term of five years; and two shall serve a term of six years. A public
36 member who does not have experience as a current member of a
37 governing board shall serve until the member's successor is
38 appointed and qualified.

39 In the case of the initial terms of the additional members of the
40 board appointed pursuant to P.L. ,c. (C.)(pending before the
41 Legislature as this bill), one member shall serve a term of four
42 years, one member shall serve a term of five years, and two
43 members shall serve a term of six years.

44 The faculty member of the commission shall serve for a term of
45 one year from the date of appointment and the selection of that
46 member shall be rotated among the following higher education
47 sectors although not necessarily in the order listed: the senior
48 public research universities, the State colleges/universities, the

1 county colleges, and the independent institutions. The faculty
2 member shall serve until his successor is appointed and qualified.

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

9 c. The Governor shall make the necessary appointments within
10 15 days of the effective date of this act. The commission shall hold
11 its first meeting within 30 days of the appointment and qualification
12 in office of its members, at which time the Governor shall appoint,
13 for a two-year term, the chairman of the commission from among
14 those public members not serving on the board of trustees of an
15 institution. Upon the completion of the chairman's term, and every
16 two years thereafter, the commission shall elect, from among those
17 public members who are not serving on the board of trustees of an
18 institution, a chairman who shall serve a two-year term. The
19 chairman may be removed by the Governor for cause after an
20 opportunity to be heard.

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

30 e. The Secretary of Higher Education shall serve as executive
31 director of the commission. The commission shall appoint [an
32 executive director and] such [other] personnel as may be deemed
33 necessary. The [executive director and] professional staff shall
34 serve at the commission's pleasure and shall receive such
35 compensation as provided by law.

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

38 (cf: P.L. 1999, c.316)

39

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

42 14. The commission shall be responsible for:

43 a. Statewide planning for higher education including research on
44 higher education issues and the development of a comprehensive
45 master plan, including, but not limited to, the establishment of new
46 institutions, closure of existing institutions, and consolidation of
47 institutions, which plan shall be long-range in nature and regularly
48 revised and updated. The council may request the commission to

- 1 conduct a study of a particular issue. The commission may require
2 from institutions of higher education such reports or other
3 information as may be necessary to enable the commission to
4 perform its duties;
- 5 b. advocacy on behalf of higher education including informing
6 the public of the needs and accomplishments of higher education in
7 New Jersey;
- 8 c. making recommendations to the Governor and Legislature on
9 higher education initiatives and incentive programs of Statewide
10 significance;
- 11 d. final administrative decisions over institutional licensure and
12 university status giving due consideration to the accreditation status
13 of the institution. The commission shall furnish the Presidents'
14 Council with any pertinent information compiled on behalf of the
15 subject institution and the council shall then make recommendations
16 to the commission concerning the licensure of the institution or
17 university status within sixty days of receipt of the information;
- 18 e. adopting a code of ethics applicable to institutions of higher
19 education;
- 20 f. final administrative decisions over new academic programs
21 that go beyond the programmatic mission of the institution and final
22 administrative decisions over a change in the programmatic mission
23 of an institution. In addition, within 60 days of referral of a
24 proposed new program determined to be unduly expensive or
25 duplicative by the council, the commission may deny approval of
26 programs which do not exceed the programmatic mission of the
27 institution, but which are determined by the New Jersey Presidents'
28 Council to be unduly duplicative or expensive;
- 29 g. reviewing requests for State support from the institutions in
30 relation to the mission of the institution and Statewide goals and
31 proposing a coordinated budget policy statement to the Governor
32 and Legislature;
- 33 h. communicating with the State Board of Education and
34 Commissioner of Education to advance public education at all
35 levels including articulation between the public schools and higher
36 education community;
- 37 i. applying for and accepting grants from the federal
38 government, or any agency thereof, or grants, gifts or other
39 contributions from any foundation, corporation, association or
40 individual, and complying with the terms, conditions and
41 limitations thereof, for the purpose of advancing higher education.
42 Any money so received may be expended by the commission upon
43 warrant of the director of the Office of Management and Budget in
44 the Department of the Treasury on vouchers certified by the
45 executive director of the commission;
- 46 j. acting as the lead agency of communication with the federal
47 government concerning higher education issues, except that the
48 Higher Education Student Assistance Authority shall act, in

1 cooperation with the commission, as the lead agency on issues of
2 student assistance;

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

14 l. exercising any other power or responsibility necessary in
15 order to carry out the provisions of this act; **[and]**

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

18 n. advising and making recommendations for consideration to
19 the Governor and the governing board of a public institution of
20 higher education in the appointment of members to that governing
21 board; and

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

25 (cf: P.L.1999, c.46, s.32)

26

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

29 301. a. The Chairman of the Commission on Higher Education,
30 at the request of the Governor or upon his own determination, shall
31 have authority to visit public institutions of higher education to
32 examine their manner of conducting their affairs and to enforce an
33 observance of the laws of the State.

34 b. The chairman, at the request of the Governor or upon his own
35 determination, may administer oaths and examine witnesses under
36 oath in any part of the State with regard to any matter pertaining to
37 higher education, and may cause the examination to be reduced to
38 writing. Any person willfully giving false testimony upon being
39 sworn or affirmed to tell the truth shall be guilty of a misdemeanor.

40 c. The chairman, at the request of the Governor or upon his own
41 determination, may issue subpoenas pursuant to this section
42 compelling the attendance of witnesses and the production of books
43 and papers in any part of the State. Any person who shall neglect
44 or refuse to obey the command of the subpoena or who, after
45 appearing, shall refuse to be sworn and testify, unless such refusal
46 is on grounds recognized by law, shall in either event be subject to a
47 penalty of \$1,000.00 for each offense to be recovered in a civil

1 action. Such penalty when recovered shall be paid into the State
2 Treasury.

3 (cf:P.L.1994, c.48, s.301)

4

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

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

25 (cf: P.L.1994, c.48, s.305)

26

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

28 18A:64-3. The composition and size of the board of trustees
29 shall be determined by the board; however, each board shall have
30 not less than seven nor more than 15 members. The members shall
31 be [citizens of the State] appointed by the Governor[; except that
32 the Governor may appoint up to three alumni of the institution who
33 are not citizens of the State to serve as members of the board.
34 Members shall be appointed] with the advice and consent of the
35 Senate. Each board of trustees shall recommend potential new
36 members to the Governor. The terms of office of appointed
37 members shall be for six years beginning on July 1 and ending on
38 June 30. Each member shall serve until his successor shall have
39 been appointed and qualified and vacancies shall be filled in the
40 same manner as the original appointments for the remainders of the
41 unexpired terms. Any member of a board of trustees may be
42 removed by the Governor for cause upon notice and opportunity to
43 be heard.

44 (cf: P.L1999, c.324)

45

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

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

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

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

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

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

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

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

45 (cf: P.L.1995, c.400, s.6)

46

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

1 4. a. The government, control, conduct, management and
2 administration of the university shall be vested in the board of
3 trustees of the university. The membership of the board of trustees
4 shall consist of the Commissioner of Health and Senior Services,
5 who shall serve ex officio, without vote, and 19 voting members
6 appointed by the Governor as follows: two members shall be
7 appointed by the Governor upon recommendation of the Senate
8 President; two members shall be appointed by the Governor upon
9 recommendation of the Speaker of the General Assembly; and 15
10 members shall be appointed by the Governor with the advice and
11 consent of the Senate. A voting member shall serve for a term of
12 five years and shall serve until his successor is appointed and has
13 qualified. [The voting members of the board shall be residents of
14 the State, except that the Governor may appoint up to three
15 members who are not residents of the State to serve as voting
16 members of the board. The voting members shall represent the
17 gender, racial, and ethnic diversity of the State. The voting
18 members shall include at least two members from the seven
19 northern counties, two members from the seven central counties,
20 and two members from the seven southern counties.] No trustee
21 shall be appointed who is an employee or paid official of any
22 hospital affiliated with the university. Any vacancies in the voting
23 membership of the board occurring other than by expiration of term
24 shall be filled in the same manner as the original appointment but
25 for the unexpired term only. Each voting member of the board of
26 trustees before entering upon his duties shall take and subscribe an
27 oath to perform the duties of his office faithfully, impartially and
28 justly to the best of his ability. A record of such oath shall be filed
29 in the office of the Secretary of State. Each voting member of the
30 board may be removed from office by the Governor, for cause, after
31 a public hearing.

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

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

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

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

1 the faculty, the appropriate bargaining unit, and the student body on
2 relevant advisory committees or bodies.

3 (cf: P.L.2006, c.95, s.1)

4

5 35. N.J.S.18A:72A-1 is amended to read as follows:

6 18A:72A-1. It is hereby declared that a serious public
7 emergency exists affecting and threatening the welfare, comfort,
8 health, safety and prosperity of the people of the state and resulting
9 from the fact that financial resources are lacking with which to
10 construct required dormitory and other educational facilities at
11 public and private institutions of higher education and that there is a
12 shortage of working capital for the development, establishment, and
13 operation of public and private institutions of higher education;
14 that it is essential that this and future generations of youth be given
15 the fullest opportunity to learn and to develop their intellectual and
16 mental capacities; that it is essential that institutions for higher
17 education within the state be provided with appropriate additional
18 means to assist such youth in achieving the required levels of
19 learning and development of their intellectual and mental
20 capacities; that it is essential that all resources of the state be
21 employed in order to meet the tremendous demand for higher
22 educational opportunities; that all institutions of higher education in
23 the state, both public and private, are an integral part of the total
24 educational effort in the state for providing higher educational
25 opportunities, and that it is the purpose of this chapter to provide a
26 measure of assistance and an alternative method to enable
27 institutions of higher education in the state to provide the facilities
28 which are sorely needed to accomplish the purposes of this chapter
29 and to provide working capital to public and private institutions of
30 higher education, all to the public benefit and good, to the extent
31 and manner provided herein.

32 (cf: N.J.S.18A:72A-1)

33

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

35 18A:72A-3. As used in this act, the following words and terms
36 shall have the following meanings, unless the context indicates or
37 requires another or different meaning or intent:

38 "Affiliate" means a person that directly, or indirectly through
39 one or more intermediaries, controls, or is controlled by, or is under
40 common control with, a public institution of higher education or
41 private college;

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

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

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

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

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

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

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

29 "Participating **[college] institution**" means a public institution of
30 higher education or private college or an affiliate of a public
31 institution of higher education or private college which, pursuant to
32 the provisions of this chapter, participates with the authority in
33 undertaking the financing and construction or acquisition of a
34 project for which a public institution of higher education or private
35 college has requested assistance from the authority;

36 "Project" means a dormitory or an educational facility or any
37 combination thereof, **[or]** a county college capital project, the
38 provision of working capital or the acquisition of any other tangible
39 or intangible assets that are necessary or useful in the development,
40 establishment or operation of a participating institution;

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

45 "Private institution of higher education" means independent
46 colleges or universities incorporated and located in New Jersey,
47 which by virtue of law or character or license, are nonprofit
48 educational institutions authorized to grant academic degrees and

1 which provide a level of education which is equivalent to the
2 education provided by the State's public institutions of higher
3 education as attested by the receipt of and continuation of regional
4 accreditation by the Middle States Association of Colleges and
5 Schools, and which are eligible to receive State aid;

6 "Public institution of higher education" means Rutgers, The State
7 University, the State colleges, the New Jersey Institute of
8 Technology, the University of Medicine and Dentistry of New
9 Jersey, the county colleges and any other public university or
10 college now or hereafter established or authorized by law;

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

13 "University" means Rutgers, The State University;

14 "Working capital" means, with respect to any public institution
15 of higher education or private college situated within the State,
16 funds to be used in, or reserved for, the operation of the institution.

17 (cf: P.L.2000, c.56, s.10)

18

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

20 18A:72A-4. (a) There is hereby established in but not of the
21 Department of the Treasury a public body corporate and politic,
22 with corporate succession to be known as the "New Jersey
23 educational facilities authority." Notwithstanding this allocation,
24 the authority shall be independent of any supervision or control by
25 the department or any officer thereof. The authority shall constitute
26 a political subdivision of the State established as an instrumentality
27 exercising public and essential governmental functions, and the
28 exercise by the authority of the powers conferred by this chapter
29 shall be deemed and held to be an essential governmental function
30 of the State.

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

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

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

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

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

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

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

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

16 Notwithstanding the foregoing provisions of this subsection (i),
17 with regard to the sale of bonds of the authority, the authority shall
18 furnish to the Governor a certified copy of the minutes of the
19 meeting at which the bonds are sold and the Governor shall indicate
20 approval or disapproval of the action prior to the issuance of the
21 bonds.

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

32 (cf: P.L.1999, c.217, s.11)

33

34 38. N.J.S.18A:72A-5 is amended to read as follows:

35 18A:72A-5. The authority shall have power:

36 (a) To adopt bylaws for the regulation of its affairs and the
37 conduct of its business;

38 (b) To adopt and have an official common seal and alter the
39 same at pleasure;

40 (c) To maintain an office at such place or places within the State
41 as it may designate;

42 (d) To sue and be sued in its own name, and plead and be
43 impleaded;

44 (e) To borrow money and to issue bonds and notes and other
45 obligations of the authority and to provide for the rights of the
46 holders thereof as provided in this chapter;

1 (f) To acquire, lease as lessee, hold and dispose of real and
2 personal property or any interest therein, in the exercise of its
3 powers and the performance of its duties under this chapter;

4 (g) To acquire in the name of the authority by purchase or
5 otherwise, on such terms and conditions and in such manner as it
6 may deem proper, or by the exercise of the power of eminent
7 domain, any land or interest therein and other property which it may
8 determine is reasonably necessary for any project, including any
9 lands held by any county, municipality or other governmental
10 subdivision of the State; and to hold and use the same and to sell,
11 convey, lease or otherwise dispose of property so acquired, no
12 longer necessary for the authority's purposes;

13 (h) To receive and accept, from any federal or other public
14 agency or governmental entity, grants or loans for or in aid of the
15 acquisition or construction of any project, and to receive and accept
16 aid or contributions from any other source, of either money,
17 property, labor or other things of value, to be held, used and applied
18 only for the purposes for which such grants, loans and contributions
19 may be made;

20 (i) To prepare or cause to be prepared plans, specifications,
21 designs and estimates of costs for the construction and equipment of
22 projects for participating **[colleges]** institutions under the
23 provisions of this chapter, and from time to time to modify such
24 plans, specifications, designs or estimates;

25 (j) By contract or contracts or by its own employees to
26 construct, acquire, reconstruct, rehabilitate and improve, and
27 furnish and equip, projects for participating **[colleges]** institutions;
28 however, in any contract or contracts undertaken by the authority
29 for the construction, reconstruction, rehabilitation or improvement
30 of any public college project where the cost of such work will
31 exceed \$25,000, the contracting agent shall advertise for and
32 receive in the manner provided by law:

33 (1) separate bids for the following categories of work;
34 (a) the plumbing and gas fitting work;
35 (b) the heating and ventilating systems and equipment;
36 (c) the electrical work, including any electrical power plants;
37 (d) the structural steel and ornamental iron work;
38 (e) all other work and materials required for the completion of
39 the project, or

40 (2) bids for all work and materials required to complete the
41 entire project if awarded as a single contract; or

42 (3) both (1) and (2) above.

43 All bids submitted shall set forth the names and license numbers
44 of, and evidence of performance security from, all subcontractors to
45 whom the bidder will subcontract the work described in the
46 foregoing categories (1)(a) through (1)(e).

1 Contracts shall be awarded to the lowest responsible bidder
2 whose bid, conforming to the invitation for bids, will be the most
3 advantageous to the authority;

4 (k) To determine the location and character of any project to be
5 undertaken pursuant to the provisions of this chapter, and to
6 construct, reconstruct, maintain, repair, operate, lease, as lessee or
7 lessor, and regulate the same; to enter into contracts for any or all
8 such purposes; to enter into contracts for the management and
9 operation of a project, and to designate a participating **【college】**
10 institution as its agent to determine the location and character of a
11 project undertaken by such participating **【college】** institution under
12 the provisions of this chapter and, as the agent of the authority, to
13 construct, reconstruct, maintain, repair, operate, lease, as lessee or
14 lessor, and regulate the same, and, as agent of the authority, to enter
15 into contracts for any and all such purposes including contracts for
16 the management and operation of such project;

17 (l) To establish rules and regulations for the use of a project or
18 any portion thereof and to designate a participating **【college】**
19 institution as its agent to establish rules and regulations for the use
20 of a project undertaken by such participating **【college】** institution;

21 (m) Generally to fix and revise from time to time and to charge
22 and collect rates, rents, fees and other charges for the use of and for
23 the services furnished or to be furnished by a project or any portion
24 thereof and to contract with holders of its bonds and with any other
25 person, party, association, corporation or other body, public or
26 private, in respect thereof;

27 (n) To enter into any and all agreements or contracts, execute
28 any and all instruments, and do and perform any and all acts or
29 things necessary, convenient or desirable for the purposes of the
30 authority or to carry out any power expressly given in this chapter;

31 (o) To invest any moneys held in reserve or sinking funds, or
32 any moneys not required for immediate use or disbursement, at the
33 discretion of the authority, in such obligations as are authorized by
34 law for the investment of trust funds in the custody of the State
35 Treasurer;

36 (p) To enter into any lease relating to higher education
37 equipment with a public or private institution of higher education
38 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
39 al.);

40 (q) To enter into loan agreements with any county, to hold
41 bonds or notes of the county evidencing those loans, and to issue
42 bonds or notes of the authority to finance county college capital
43 projects pursuant to the provisions of the "County College Capital
44 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

45 (r) To issue bonds and notes and other obligations of the
46 authority under the direction of law for the purpose of providing
47 financial assistance for the installation of fire prevention and safety

1 systems in dormitories.
2 (cf: P.L.2000, c.56, s.11)

3

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

5 18A:72A-11. The authority is authorized to fix, revise, charge
6 and collect rates, rents, fees and charges for the use of and for the
7 services furnished or to be furnished by each project and to
8 contract with any person, partnership, association or corporation, or
9 other body, public or private, in respect thereof. Such rates, rents,
10 fees and charges shall be fixed and adjusted in respect of the
11 aggregate of rents, rates, fees and charges from such project so as to
12 provide funds sufficient with other revenues or moneys, if any:

13 (a) to pay the cost of maintaining, repairing and operating the
14 project and each and every portion thereof, to the extent that the
15 payment of such cost has not otherwise been adequately provided
16 for;

17 (b) to pay the principal of and the interest on outstanding bonds
18 of the authority issued in respect of such project as the same shall
19 become due and payable; and

20 (c) to create and maintain reserves required or provided for in
21 any resolution authorizing, or trust agreement securing, such bonds
22 of the authority.

23 Such rates, rents, fees and charges shall not be subject to
24 supervision or regulation by any department, commission, board,
25 body, bureau or agency of this state other than the authority. A
26 sufficient amount of the revenues derived in respect of a project,
27 except such part of such revenues as may be necessary to pay the
28 cost of maintenance, repair and operation and to provide reserves
29 for renewals, replacements, extensions, enlargements and
30 improvements as may be provided for in the resolution authorizing
31 the issuance of any bonds of the authority or in the trust agreement
32 securing the same, shall be set aside at such regular intervals as may
33 be provided in such resolution or trust agreement in a sinking or
34 other similar fund which is hereby pledged to, and charged with,
35 the payment of the principal of and the interest on such bonds as the
36 same shall become due, and the redemption price or the purchase
37 price of bonds retired by call or purchase as therein provided. Such
38 pledge shall be valid and binding from the time when the pledge is
39 made; the rates, rents, fees and charges and other revenues or other
40 moneys so pledged and thereafter received by the authority shall
41 immediately be subject to the lien of such pledge without any
42 physical delivery thereof or further act, and the lien of any such
43 pledge shall be valid and binding as against all parties having
44 claims of any kind in tort, contract or otherwise against the
45 authority, irrespective of whether such parties have notice thereof.
46 Neither the resolution nor any trust agreement by which a pledge is
47 created need be filed or recorded except in the records of the
48 authority. The use and disposition of moneys to the credit of such

1 sinking or other similar fund shall be subject to the provisions of
2 the resolution authorizing the issuance of such bonds or of such
3 trust agreement. Except as may otherwise be provided in such
4 resolution or such trust agreement, such sinking or other similar
5 fund shall be a fund for all such bonds issued to finance projects at
6 a participating **[college]** institution without distinction or priority
7 of one over another; provided the authority in any such resolution
8 or trust agreement may provide that such sinking or other similar
9 fund shall be the fund for a particular project at a participating
10 **[college]** institution and for the bonds issued to finance a particular
11 project and may, additionally, permit and provide for the issuance
12 of bonds having a subordinate lien in respect of the security herein
13 authorized to other bonds of the authority and, in such case, the
14 authority may create separate sinking or other similar funds in
15 respect of such subordinate lien bonds.

16 (cf: N.J.S.18A:72A-11)

17

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

20 1. In addition to other powers and duties which have been
21 granted to the authority, whenever any **[public or private college]**
22 participating institution has constructed or acquired any work or
23 improvement which would otherwise qualify under this act except
24 for the fact that such construction or acquisition was undertaken
25 and financed without assistance from the authority, the authority
26 may purchase such work or improvement, and lease the same to
27 such **[college]** participating institution, or may lend funds to such
28 **[college]** participating institution for the purpose of enabling the
29 latter to retire obligations incurred for such construction or
30 acquisition; except that the amount of any such price or loan shall
31 not exceed the original project cost. All powers, rights, obligations
32 and duties granted to or imposed upon the authority, **[colleges]**
33 participating institutions, State departments and agencies or others
34 by this chapter in respect to projects shall apply to the same extent
35 with respect to transactions pursuant to this section; except that any
36 action otherwise required to be taken at a particular time in the
37 progression of a project may, where the circumstances are so
38 required in connection with a transaction under this section, be
39 taken with the same effect as if taken at that particular time.

40 (cf: P.L.1980, c.31, s.1)

41

42 41. N.J.S.18A:72A-19 is amended to read as follows:

43 18A:72A-19. The state of New Jersey does pledge to and agree
44 with the holders of the bonds, notes and other obligations issued
45 pursuant to authority contained in this chapter, and with those
46 parties who may enter into contracts with the authority pursuant to
47 the provisions of this chapter, that the state will not limit, alter or

1 restrict the rights hereby vested in the authority and the
2 participating **【colleges】** institutions to maintain, construct,
3 reconstruct and operate any project as defined in this chapter or to
4 establish and collect such rents, fees, receipts or other charges as
5 may be convenient or necessary to produce sufficient revenues to
6 meet the expenses of maintenance and operation thereof and to
7 fulfill the terms of any agreements made with the holders of bonds
8 authorized by this chapter, and with the parties who may enter into
9 contracts with the authority pursuant to the provisions of this
10 chapter, or in any way impair the rights or remedies of the holders
11 of such bonds or such parties until the bonds, together with interest
12 thereon, are fully paid and discharged and such contracts are fully
13 performed on the part of the authority. The authority as a public
14 body corporate and politic shall have the right to include the pledge
15 herein made in its bonds and contracts.

16 (cf: N.J.S.18A:72A-19)

17

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

19 18A:72A-26. In order to provide new dormitories and to enable
20 the construction and financing thereof, to refinance indebtedness
21 hereafter created by the authority for the purpose of providing a
22 dormitory or dormitories or additions or improvements thereto, or
23 for any one or more of said purposes, but for no other purpose
24 unless authorized by law, each of the following bodies shall have
25 the powers hereafter enumerated to be exercised upon such terms
26 and conditions, including the fixing of any consideration or rental to
27 be paid or received, as it shall determine by resolution as to such
28 property and each shall be subject to the performance of the duties
29 hereafter enumerated, that is to say, the treasurer as to such as are
30 located on land owned by the State or by the authority, the board of
31 governors of the university, the board of trustees of the New Jersey
32 Institute of Technology or the University of Medicine and Dentistry
33 of New Jersey, the board of trustees of a State college **【or】** , the
34 board of trustees of a county college , or the governing body of an
35 affiliate of a public institution of higher education as to such as are
36 located on land owned by the university or by the particular
37 **【college】** public institution of higher education respectively,
38 namely:

39 a. The power to sell and to convey to the authority or any other
40 entity which is a participating institution title in fee simple in any
41 such land and any existing dormitories thereon owned by the State
42 or owned by the board of trustees of a county college or the power
43 to sell and to convey to the authority or any other entity which is a
44 participating institution such title as the university or the college
45 respectively may have in any such land and any existing dormitories
46 thereon.

47 b. The power to lease to the authority or any other entity which
48 is a participating institution any such land and any existing

1 dormitories thereon **[so]** owned for a term or terms not exceeding
2 50 years each.

3 c. The power to lease or sublease from the authority or any other
4 entity which is a participating institution, and to make available,
5 any such land and existing dormitories conveyed or leased to the
6 authority or any other entity which is a participating institution
7 under subsections a. and b. of this section, and any new dormitories
8 erected upon such land or upon any other land owned by the
9 authority or any other entity which is a participating institution, any
10 rentals to be payable, as to the university or as to any such college
11 from available funds other than moneys appropriated to it by the
12 State.

13 d. The power and duty, upon receipt of notice of any assignment
14 by the authority or any other entity which is a participating
15 institution of any lease or sublease made under subsection c. of this
16 section, or of any of its rights under any such lease or sublease, to
17 recognize and give effect to such assignment, and to pay to the
18 assignee thereof rentals or other payments then due or which may
19 become due under any such lease or sublease which has been so
20 assigned by the authority or any other entity which is a participating
21 institution.

22 (cf: P.L.1994, c.48, s.238)

23

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

25 18A:72A-27.1. In addition to the powers and duties with respect
26 to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the
27 treasurer, the board of governors of the university, the board of
28 trustees of the New Jersey Institute of Technology, the board of
29 trustees of a State college, the board of trustees of a county college
30 **[and]** , the board of trustees of the University of Medicine and
31 Dentistry of New Jersey and the governing body of an affiliate of a
32 public institution of higher education shall also have the same
33 power and be subject to the same duties in relation to any
34 conveyance, lease or sublease made under subsection a., b., or c. of
35 section 18A:72A-26, with respect to revenue producing facilities;
36 that is to say, structures or facilities which produce revenues
37 sufficient to pay the rentals due and to become due under any lease
38 or sublease made under subsection c. of section 18A:72A-26
39 including, without limitation, student unions and parking facilities.

40 (cf: P.L.1994, c.48, s.239)

41

42 44. N.J.S.18A:72A-29 is amended to read as follows:

43 18A:72A-29. All lands and other assets real or personal
44 presently titled in the name of the State Board of Higher Education
45 or the State Department of Higher Education, which are occupied
46 by a public institution of higher education shall be titled in the
47 name of the State of New Jersey only. All conveyances, leases and
48 subleases, pursuant to this chapter shall be made, executed and

1 delivered in the name of the State and shall be signed by the State
2 Treasurer and sealed with the seal of the State.

3 To the extent not otherwise expressly provided under existing
4 law, all powers and duties conferred upon the university or an
5 affiliate pursuant to this chapter shall be exercised and performed
6 by resolution of its board of governors and all powers and duties
7 conferred upon any of said colleges pursuant to this chapter shall be
8 exercised and performed by resolution of its board of trustees.

9 All conveyances, leases and subleases made pursuant to this
10 chapter, when duly authorized by the university, shall be made,
11 executed and delivered in the name of the university and shall be
12 signed by its president or a vice president and sealed with the seal
13 of the university and all conveyances, leases and subleases made
14 pursuant to this chapter, when duly authorized by any of said
15 colleges, shall be made, executed and delivered in the name of the
16 college and shall be signed by the president or a vice president and
17 sealed with the seal of the college.

18 (cf: P.L.1999, c.46, s.50)

19

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

21 18A:72A-30. In addition to the foregoing powers, the authority
22 with respect to private colleges, shall have power:

23 (a) upon application of the **【participating college】** private
24 college to construct, acquire or otherwise provide projects for the
25 use and benefit of the **【participating college】** private college and
26 the students, faculty and staff of such **【participating college】**
27 private college. The **【participating college】** private college for
28 which such a project is undertaken by the authority shall approve
29 the plans and specifications and location of such project;

30 (b) to operate and manage any project provided pursuant to this
31 section, or the authority may lease any such project to the
32 **【participating college】** private college for which such project is
33 provided. At such time as the liabilities of the authority incurred
34 for any such project have been met and the bonds of the authority
35 issued therefor have been paid, or such liabilities and bonds have
36 otherwise been discharged, the authority shall transfer title to all the
37 real and personal property of such project vested in the authority, to
38 the **【participating college】** private college in connection with which
39 such project is then being operated, or to which such project is then
40 leased; provided, however, that if at any time prior thereto such
41 **【participating college】** private college ceases to offer educational
42 facilities, then such title shall vest in the state of New Jersey.

43 Any lease of a project authorized by this section shall be a
44 general obligation of the lessee and may contain provisions, which
45 shall be a part of the contract with the holders of the bonds of the
46 authority issued for such project, as to:

1 (i) pledging all or any part of the moneys, earnings, income and
2 revenues derived by the lessee from such project or any part or parts
3 thereof, or other personal property of the lessee, to secure payments
4 required under the terms of such lease;

5 (ii) the rates, rentals, fees and other charges to be fixed and
6 collected by the lessee, the amounts to be raised in each year
7 thereby, and the use and disposition of such moneys, earnings,
8 income and revenues;

9 (iii) the setting aside of reserves and the creation of special funds
10 and the regulation and disposition thereof;

11 (iv) the procedure, if any, by which the terms of such lease may
12 be amended, the amount of bonds the holders of which must
13 consent thereto, and the manner in which such consent may be
14 given;

15 (v) vesting in a trustee or trustees such specified properties,
16 rights, powers and duties as shall be deemed necessary or desirable
17 for the security of the holders of the bonds of the authority issued
18 for such projects;

19 (vi) the obligations of the lessee with respect to the replacement,
20 reconstruction, maintenance, operation, repairs and insurance of
21 such project;

22 (vii) defining the acts or omissions to act which shall constitute a
23 default in the obligations and duties of the lessee, and providing for
24 the rights and remedies of the authority and of its bondholders in
25 the event of such default;

26 (viii) any other matters, of like or different character, which may
27 be deemed necessary or desirable for the security or protection of
28 the authority or the holders of its bonds.

29 (cf: N.J.S.18A:72A-30)

30
31 46. Section 2 of P.L.1993, c.136 (C.18A:72A-41) is amended to
32 read as follows:

33 2. The Legislature finds and declares that:

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

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

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

45 d. The **【State Board of】** Commission on Higher Education,
46 which is statutorily responsible for the coordination and planning of
47 higher education in New Jersey, has identified a crucial need to
48 establish a regular financing mechanism for scientific, engineering,

1 technical, computer, communications, and instructional equipment
2 at New Jersey's public and private institutions of higher education.
3 (cf: P.L.1993, c.136, s.2)

4
5 47. Section 6 of P.L.1993,c.136 (C.18A:72A-43) is amended to
6 read as follows:

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

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

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

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

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

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

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

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

26 The **【State Board of】** Commission on Higher Education may
27 apportion the amounts authorized in subsection g. among any other
28 amounts authorized in subsections a. through f.

29 The **【State Board of】** Commission on Higher Education may
30 reallocate any balance in the amounts authorized in subsections a.
31 through g. of this section which have not been fully committed
32 within 18 months of the effective date of this act.

33 The **【State Board of】** Commission on Higher Education shall
34 determine the allocation of moneys deposited into the fund resulting
35 from the issuance by the authority of new bonds because of the
36 retirement of bonds previously issued by the authority.

37 (cf: P.L.1993, c.136, s.6)

38
39 48. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to
40 read as follows:

41 8. The authority shall not enter into a lease agreement with an
42 institution of higher education unless the **【State Board of】**
43 Commission on Higher Education has adopted a resolution which
44 approves the purchase of the higher education equipment by the
45 institution. The **【State board】** commission shall forward a copy of
46 the resolution along with the amount of the approved purchase to

1 the authority.

2 (cf: P.L.1993, c.136, s.8)

3

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

6 10. The **【State Board of】** Commission on Higher Education
7 shall annually submit a report to the Governor and the Legislature
8 on the higher education equipment purchases at public and private
9 institutions of higher education which have been approved by the
10 **【State board】** commission and financed by the New Jersey
11 Educational Facilities Authority pursuant to lease agreements with
12 the institutions.

13 (cf: P.L.1993, c.136, s.10)

14

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

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

22 (cf: P.L.1993, c.136, s.11)

23

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

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

28 a. \$48,000,000 for facilities at the State Colleges;

29 b. \$38,880,000 for facilities at Rutgers, The State University;

30 c. \$20,160,000 for facilities at the University of Medicine and
31 Dentistry of New Jersey;

32 d. \$12,960,000 for facilities at the New Jersey Institute of
33 Technology;

34 e. \$44,000,000 for facilities at the county colleges;

35 f. \$21,000,000 for facilities at the private institutions of higher
36 education;

37 g. \$15,000,000 for South Jersey multi-institutional economic
38 development facilities. As used in this section, "South Jersey multi-
39 institutional economic development facilities" means facilities
40 which would promote economic development in the eight
41 southernmost counties of the State and which involve more than one
42 public or private institution of higher education; and

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

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

1 The **【Board of】** Commission on Higher Education may
2 reallocate any balance in an amount authorized in subsections a.
3 through h. of this section which has not been approved by the
4 **【board】** commission for a grant within 18 months of the effective
5 date of this act.

6 The **【Board of】** Commission on Higher Education shall
7 determine the allocation of moneys deposited into the trust fund
8 resulting from the issuance by the authority of new bonds because
9 of the retirement of bonds previously issued by the authority.

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

16 (cf: P.L.1993, c.375, s.5)

17

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

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

27 b. The **【Board of】** Commission on Higher Education shall
28 review the application and, by resolution, approve or disapprove the
29 grant. For each grant which is approved, the **【board】** commission
30 shall establish the amount and shall forward a copy of the resolution
31 along with the amount of the grant to the authority.

32 c. The **【Board of】** Commission on Higher Education shall
33 submit to the Legislature a copy of the resolution approving the
34 grant along with the amount of the grant. If the Legislature does
35 not disapprove the grant by the adoption of a concurrent resolution
36 within 60 days, the grant shall be deemed to be authorized. In
37 addition, the resolution approving the grant for the new
38 instructional and research facility for Rutgers, The State University,
39 School of Law, Newark, shall be submitted by the **【board】**
40 commission to the Joint Budget Oversight Committee for its
41 approval prior to the **【board's】** commission's submission of the
42 resolution to the Legislature. The **【board】** commission shall
43 provide to the committee such information concerning the grant as
44 the committee may require for its consideration.

45 d. Each grant awarded under this act shall be contingent upon
46 the recipient governing board entering into a contract or contracts
47 for the commencement of the construction, reconstruction,

1 development, extension, or improvement of the facility within one
2 year of the date on which the funds of the grant are made available.
3 (cf: P.L.1993, c.375, s.6)

4
5 53. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to
6 read as follows:

7 7. In order to ensure the most effective utilization of the moneys
8 in the trust fund and to guide governing boards which elect to apply
9 for a grant, the **【Board of】** Commission on Higher Education shall
10 establish a list of selection criteria and shall specify the information
11 to be included in a grant application.
12 (cf: P.L.1993, c.375, s.7)

13
14 54. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to
15 read as follows:

16 8. In order to ensure proper oversight and review, there is
17 created the "Higher Education Facilities Trust Fund Board" which
18 shall consist of **【six】** five members as follows: the Chair and Vice
19 Chair of the **【Board of】** Commission on Higher Education; the
20 State Treasurer or a designee; the President of the Senate or a
21 designee; and the Speaker of the General Assembly or a designee**【**;
22 and the Chancellor of Higher Education who shall serve ex officio
23 without vote**】**. The board shall ensure that the revenue provided to
24 the trust fund is adequate to support the grants approved by the
25 **【Board of】** Commission on Higher Education. At the end of each
26 three-year period following the approval of this act, the board shall
27 review, in consultation with the **【Board of】** Commission on Higher
28 Education, the physical plant needs of public and private
29 institutions of higher education in the State and shall recommend to
30 the Governor and the Legislature a plan to increase, as necessary,
31 the availability and uses of grants made from the trust fund.
32 (cf: P.L.1993, c.375, s.8)

33
34 55. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended
35 to read as follows:

36 11. The **【Board of】** Commission on Higher Education, in
37 consultation with the New Jersey Educational Facilities Authority,
38 shall adopt, pursuant to the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations
40 necessary to carry out the provisions of this act.
41 (cf: P.L.1993, c.375, s.11)

42
43 56. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
44 read as follows:

45 10. This act shall not apply to the following activities:
46 a. the publication or dissemination, in the ordinary course of
47 business, of news items, advertising which does not constitute

- 1 communication with the general public, editorials or other
2 comments by a newspaper, book publisher, regularly published
3 periodical, or radio or television station, including an owner, editor
4 or employee thereof;
- 5 b. acts of an officer or employee of the Government of this State
6 or any of its political subdivisions, or of the Government of the
7 United States or of any State or territory thereof or any of their
8 political subdivisions, in carrying out the duties of their public
9 office or employment, except as provided in section 12 of
10 P.L. ,c. (C.)(pending before the Legislature as this bill);
- 11 c. acts of bona fide religious groups acting solely for the
12 purpose of protecting the public right to practice the doctrines of
13 such religious groups;
- 14 d. acts of a duly organized national, State or local committee of
15 a political party;
- 16 e. acts of a person in testifying before a legislative committee or
17 commission, at a public hearing duly called by the Governor on
18 legislative proposals or on legislation passed and pending his
19 approval, or before any officer or body empowered by law to issue,
20 promulgate or adopt administrative rules and regulations in behalf
21 of a nonprofit organization incorporated as such in this State who
22 receives no compensation therefor beyond the reimbursement of
23 necessary and actual expenses, and who makes no other
24 communication with a member of the Legislature, legislative staff,
25 the Governor, the Governor's staff, or an officer or staff member of
26 the Executive Branch in connection with the subject of his
27 testimony;
- 28 f. acts of a person in communicating with or providing benefits
29 to a member of the Legislature, legislative staff, the Governor, the
30 Governor's staff, or an officer or staff member of the Executive
31 Branch if such communication or provision of benefits is
32 undertaken by him as a personal expression and not incident to his
33 employment, even if it is upon a matter relevant to the interests of a
34 person by whom or which he is employed, and if he receives no
35 additional compensation or reward, in money or otherwise, for or as
36 a result of such communication or provision of benefits;
- 37 g. with regard to influencing governmental processes as defined
38 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
39 20) any communications, matters or acts of an attorney falling
40 within the attorney-client privilege while engaging in the practice of
41 law to the extent that confidentiality is required in order for the
42 attorney to exercise his ethical duties as a lawyer; and
- 43 h. with regard to influencing governmental processes as defined
44 in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-
45 20) any communications, matters or acts involving collective
46 negotiations, or the interpretation or violation of collective
47 negotiation agreements, of a labor organization of any kind which
48 exists or is constituted for the purpose, in whole or in part, of

1 collective bargaining, or of dealing with employers concerning the
2 grievances, terms or conditions of employment, or of other mutual
3 aid or protection in connection with employment.

4 (cf: 2004, c.27, s.18)

5
6 57. This act shall take effect on the 180th day after the date of
7 enactment, but the Commission on Higher Education may take such
8 anticipatory administrative action in advance thereof as shall be
9 necessary for the implementation of this act.

10
11
12 STATEMENT

13
14 This bill makes various statutory changes to improve the
15 structure, financing, and fiscal management of higher education in
16 New Jersey. Specifically, the bill implements many of the
17 recommendations contained in the October 2007 Report of the State
18 Commission of Investigation (SCI) entitled "Vulnerable to Abuse:
19 The Importance of Restoring Accountability, Transparency and
20 Oversight to Public Higher Education Governance." In addition,
21 the bill includes numerous provisions that will improve the capacity
22 of the Commission on Higher Education and the New Jersey
23 Educational Facilities Authority to aid in the planning and
24 development of higher education in New Jersey.

25 In response to the SCI recommendations, this bill includes
26 provisions to:

- 27 • establish effective and efficient State oversight of public
28 higher education;
29 • strengthen State college and university governing boards;
30 • implement Sarbanes-Oxley style standards to improve public
31 higher education fiscal accountability; and
32 • enact controls on higher education lobbying.

33 The bill requires the governing board of a public research university
34 or a State college to establish:

- 35 • an audit committee;
36 • a nominations and governance committee;
37 • a compensation committee; and
38 • an executive committee.

39 The bill provides for the creation of a new cabinet-level position,
40 the Secretary of Higher Education. The secretary will be appointed
41 by the Governor with the advice and consent of the Senate and will
42 serve as executive director of the New Jersey Commission on
43 Higher Education. The bill increases the number of members
44 serving on the commission from 11 to 15.

45 This bill expands the authority of the New Jersey Educational
46 Facilities Authority by allowing it to issue bonds on behalf of an
47 affiliate organization of a public institution of higher education or
48 of a private institution of higher education in order to allow for

1 some forms of public/private partnerships such as the development
2 of certain student housing and other revenue-generating projects.
3 The bill makes clear that an affiliate which participates with the
4 authority in undertaking the financing and construction or
5 acquisition of a project will be subject to the applicable provisions
6 of the "New Jersey Prevailing Wage Act." An affiliate will also be
7 subject to State contracting laws.

8 The bill also would allow the authority to issue bonds to finance
9 tax-exempt working capital loans for public and private institutions
10 of higher education. Institutions which may, for example, have
11 cash flow needs in certain months, such as July and December when
12 payroll must be paid prior to the tuition checks arriving, typically
13 satisfy these needs through bank lines of credit, paying taxable
14 rates. The tax-exempt loans that will be available pursuant to the
15 provisions of this act are limited under federal Internal Revenue
16 Service rules as to the amount an institution can borrow and the
17 time permitted for repayment.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1609

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2009

The Senate Education Committee favorably reports Senate Bill No. No. 1609 with committee amendments.

As amended, this bill makes various statutory changes to improve the structure, financing, and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled “Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.” In addition, the bill includes numerous provisions that will improve the capacity of the Commission on Higher Education and the New Jersey Educational Facilities Authority (EFA) to aid in the planning and development of higher education in New Jersey.

In response to the SCI recommendations, this bill includes provisions to:

- establish effective and efficient State oversight of public higher education;
- strengthen State college and university governing boards;
- implement Sarbanes-Oxley style standards to improve public higher education fiscal accountability; and
- enact controls on higher education lobbying.

The bill requires the governing board of a public research university or a State college to establish:

- an audit committee;
- a nominations and governance committee;
- a compensation committee; and
- an executive committee.

The bill provides for the creation of a new cabinet-level position, the Secretary of Higher Education. The secretary will be appointed by the Governor with the advice and consent of the Senate and will serve as executive director of the New Jersey Commission on Higher Education. The bill increases the number of members serving on the commission from 11 to 15.

This bill expands the authority of the EFA by allowing it to issue bonds on behalf of an affiliate organization of a public institution of

higher education or of an independent institution of higher education in order to allow for some forms of public/private partnerships (such as the development of certain student housing and other revenue-generating projects). The bill makes clear that an affiliate which participates with the authority in undertaking the financing and construction or acquisition of a project will be subject to the applicable provisions of the "New Jersey Prevailing Wage Act." An affiliate will also be subject to State contracting laws. The tenant of an affiliate seeking to undertake "fit out" construction will be subject to State contracting laws and to the applicable provisions of the "New Jersey Prevailing Wage Act."

The bill provides for the establishment of other forms of public/private partnerships in higher education. The bill permits a State college or county college to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for an on-campus construction project, provided that the project is financed entirely by the private entity and the State or the institution, as applicable, retains ownership of the land and any building resulting from the project. The private entity in this case will be subject to the procurement and contracting requirements applicable to the institution of higher education and to the applicable provisions of the "New Jersey Prevailing Wage Act." In addition, the bill increases the allowable duration of certain contracts entered into by State and county colleges to 30 years, including contracts for the provision of food supplies and services and for the management and operation of bookstores.

The bill also would allow the EFA to issue bonds to finance tax-exempt working capital loans for public and independent institutions of higher education. Institutions which may, for example, have cash flow needs in certain months, such as July and December when payroll must be paid prior to the tuition checks arriving, typically satisfy these needs through bank lines of credit, paying taxable rates. The tax-exempt loans that will be available pursuant to the provisions of this bill are limited under federal Internal Revenue Service rules as to the amount an institution can borrow and the time permitted for repayment.

COMMITTEE AMENDMENTS:

The committee amended the bill to do the following:

- provide that the Governor will consult with and receive recommendations from the New Jersey Presidents' Council, in addition to the commission, when appointing the Secretary of Higher Education;
- delete a provision requiring that the commission design, administer, and enforce financial accountability standards and establish internal control standards for public research universities and State colleges;

- modify the composition and responsibilities of the audit committee;
- provide that the independent outside audit be conducted in accordance with nationally recognized auditing and accounting standards rather than standards established by the commission;
- require the president and chief financial officer of a public research university or a State college to submit the annual audit to the commission and certify that the financial statements do not contain any untrue statements or omissions of material fact;
- delete a provision requiring that a new employee of a public research university or a State college receive a criminal history record check;
- delete the requirement that the institution's governing board establish a professional services committee and instead require that the board establish policies concerning professional services contracts;
- require public research universities and State colleges to provide information and training to their governing board members on legal and ethical responsibilities;
- modify the process set forth in the bill by which a public research university or State college may seek a change to its programmatic mission, including the imposition of a time limit for the commission's response to the institution's petition;
- clarify that the long-range facilities plan will be for projects developed with State funds and will be amended every five years;
- add a provision permitting a State college or county college to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for an on-campus construction project, provided that certain conditions are met;
- change terminology of "extension sites" to "branch campuses" in the provision that requires the commission's review and recommendation of the institution's plan for such an entity and include further clarification of the types of branch campuses that are subject to the commission's review;
- add a provision requiring the commission to appoint and convene a network of academics and researchers to develop economic development policies and programs for the higher education community;
- clarify that the only affiliates that are required by the bill to comply with the procurement and contracting requirements applicable to institutions of higher education are affiliates that borrow funds from the EFA, and that tenants of affiliates seeking to "fit out" the property of an affiliate may do so;
- amend the State college and county college contracting laws to permit the institutions to enter into contracts for terms up to 30 years in the case of certain types of contracts, including contracts for the provision of food supplies and services and the management and operation of bookstores;

- amend the definition of “working capital” to clarify that it only refers to funds which will be borrowed and repaid within the same budget year;

- provide that the administrative costs associated with the approval process and the issuance of certain bonds by the EFA will not be included within the statutory limit on the total aggregate principal amount of bonds issued, and that these administrative costs will also not be included in the total principal amount of bonds eligible for State support pursuant to the County College Chapter 12 program; and

- allow a municipality, as defined in the bill, and an institution of higher education to enter into a higher education partnership agreement for the development of a higher education project.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1609

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No.1609 (1R), with committee amendments.

As amended, this bill makes various statutory changes to improve the structure and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled “Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.” In addition, the bill includes numerous provisions that will improve the capacity of the Commission on Higher Education to aid in the planning and development of higher education in New Jersey.

In response to the SCI recommendations, this bill includes provisions to:

- establish effective and efficient State oversight of public higher education;
- strengthen State college and university governing boards;
- implement Sarbanes-Oxley style standards to improve public higher education fiscal accountability; and
- enact controls on higher education lobbying.

The bill requires the governing board of a public research university or a State college to establish:

- an audit committee;
- a nominations and governance committee;
- a compensation committee; and
- an executive committee.

The bill provides for the creation of a new cabinet-level position, the Secretary of Higher Education. The secretary will be appointed by the Governor with the advice and consent of the Senate and will serve as executive director of the New Jersey Commission on Higher Education. The bill increases the number of members serving on the commission from 11 to 15.

The bill requires the commission's review and recommendation of a public institution of higher education's plan to establish a branch campus.

The bill also requires public research universities and State colleges to provide information and training to their governing board members on legal and ethical responsibilities.

The bill also amends a number of statutes that deal with the issuance of bonds by the New Jersey Educational Facilities Authority (EFA) for higher education capital purposes. The bill provides that the administrative costs associated with the approval process and the issuance of certain bonds by the EFA will not be included within the statutory limit on the total aggregate principal amount of bonds issued, and that these administrative costs will also not be included in the total principal amount of bonds eligible for State support pursuant to the County College Chapter 12 program.

COMMITTEE AMENDMENTS:

The committee amended the bill to delete a number of sections. Specifically, the committee amended the bill to remove provisions that would:

- require public institutions of higher education to submit long-range facilities plans to the Commission on Higher Education;
- expand the authority of the New Jersey Educational Facilities Authority (EFA) by allowing it to issue bonds on behalf of an affiliate organization of a public or independent institution of higher education in order to allow for some forms of public/private partnerships;
- allow the EFA to issue bonds to finance tax-exempt working capital loans for public and independent institutions of higher education;
- permit a State college or county college, under certain circumstances, to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for certain types of on-campus construction project; and
- increase the allowable duration of certain contracts entered into by State and county colleges to 30 years, including contracts for the provision of food supplies and services and for the management and operation of bookstores.

FISCAL IMPACT:

The fiscal impact of this bill cannot be determined as it is contingent on factors that are not known at this time.

The bill stipulates that the cap on outstanding bonds included under several higher education-related bond programs established in statute would not include the administrative costs associated with the approval and issuance of the bonds. Although State expenditures may rise under the bill due to increased debt service payments as a result of increased bond capacity, it is not clear by what amount as the

schedule, amount, and administrative costs associated with future bond issuances are unknown. Also, the requirement that each institution appoint an independent auditor internal to the institution may create an expense which the institutions do not have as of today.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 1609

STATE OF NEW JERSEY 213th LEGISLATURE

DATED: JULY 8, 2009

SUMMARY

- Synopsis:** Provides for improved structure, financing, and fiscal management of higher education in New Jersey.
- Type of Impact:** An expenditure increase from the General Fund.
- Agencies Affected:** Public institutions of higher education; New Jersey Commission on Higher Education; New Jersey Educational Facilities Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate

- Senate Bill No. 1609 (2R) of 2008 makes various statutory changes to improve the structure and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled “Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.”
- The bill requires the governing board of each four-year public institution of higher education to receive training on their ethical and legal responsibilities as board members, and to form specific committees to improve institutional oversight, fiscal management and accountability. The bill also requires four-year public institutions of higher education to appoint an internal auditor to periodically audit and report on the institution’s internal controls and to retain an independent outside auditor who is a certified public accountant.
- The bill establishes the position of Secretary of Higher Education, a new cabinet-level position, and provides that the executive director of the New Jersey Commission on Higher Education would serve as the first Secretary of Higher Education. The bill also expands the responsibilities of the Commission on Higher Education to include developing and enforcing a code of standards to define and regulate the types of activities in which a governmental affairs agent is permitted to engage in on behalf of four-year public institutions, reviewing petitions for a change in an institution’s programmatic mission, and reviewing and approving

- each institution's petition to establish a branch campus outside of the State or the country.
- The bill revises various statutes to increase the bond issue capacity of the New Jersey Educational Facility Authority. The bill stipulates that the cap on outstanding bonds included under several higher education-related bond programs would not include the administrative costs associated with the approval and issuance of the bonds.

BILL DESCRIPTION

Senate Bill No. 1609 (2R) of 2008 makes various statutory changes to improve the structure and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled "Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance." In addition, the bill includes numerous provisions designed to improve the capacity of the Commission on Higher Education to aid in the planning and development of higher education in New Jersey.

In response to the SCI recommendations, this bill includes provisions to:

- establish effective and efficient State oversight of public higher education;
- strengthen State college and university governing boards;
- implement Sarbanes-Oxley style standards to improve public higher education fiscal accountability; and
- enact controls on higher education lobbying.

The bill requires the governing board of a public research university or a State college to establish:

- an audit committee;
- a nominations and governance committee;
- a compensation committee; and
- an executive committee.

The bill provides for the creation of a new cabinet-level position, the Secretary of Higher Education. The secretary will be appointed by the Governor with the advice and consent of the Senate and will serve as executive director of the New Jersey Commission on Higher Education. The bill increases the number of members serving on the commission from 11 to 15.

The bill requires the commission's review and recommendation of a public institution of higher education's plan to establish a branch campus.

The bill also requires public research universities and State colleges to provide information and training to their governing board members on legal and ethical responsibilities.

The bill also amends a number of statutes that deal with the issuance of bonds by the New Jersey Educational Facilities Authority for higher education capital purposes. The bill provides that the administrative costs associated with the approval process and the issuance of certain bonds by the New Jersey Educational Facilities Authority will not be included within the statutory limit on the total aggregate principal amount of bonds issued.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the fiscal impact of Senate Bill No. 1609 (2R) will be to increase State costs by an indeterminate amount.

The bill requires members of the governing board of each four-year public institution of higher education to receive training on their ethical and legal responsibilities as board members, and to form specific committees to improve institutional oversight, fiscal management, and accountability. The bill also requires four-year public institutions of higher education to appoint an internal auditor to periodically audit and report on the institution's internal controls and to retain an independent outside auditor who is a certified public accountant. These training and personnel requirements may impose additional costs on the four-year public institutions but it is not possible to estimate the extent of those costs.

The bill establishes a new cabinet-level position, Secretary of Higher Education, and provides that the executive director of the New Jersey Commission on Higher Education would serve as the first Secretary. The bill also expands the responsibilities of the Commission on Higher Education to include developing and enforcing a code of standards to define and regulate the types of activities in which a governmental affairs agent is permitted to engage on behalf of four-year public institutions, reviewing petitions for a change in an institution's programmatic mission, and reviewing and approving an institution's petition to establish a branch campus outside of the State or the country. The commission's costs will increase if additional staff is needed for the commission to perform the functions outlined under the bill. State costs may also rise based on the differential between the compensation paid to the commission's executive director and the compensation to be paid to the Secretary of Higher Education.

The bill also provides that the cap on outstanding bonds included under several higher education-related bond programs will not include the administrative costs associated with the approval and issuance of the bonds. Under current law, those administrative costs are included within the bond cap established in statute. While State expenditures will rise under the bill due to increased debt service payments as a result of an increase in bond capacity to cover the administrative costs associated with the approval and issuance of the bonds, it is not clear by what amount as the schedule, amount, terms, and administrative costs associated with future bond issuances are unknown. The New Jersey Educational Facilities Authority has indicated that since 2004 the administrative costs associated with the approval and issuance of the affected bonds has averaged 1.23 percent of the amount of bonds issued.

Section: Education

*Analyst: Osomo Thomas
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

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 (C.52:13B-1 et seq.).

ASSEMBLY, No. 3245

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED OCTOBER 6, 2008

Sponsored by:

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman JOSEPH CRYAN

District 20 (Union)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblywoman CARIDAD RODRIGUEZ

District 33 (Hudson)

Assemblywoman PAMELA R. LAMPITT

District 6 (Camden)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Co-Sponsored by:

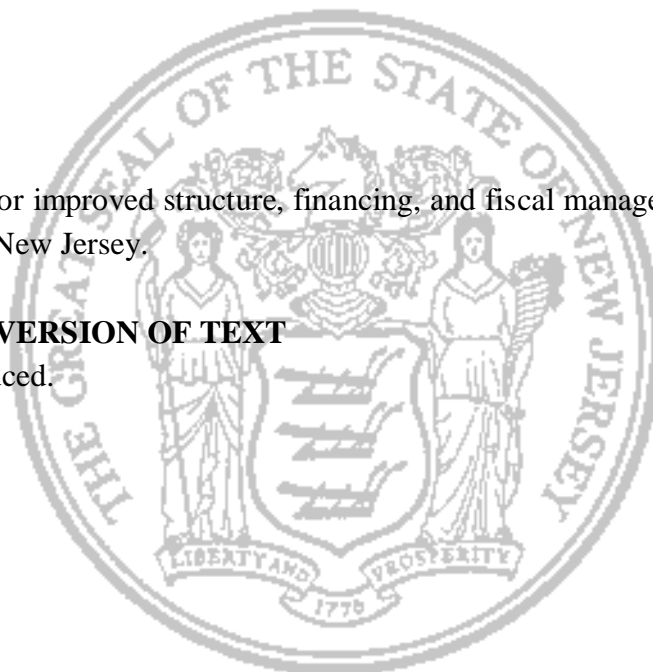
Assemblywoman Wagner, Assemblymen L.Smith and Ramos

SYNOPSIS

Provides for improved structure, financing, and fiscal management of higher education in New Jersey.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/16/2009)

1 AN ACT concerning the structure, financing, and fiscal management
2 of higher education in New Jersey, amending various parts of the
3 statutory law, and supplementing chapters 3B and 72A of the
4 New Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) As used in this act:
10 “Commission” means the New Jersey Commission on Higher
11 Education established pursuant to section 13 of P.L.1994, c.48
12 (C.18A:3B-13);

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

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

19
20 2. (New section) The Governor shall appoint, with the advice
21 and consent of the Senate, a Secretary of Higher Education who
22 shall serve at the pleasure of the Governor during the Governor’s
23 term of office and until a successor is appointed and qualified. The
24 appointment shall be made after consultation with and
25 recommendations from the New Jersey Commission on Higher
26 Education except that the person holding the office of executive
27 director of the commission on the effective date of this act shall be
28 the initial Secretary of Higher Education. The secretary shall hold
29 cabinet-level rank and shall serve as executive director of the
30 commission.

31
32 3. (New section) a. In addition to the authority granted to the
33 New Jersey Commission on Higher Education pursuant to section
34 14 of P.L.1994, c.48 (C.18A:3B-14), the commission shall design,
35 administer, and enforce financial accountability standards for the
36 operation of public research universities and State colleges. The
37 commission shall review the standards of the Financial Accounting
38 Standards Board and the Government Accounting Standards Board
39 and shall design standards that are relevant to the operations of
40 publicly-funded institutions of higher education.

41 b. In accordance with the standards established pursuant to
42 subsection a. of this section, the commission shall establish internal
43 control standards for each public research university and State
44 college.

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

Matter underlined thus is new matter.

1 4. (New section) a. The governing board of a public research
2 university or a State college shall establish an audit committee
3 composed of a minimum of five voting members of the board. The
4 chairman of the committee shall be financially literate as that
5 qualification is determined by the commission. At least one
6 member of the committee shall have accounting or related financial
7 management expertise and the governing board shall make efforts
8 to ensure that a majority of the members of the committee have
9 such expertise.

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

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

15 (2) assisting the board in establishing and ensuring the
16 independence of outside auditors retained by the institution;

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

19 (4) evaluating and investigating allegations of misconduct or
20 conflict of interest; and

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

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

25 d. The deliberations of the audit committee shall be recorded
26 through the preparation of committee meeting minutes.

27

28 5. (New section) The governing board of a public research
29 university or a State college shall directly employ an internal audit
30 staff to periodically test and report on the institution's internal
31 controls to the audit committee, the institution's president, chief
32 financial officer, and other senior members of the institution's
33 administrative staff.

34

35 6. (New section) a. The governing board of a public research
36 university or a State college shall retain an independent outside
37 auditor who is a certified public accountant to conduct annual audits
38 of the institution's financial accounts in accordance with standards
39 established by the commission. The independent auditor shall be
40 selected by a majority vote of the full membership of the board
41 upon the recommendation of the audit committee.

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

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

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

13

14 7. (New section) a. The president and chief financial officer of
15 a public research university or a State college shall certify financial
16 statements submitted to the commission.

17 b. The governing board of a public research university or a State
18 college shall retain institutional financial records for a minimum
19 period of time as established by the commission.

20

21 8. (New section) The governing board of a public research
22 university or a State college shall require a criminal history record
23 check of any person initially employed on or after the effective date
24 of this act. The check shall be conducted in accordance with
25 procedures established by the commission. The Secretary of Higher
26 Education is authorized to receive criminal history record
27 information from the State Bureau of Identification in the Division
28 of State Police and the Federal Bureau of Investigation consistent
29 with applicable State and federal laws, rules, and regulations.

30

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

38

39 10. (New section) The commission shall submit to the
40 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
41 c.164 (C.52:14-19.1), recommendations for the establishment of
42 penalties for noncompliance with the provisions of sections 5
43 through 9 of this act including, but not limited to, fines and
44 disciplinary action to be imposed upon a public research university
45 or a State college or a member of the governing board or an
46 employee of the institution.

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

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

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

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

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

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

27
28 12. (New section) a. Notwithstanding any law, rule or
29 regulation to the contrary, a governmental affairs agent who is
30 retained by a governing board of a public research university or a
31 State college shall file a notice of representation pursuant to section
32 4 of P.L.1971, c.183 (C.52:13C-21), quarterly reports specific to
33 that representation pursuant to section 5 of P.L.1971, c.183
34 (C.52:13C-22), and annual reports specific to that representation
35 pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1). This
36 requirement shall not be deemed to require filings by any person
37 performing services as an employee of the public research
38 university or State college.

39 b. The Election Law Enforcement Commission shall transmit to
40 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
41 19.1), a copy of an annual report filed by a governmental affairs
42 agent pursuant to subsection a. of this section within 30 days
43 following the filing of the report.

44
45 13. (New section) Any proposed contract to retain the services
46 of a governmental affairs agent shall be considered by the
47 governing board of a public research university or a State college at

1 a public meeting and approval of the contract shall require the
2 adoption of a resolution by a majority of the board members.

3

4 14. (New section) a. The governing board of a public research
5 university or a State college shall establish a professional services
6 committee composed of a minimum of five voting members of the
7 board. The professional services committee shall have a written
8 charter that addresses the committee's purpose and responsibilities
9 which, at a minimum, shall include:

10 (1) evaluating and recommending board action concerning
11 professional services contracts; and

12 (2) reviewing proposed professional services contracts to verify
13 the need for the proposed services, determine whether conflicts of
14 interest exist between the vendor and the institution, ensure
15 appropriate procurement procedures are utilized, determine whether
16 the proposed compensation is reasonable, and monitor the services
17 delivered by the vendor.

18 b. The professional services committee shall prepare an annual
19 professional services committee report for submission to the
20 institution's governing board.

21

22 15. (New section) The governing board of a public research
23 university or a State college shall establish an executive committee
24 composed of the chairman of the governing board, the vice-
25 chairman, and the chairmen of any committees established by the
26 board, and such other voting members as may be appointed by the
27 board. The executive committee shall have a written charter that
28 defines the committee's purpose, responsibilities, and its authority
29 to act on behalf of the governing board between meetings of the full
30 board.

31 The deliberations of the executive committee shall be recorded
32 through the preparation of committee meeting minutes.

33

34 16. (New section) a. The governing board of a public research
35 university or a State college shall establish a compensation
36 committee composed of a minimum of five voting members of the
37 board. The compensation committee shall have a written charter
38 that addresses the committee's purpose and responsibilities which
39 shall include, but not be limited to:

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

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

1 b. The recommendations of the compensation committee shall
2 be voted upon by the committee and the committee's deliberations
3 shall be recorded through the preparation of committee meeting
4 minutes.

5
6 17. (New section) a. The governing board of a public research
7 university or a State college shall establish a nominations and
8 governance committee composed of a minimum of five voting
9 members of the board. The governance committee shall have a
10 written charter that defines the committee's purpose and
11 responsibilities which shall include, but need not limited to:

12 (1) monitoring and reporting all matters directly affecting the
13 governance of the institution;

14 (2) periodically reviewing and updating institutional by-laws;

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

17 (4) referring candidates to the governing board for the
18 consideration of the board in making its recommendations to the
19 Governor on potential new members pursuant to N.J.S.18A:64-3.

20 b. In identifying candidates for appointment to the governing
21 board, the committee shall seek individuals with skills that are
22 appropriate to the mission of the institution and which compliment
23 the range of expertise contributed to the governing board by its
24 existing members. The committee shall seek candidates of diverse
25 background and experience, as well as those with ties to the
26 institution.

27 The recommendations of the nominations and governance
28 committee shall be voted upon by the committee and the
29 committee's deliberations shall be recorded through the preparation
30 of committee meeting minutes.

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

37
38 18. (New section) The governing board of a public research
39 university or a State college shall develop and implement
40 fundraising and development strategies that require the active
41 involvement of all board members and that, as may be appropriate,
42 assist fundraising by institutional foundations.

43
44 19. (New section) A public institution of higher education
45 seeking to change its programmatic mission shall submit to the
46 commission:

1 a. a preliminary request for approval to pursue planning
2 activities regarding a possible change in the programmatic mission
3 of the institution; and

4 b. a petition for approval for a change in the programmatic
5 mission of the institution. The petition shall include information on
6 the long-term costs of the change in programmatic mission and a
7 cost-benefit analysis of the expected impact of the change that
8 considers the expected needs of the State and the potential impact
9 of the change on other academic programs of the institution.

10

11 20. (New section) The commission shall convene a meeting, at
12 least once a year, of representatives of all public and independent
13 institutions of higher education to discuss issues related to the
14 development and implementation of new degree programs.

15

16 21. (New section) a. A public institution of higher education
17 shall submit a long-range facilities plan to the commission for its
18 review and recommendations. The plan shall detail the facilities
19 needs of the institution and the institution's plans to address those
20 needs for the ensuing five years.

21 b. In developing its response to the plan, the commission shall
22 consider the long-term fiscal implications of the expenditure
23 including the debt burden of the institution, the relation of the
24 facilities to the academic and student service programs of the
25 institution, and the extent and cost of any deferred maintenance of
26 the institution.

27

28 22. (New section) a. When the governing board of a public
29 institution of higher education, after study and investigation,
30 determines that it is advisable for the institution to establish an
31 extension site that will serve at least 100 students of the institution,
32 the board shall submit the plan for the extension site to the
33 commission for its review and recommendations. The plan shall
34 include: a description of the higher educational needs of the country
35 or region in which the site shall be located; a description of the
36 proposed extension site and its proposed programs and curriculum;
37 and an estimate of the cost of establishing and maintaining the site
38 including the cost of any planned acquisition or construction of
39 facilities; and any other information or data deemed necessary by
40 the commission.

41 b. In developing its response to the plan, the commission shall
42 consider whether there is a need for the institution to acquire an
43 extension site and whether the institution has the financial capacity
44 to support the site.

45

46 23. (New section) Whenever, in any law, rule, regulation, order,
47 contract, document, judicial or administrative proceeding or
48 otherwise, reference is made to the executive director of the New

1 Jersey Commission on Higher Education, the same shall mean and
2 refer to the Secretary of Higher Education.

3
4 24. (New section) As required pursuant to the provisions of
5 sections 5 through 8 of P.L.2004, c.127 (C.18A:72A-5.1 through
6 18A:72A-5.4), each worker employed in the construction or
7 rehabilitation of facilities that are constructed or rehabilitated
8 pursuant to an arrangement in which an affiliate participates with
9 the authority in undertaking the financing and construction of a
10 project, shall be paid not less than the prevailing wage rate for the
11 worker's craft or trade as determined by the Commissioner of Labor
12 and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
13 56.25 et seq.).

14
15 25. (New section) An affiliate shall comply with the
16 procurement and contracting requirements of all statutes applicable
17 to the institution of higher education which the affiliate is
18 controlled by, or is under common control with, including, but not
19 limited to, the "State College Contracts Law," P.L.1986, c.43
20 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
21 P.L.1982, c. 189 (C.18A:64A-25.1 et seq.).

22
23 26. (New section) A public institution of higher education and
24 the authority may enter into a loan agreement in connection with a
25 project which includes the provision of working capital to such
26 institution. In no event shall working capital be considered to be a
27 non-revenue producing facility under chapter 72A of Title 18A of
28 the New Jersey Statutes. Any loan agreement entered into under the
29 provisions of this section may contain such provisions as may be
30 agreeable to the public institution of higher education and the
31 authority and as may be necessary or desirable to secure such loan
32 including, without limitation, provisions for the granting of a
33 security interest in personal property or receivables or a mortgage
34 on all or any portion of the real property of the public institution.

35
36 27. (New section) The Commission on Higher Education shall
37 adopt regulations pursuant to the provisions of the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
39 the provisions of this act.

40
41 28. Section 13 of P.L.1994, c.48 (C.18A:3B-13) is amended to
42 read as follows:

43 13. a. There is established the New Jersey Commission on
44 Higher Education which shall consist of **[11]** 15 members: **[six]**
45 10 public members, to be appointed by the Governor with the
46 advice and consent of the Senate without regard for political
47 affiliation; two public members to be appointed by the Governor,
48 one upon the recommendation of the President of the Senate and

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

28 b. Public members who are not experienced as governing board
29 members shall serve for a term of six years from the date of their
30 appointment and until their successors are appointed and qualified;
31 except that of the initial appointees who are not serving on the
32 governing board of an institution: one shall serve a term of one
33 year; one shall serve a term of two years; one shall serve a term of
34 three years; one shall serve a term of four years; two shall serve a
35 term of five years; and two shall serve a term of six years. A public
36 member who does not have experience as a current member of a
37 governing board shall serve until the member's successor is
38 appointed and qualified.

39 In the case of the initial terms of the additional members of the
40 board appointed pursuant to P.L. ,c. (C.)(pending before the
41 Legislature as this bill), one member shall serve a term of four
42 years, one member shall serve a term of five years, and two
43 members shall serve a term of six years.

44 The faculty member of the commission shall serve for a term of
45 one year from the date of appointment and the selection of that
46 member shall be rotated among the following higher education
47 sectors although not necessarily in the order listed: the senior
48 public research universities, the State colleges/universities, the

1 county colleges, and the independent institutions. The faculty
2 member shall serve until his successor is appointed and qualified.

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

9 c. The Governor shall make the necessary appointments within
10 15 days of the effective date of this act. The commission shall hold
11 its first meeting within 30 days of the appointment and qualification
12 in office of its members, at which time the Governor shall appoint,
13 for a two-year term, the chairman of the commission from among
14 those public members not serving on the board of trustees of an
15 institution. Upon the completion of the chairman's term, and every
16 two years thereafter, the commission shall elect, from among those
17 public members who are not serving on the board of trustees of an
18 institution, a chairman who shall serve a two-year term. The
19 chairman may be removed by the Governor for cause after an
20 opportunity to be heard.

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

30 e. The Secretary of Higher Education shall serve as executive
31 director of the commission. The commission shall appoint [an
32 executive director and] such [other] personnel as may be deemed
33 necessary. The [executive director and] professional staff shall
34 serve at the commission's pleasure and shall receive such
35 compensation as provided by law.

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

38 (cf: P.L. 1999, c.316)

39

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

42 14. The commission shall be responsible for:

43 a. Statewide planning for higher education including research
44 on higher education issues and the development of a comprehensive
45 master plan, including, but not limited to, the establishment of new
46 institutions, closure of existing institutions, and consolidation of
47 institutions, which plan shall be long-range in nature and regularly
48 revised and updated. The council may request the commission to

- 1 conduct a study of a particular issue. The commission may require
2 from institutions of higher education such reports or other
3 information as may be necessary to enable the commission to
4 perform its duties;
- 5 b. advocacy on behalf of higher education including informing
6 the public of the needs and accomplishments of higher education in
7 New Jersey;
- 8 c. making recommendations to the Governor and Legislature on
9 higher education initiatives and incentive programs of Statewide
10 significance;
- 11 d. final administrative decisions over institutional licensure and
12 university status giving due consideration to the accreditation status
13 of the institution. The commission shall furnish the Presidents'
14 Council with any pertinent information compiled on behalf of the
15 subject institution and the council shall then make recommendations
16 to the commission concerning the licensure of the institution or
17 university status within sixty days of receipt of the information;
- 18 e. adopting a code of ethics applicable to institutions of higher
19 education;
- 20 f. final administrative decisions over new academic programs
21 that go beyond the programmatic mission of the institution and final
22 administrative decisions over a change in the programmatic mission
23 of an institution. In addition, within 60 days of referral of a
24 proposed new program determined to be unduly expensive or
25 duplicative by the council, the commission may deny approval of
26 programs which do not exceed the programmatic mission of the
27 institution, but which are determined by the New Jersey Presidents'
28 Council to be unduly duplicative or expensive;
- 29 g. reviewing requests for State support from the institutions in
30 relation to the mission of the institution and Statewide goals and
31 proposing a coordinated budget policy statement to the Governor
32 and Legislature;
- 33 h. communicating with the State Board of Education and
34 Commissioner of Education to advance public education at all
35 levels including articulation between the public schools and higher
36 education community;
- 37 i. applying for and accepting grants from the federal
38 government, or any agency thereof, or grants, gifts or other
39 contributions from any foundation, corporation, association or
40 individual, and complying with the terms, conditions and
41 limitations thereof, for the purpose of advancing higher education.
42 Any money so received may be expended by the commission upon
43 warrant of the director of the Office of Management and Budget in
44 the Department of the Treasury on vouchers certified by the
45 executive director of the commission;
- 46 j. acting as the lead agency of communication with the federal
47 government concerning higher education issues, except that the
48 Higher Education Student Assistance Authority shall act, in

1 cooperation with the commission, as the lead agency on issues of
2 student assistance;

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

14 l. exercising any other power or responsibility necessary in
15 order to carry out the provisions of this act; **[and]**

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

18 n. advising and making recommendations for consideration to
19 the Governor and the governing board of a public institution of
20 higher education in the appointment of members to that governing
21 board; and

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

25 (cf: P.L.1999, c.46, s.32)

26

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

29 301. a. The Chairman of the Commission on Higher Education,
30 at the request of the Governor or upon his own determination, shall
31 have authority to visit public institutions of higher education to
32 examine their manner of conducting their affairs and to enforce an
33 observance of the laws of the State.

34 b. The chairman, at the request of the Governor or upon his own
35 determination, may administer oaths and examine witnesses under
36 oath in any part of the State with regard to any matter pertaining to
37 higher education, and may cause the examination to be reduced to
38 writing. Any person willfully giving false testimony upon being
39 sworn or affirmed to tell the truth shall be guilty of a misdemeanor.

40 c. The chairman, at the request of the Governor or upon his own
41 determination, may issue subpoenas pursuant to this section
42 compelling the attendance of witnesses and the production of books
43 and papers in any part of the State. Any person who shall neglect
44 or refuse to obey the command of the subpoena or who, after
45 appearing, shall refuse to be sworn and testify, unless such refusal
46 is on grounds recognized by law, shall in either event be subject to a
47 penalty of \$1,000.00 for each offense to be recovered in a civil

1 action. Such penalty when recovered shall be paid into the State
2 Treasury.

3 (cf:P.L.1994, c.48, s.301)

4

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

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

25 (cf: P.L.1994, c.48, s.305)

26

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

28 18A:64-3. The composition and size of the board of trustees
29 shall be determined by the board; however, each board shall have
30 not less than seven nor more than 15 members. The members shall
31 be [citizens of the State] appointed by the Governor[; except that
32 the Governor may appoint up to three alumni of the institution who
33 are not citizens of the State to serve as members of the board.
34 Members shall be appointed] with the advice and consent of the
35 Senate. Each board of trustees shall recommend potential new
36 members to the Governor. The terms of office of appointed
37 members shall be for six years beginning on July 1 and ending on
38 June 30. Each member shall serve until his successor shall have
39 been appointed and qualified and vacancies shall be filled in the
40 same manner as the original appointments for the remainders of the
41 unexpired terms. Any member of a board of trustees may be
42 removed by the Governor for cause upon notice and opportunity to
43 be heard.

44 (cf: P.L1999, c.324)

45

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

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

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

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

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

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

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

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

45 (cf: P.L.1995, c.400, s.6)

46

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

1 4. a. The government, control, conduct, management and
2 administration of the university shall be vested in the board of
3 trustees of the university. The membership of the board of trustees
4 shall consist of the Commissioner of Health and Senior Services,
5 who shall serve ex officio, without vote, and 19 voting members
6 appointed by the Governor as follows: two members shall be
7 appointed by the Governor upon recommendation of the Senate
8 President; two members shall be appointed by the Governor upon
9 recommendation of the Speaker of the General Assembly; and 15
10 members shall be appointed by the Governor with the advice and
11 consent of the Senate. A voting member shall serve for a term of
12 five years and shall serve until his successor is appointed and has
13 qualified. [The voting members of the board shall be residents of
14 the State, except that the Governor may appoint up to three
15 members who are not residents of the State to serve as voting
16 members of the board. The voting members shall represent the
17 gender, racial, and ethnic diversity of the State. The voting
18 members shall include at least two members from the seven
19 northern counties, two members from the seven central counties,
20 and two members from the seven southern counties.] No trustee
21 shall be appointed who is an employee or paid official of any
22 hospital affiliated with the university. Any vacancies in the voting
23 membership of the board occurring other than by expiration of term
24 shall be filled in the same manner as the original appointment but
25 for the unexpired term only. Each voting member of the board of
26 trustees before entering upon his duties shall take and subscribe an
27 oath to perform the duties of his office faithfully, impartially and
28 justly to the best of his ability. A record of such oath shall be filed
29 in the office of the Secretary of State. Each voting member of the
30 board may be removed from office by the Governor, for cause, after
31 a public hearing.

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

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

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

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

1 the faculty, the appropriate bargaining unit, and the student body on
2 relevant advisory committees or bodies.

3 (cf: P.L.2006, c.95, s.1)

4

5 35. N.J.S.18A:72A-1 is amended to read as follows:

6 18A:72A-1. It is hereby declared that a serious public
7 emergency exists affecting and threatening the welfare, comfort,
8 health, safety and prosperity of the people of the state and resulting
9 from the fact that financial resources are lacking with which to
10 construct required dormitory and other educational facilities at
11 public and private institutions of higher education and that there is a
12 shortage of working capital for the development, establishment, and
13 operation of public and private institutions of higher education;
14 that it is essential that this and future generations of youth be given
15 the fullest opportunity to learn and to develop their intellectual and
16 mental capacities; that it is essential that institutions for higher
17 education within the state be provided with appropriate additional
18 means to assist such youth in achieving the required levels of
19 learning and development of their intellectual and mental
20 capacities; that it is essential that all resources of the state be
21 employed in order to meet the tremendous demand for higher
22 educational opportunities; that all institutions of higher education in
23 the state, both public and private, are an integral part of the total
24 educational effort in the state for providing higher educational
25 opportunities, and that it is the purpose of this chapter to provide a
26 measure of assistance and an alternative method to enable
27 institutions of higher education in the state to provide the facilities
28 which are sorely needed to accomplish the purposes of this chapter
29 and to provide working capital to public and private institutions of
30 higher education, all to the public benefit and good, to the extent
31 and manner provided herein.

32 (cf: N.J.S.18A:72A-1)

33

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

35 18A:72A-3. As used in this act, the following words and terms
36 shall have the following meanings, unless the context indicates or
37 requires another or different meaning or intent:

38 "Affiliate" means a person that directly, or indirectly through
39 one or more intermediaries, controls, or is controlled by, or is under
40 common control with, a public institution of higher education or
41 private college;

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

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

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

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

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

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

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

29 "Participating **[college] institution**" means a public institution of
30 higher education or private college or an affiliate of a public
31 institution of higher education or private college which, pursuant to
32 the provisions of this chapter, participates with the authority in
33 undertaking the financing and construction or acquisition of a
34 project for which a public institution of higher education or private
35 college has requested assistance from the authority;

36 "Project" means a dormitory or an educational facility or any
37 combination thereof, **[or]** a county college capital project, the
38 provision of working capital or the acquisition of any other tangible
39 or intangible assets that are necessary or useful in the development,
40 establishment or operation of a participating institution;

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

45 "Private institution of higher education" means independent
46 colleges or universities incorporated and located in New Jersey,
47 which by virtue of law or character or license, are nonprofit
48 educational institutions authorized to grant academic degrees and

1 which provide a level of education which is equivalent to the
2 education provided by the State's public institutions of higher
3 education as attested by the receipt of and continuation of regional
4 accreditation by the Middle States Association of Colleges and
5 Schools, and which are eligible to receive State aid;

6 "Public institution of higher education" means Rutgers, The State
7 University, the State colleges, the New Jersey Institute of
8 Technology, the University of Medicine and Dentistry of New
9 Jersey, the county colleges and any other public university or
10 college now or hereafter established or authorized by law;

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

13 "University" means Rutgers, The State University;

14 "Working capital" means, with respect to any public institution
15 of higher education or private college situated within the State,
16 funds to be used in, or reserved for, the operation of the institution.

17 (cf: P.L.2000, c.56, s.10)

18

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

20 18A:72A-4. (a) There is hereby established in but not of the
21 Department of the Treasury a public body corporate and politic,
22 with corporate succession to be known as the "New Jersey
23 educational facilities authority." Notwithstanding this allocation,
24 the authority shall be independent of any supervision or control by
25 the department or any officer thereof. The authority shall constitute
26 a political subdivision of the State established as an instrumentality
27 exercising public and essential governmental functions, and the
28 exercise by the authority of the powers conferred by this chapter
29 shall be deemed and held to be an essential governmental function
30 of the State.

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

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

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

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

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

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

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

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

16 Notwithstanding the foregoing provisions of this subsection (i),
17 with regard to the sale of bonds of the authority, the authority shall
18 furnish to the Governor a certified copy of the minutes of the
19 meeting at which the bonds are sold and the Governor shall indicate
20 approval or disapproval of the action prior to the issuance of the
21 bonds.

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

32 (cf: P.L.1999, c.217, s.11)

33

34 38. N.J.S.18A:72A-5 is amended to read as follows:

35 18A:72A-5. The authority shall have power:

36 (a) To adopt bylaws for the regulation of its affairs and the
37 conduct of its business;

38 (b) To adopt and have an official common seal and alter the
39 same at pleasure;

40 (c) To maintain an office at such place or places within the State
41 as it may designate;

42 (d) To sue and be sued in its own name, and plead and be
43 impleaded;

44 (e) To borrow money and to issue bonds and notes and other
45 obligations of the authority and to provide for the rights of the
46 holders thereof as provided in this chapter;

1 (f) To acquire, lease as lessee, hold and dispose of real and
2 personal property or any interest therein, in the exercise of its
3 powers and the performance of its duties under this chapter;

4 (g) To acquire in the name of the authority by purchase or
5 otherwise, on such terms and conditions and in such manner as it
6 may deem proper, or by the exercise of the power of eminent
7 domain, any land or interest therein and other property which it may
8 determine is reasonably necessary for any project, including any
9 lands held by any county, municipality or other governmental
10 subdivision of the State; and to hold and use the same and to sell,
11 convey, lease or otherwise dispose of property so acquired, no
12 longer necessary for the authority's purposes;

13 (h) To receive and accept, from any federal or other public
14 agency or governmental entity, grants or loans for or in aid of the
15 acquisition or construction of any project, and to receive and accept
16 aid or contributions from any other source, of either money,
17 property, labor or other things of value, to be held, used and applied
18 only for the purposes for which such grants, loans and contributions
19 may be made;

20 (i) To prepare or cause to be prepared plans, specifications,
21 designs and estimates of costs for the construction and equipment of
22 projects for participating **【colleges】** institutions under the
23 provisions of this chapter, and from time to time to modify such
24 plans, specifications, designs or estimates;

25 (j) By contract or contracts or by its own employees to
26 construct, acquire, reconstruct, rehabilitate and improve, and
27 furnish and equip, projects for participating **【colleges】** institutions;
28 however, in any contract or contracts undertaken by the authority
29 for the construction, reconstruction, rehabilitation or improvement
30 of any public college project where the cost of such work will
31 exceed \$25,000, the contracting agent shall advertise for and
32 receive in the manner provided by law:

33 (1) separate bids for the following categories of work;
34 (a) the plumbing and gas fitting work;
35 (b) the heating and ventilating systems and equipment;
36 (c) the electrical work, including any electrical power plants;
37 (d) the structural steel and ornamental iron work;
38 (e) all other work and materials required for the completion of
39 the project, or

40 (2) bids for all work and materials required to complete the
41 entire project if awarded as a single contract; or

42 (3) both (1) and (2) above.

43 All bids submitted shall set forth the names and license numbers
44 of, and evidence of performance security from, all subcontractors to
45 whom the bidder will subcontract the work described in the
46 foregoing categories (1)(a) through (1)(e).

- 1 Contracts shall be awarded to the lowest responsible bidder
2 whose bid, conforming to the invitation for bids, will be the most
3 advantageous to the authority;
- 4 (k) To determine the location and character of any project to be
5 undertaken pursuant to the provisions of this chapter, and to
6 construct, reconstruct, maintain, repair, operate, lease, as lessee or
7 lessor, and regulate the same; to enter into contracts for any or all
8 such purposes; to enter into contracts for the management and
9 operation of a project, and to designate a participating **【college】**
10 institution as its agent to determine the location and character of a
11 project undertaken by such participating **【college】** institution under
12 the provisions of this chapter and, as the agent of the authority, to
13 construct, reconstruct, maintain, repair, operate, lease, as lessee or
14 lessor, and regulate the same, and, as agent of the authority, to enter
15 into contracts for any and all such purposes including contracts for
16 the management and operation of such project;
- 17 (l) To establish rules and regulations for the use of a project or
18 any portion thereof and to designate a participating **【college】**
19 institution as its agent to establish rules and regulations for the use
20 of a project undertaken by such participating **【college】** institution;
- 21 (m) Generally to fix and revise from time to time and to charge
22 and collect rates, rents, fees and other charges for the use of and for
23 the services furnished or to be furnished by a project or any portion
24 thereof and to contract with holders of its bonds and with any other
25 person, party, association, corporation or other body, public or
26 private, in respect thereof;
- 27 (n) To enter into any and all agreements or contracts, execute
28 any and all instruments, and do and perform any and all acts or
29 things necessary, convenient or desirable for the purposes of the
30 authority or to carry out any power expressly given in this chapter;
- 31 (o) To invest any moneys held in reserve or sinking funds, or
32 any moneys not required for immediate use or disbursement, at the
33 discretion of the authority, in such obligations as are authorized by
34 law for the investment of trust funds in the custody of the State
35 Treasurer;
- 36 (p) To enter into any lease relating to higher education
37 equipment with a public or private institution of higher education
38 pursuant to the provisions of P.L.1993, c.136 (C.18A:72A-40 et
39 al.);
- 40 (q) To enter into loan agreements with any county, to hold
41 bonds or notes of the county evidencing those loans, and to issue
42 bonds or notes of the authority to finance county college capital
43 projects pursuant to the provisions of the "County College Capital
44 Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);
- 45 (r) To issue bonds and notes and other obligations of the
46 authority under the direction of law for the purpose of providing

1 financial assistance for the installation of fire prevention and safety
2 systems in dormitories.

3 (cf: P.L.2000, c.56, s.11)

4

5 39. N.J.S.18A:72A-11 is amended to read as follows:

6 18A:72A-11. The authority is authorized to fix, revise, charge
7 and collect rates, rents, fees and charges for the use of and for the
8 services furnished or to be furnished by each project and to
9 contract with any person, partnership, association or corporation, or
10 other body, public or private, in respect thereof. Such rates, rents,
11 fees and charges shall be fixed and adjusted in respect of the
12 aggregate of rents, rates, fees and charges from such project so as to
13 provide funds sufficient with other revenues or moneys, if any:

14 (a) to pay the cost of maintaining, repairing and operating the
15 project and each and every portion thereof, to the extent that the
16 payment of such cost has not otherwise been adequately provided
17 for;

18 (b) to pay the principal of and the interest on outstanding bonds
19 of the authority issued in respect of such project as the same shall
20 become due and payable; and

21 (c) to create and maintain reserves required or provided for in
22 any resolution authorizing, or trust agreement securing, such bonds
23 of the authority.

24 Such rates, rents, fees and charges shall not be subject to
25 supervision or regulation by any department, commission, board,
26 body, bureau or agency of this state other than the authority. A
27 sufficient amount of the revenues derived in respect of a project,
28 except such part of such revenues as may be necessary to pay the
29 cost of maintenance, repair and operation and to provide reserves
30 for renewals, replacements, extensions, enlargements and
31 improvements as may be provided for in the resolution authorizing
32 the issuance of any bonds of the authority or in the trust agreement
33 securing the same, shall be set aside at such regular intervals as may
34 be provided in such resolution or trust agreement in a sinking or
35 other similar fund which is hereby pledged to, and charged with,
36 the payment of the principal of and the interest on such bonds as the
37 same shall become due, and the redemption price or the purchase
38 price of bonds retired by call or purchase as therein provided. Such
39 pledge shall be valid and binding from the time when the pledge is
40 made; the rates, rents, fees and charges and other revenues or other
41 moneys so pledged and thereafter received by the authority shall
42 immediately be subject to the lien of such pledge without any
43 physical delivery thereof or further act, and the lien of any such
44 pledge shall be valid and binding as against all parties having
45 claims of any kind in tort, contract or otherwise against the
46 authority, irrespective of whether such parties have notice thereof.
47 Neither the resolution nor any trust agreement by which a pledge is
48 created need be filed or recorded except in the records of the

1 authority. The use and disposition of moneys to the credit of such
2 sinking or other similar fund shall be subject to the provisions of
3 the resolution authorizing the issuance of such bonds or of such
4 trust agreement. Except as may otherwise be provided in such
5 resolution or such trust agreement, such sinking or other similar
6 fund shall be a fund for all such bonds issued to finance projects at
7 a participating **[college]** institution without distinction or priority
8 of one over another; provided the authority in any such resolution
9 or trust agreement may provide that such sinking or other similar
10 fund shall be the fund for a particular project at a participating
11 **[college]** institution and for the bonds issued to finance a particular
12 project and may, additionally, permit and provide for the issuance
13 of bonds having a subordinate lien in respect of the security herein
14 authorized to other bonds of the authority and, in such case, the
15 authority may create separate sinking or other similar funds in
16 respect of such subordinate lien bonds.

17 (cf: N.J.S.18A:72A-11)

18

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

21 1. In addition to other powers and duties which have been
22 granted to the authority, whenever any **[public or private college]**
23 participating institution has constructed or acquired any work or
24 improvement which would otherwise qualify under this act except
25 for the fact that such construction or acquisition was undertaken
26 and financed without assistance from the authority, the authority
27 may purchase such work or improvement, and lease the same to
28 such **[college]** participating institution, or may lend funds to such
29 **[college]** participating institution for the purpose of enabling the
30 latter to retire obligations incurred for such construction or
31 acquisition; except that the amount of any such price or loan shall
32 not exceed the original project cost. All powers, rights, obligations
33 and duties granted to or imposed upon the authority, **[colleges]**
34 participating institutions, State departments and agencies or others
35 by this chapter in respect to projects shall apply to the same extent
36 with respect to transactions pursuant to this section; except that any
37 action otherwise required to be taken at a particular time in the
38 progression of a project may, where the circumstances are so
39 required in connection with a transaction under this section, be
40 taken with the same effect as if taken at that particular time.

41 (cf: P.L.1980, c.31, s.1)

42

43 41. N.J.S.18A:72A-19 is amended to read as follows:

44 18A:72A-19. The state of New Jersey does pledge to and agree
45 with the holders of the bonds, notes and other obligations issued
46 pursuant to authority contained in this chapter, and with those
47 parties who may enter into contracts with the authority pursuant to

1 the provisions of this chapter, that the state will not limit, alter or
2 restrict the rights hereby vested in the authority and the
3 participating ~~colleges~~ institutions to maintain, construct,
4 reconstruct and operate any project as defined in this chapter or to
5 establish and collect such rents, fees, receipts or other charges as
6 may be convenient or necessary to produce sufficient revenues to
7 meet the expenses of maintenance and operation thereof and to
8 fulfill the terms of any agreements made with the holders of bonds
9 authorized by this chapter, and with the parties who may enter into
10 contracts with the authority pursuant to the provisions of this
11 chapter, or in any way impair the rights or remedies of the holders
12 of such bonds or such parties until the bonds, together with interest
13 thereon, are fully paid and discharged and such contracts are fully
14 performed on the part of the authority. The authority as a public
15 body corporate and politic shall have the right to include the pledge
16 herein made in its bonds and contracts.

17 (cf: N.J.S.18A:72A-19)

18

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

20 18A:72A-26. In order to provide new dormitories and to enable
21 the construction and financing thereof, to refinance indebtedness
22 hereafter created by the authority for the purpose of providing a
23 dormitory or dormitories or additions or improvements thereto, or
24 for any one or more of said purposes, but for no other purpose
25 unless authorized by law, each of the following bodies shall have
26 the powers hereafter enumerated to be exercised upon such terms
27 and conditions, including the fixing of any consideration or rental to
28 be paid or received, as it shall determine by resolution as to such
29 property and each shall be subject to the performance of the duties
30 hereafter enumerated, that is to say, the treasurer as to such as are
31 located on land owned by the State or by the authority, the board of
32 governors of the university, the board of trustees of the New Jersey
33 Institute of Technology or the University of Medicine and Dentistry
34 of New Jersey, the board of trustees of a State college ~~or~~ , the
35 board of trustees of a county college , or the governing body of an
36 affiliate of a public institution of higher education as to such as are
37 located on land owned by the university or by the particular
38 ~~college~~ public institution of higher education respectively,
39 namely:

40 a. The power to sell and to convey to the authority or any other
41 entity which is a participating institution title in fee simple in any
42 such land and any existing dormitories thereon owned by the State
43 or owned by the board of trustees of a county college or the power
44 to sell and to convey to the authority or any other entity which is a
45 participating institution such title as the university or the college
46 respectively may have in any such land and any existing dormitories
47 thereon.

1 b. The power to lease to the authority or any other entity which
2 is a participating institution any such land and any existing
3 dormitories thereon [so] owned for a term or terms not exceeding
4 50 years each.

5 c. The power to lease or sublease from the authority or any
6 other entity which is a participating institution, and to make
7 available, any such land and existing dormitories conveyed or
8 leased to the authority or any other entity which is a participating
9 institution under subsections a. and b. of this section, and any new
10 dormitories erected upon such land or upon any other land owned
11 by the authority or any other entity which is a participating
12 institution, any rentals to be payable, as to the university or as to
13 any such college from available funds other than moneys
14 appropriated to it by the State.

15 d. The power and duty, upon receipt of notice of any
16 assignment by the authority or any other entity which is a
17 participating institution of any lease or sublease made under
18 subsection c. of this section, or of any of its rights under any such
19 lease or sublease, to recognize and give effect to such assignment,
20 and to pay to the assignee thereof rentals or other payments then
21 due or which may become due under any such lease or sublease
22 which has been so assigned by the authority or any other entity
23 which is a participating institution.

24 (cf: P.L.1994, c.48, s.238)

25

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

27 18A:72A-27.1. In addition to the powers and duties with respect
28 to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the
29 treasurer, the board of governors of the university, the board of
30 trustees of the New Jersey Institute of Technology, the board of
31 trustees of a State college, the board of trustees of a county college
32 [and] , the board of trustees of the University of Medicine and
33 Dentistry of New Jersey and the governing body of an affiliate of a
34 public institution of higher education shall also have the same
35 power and be subject to the same duties in relation to any
36 conveyance, lease or sublease made under subsection a., b., or c. of
37 section 18A:72A-26, with respect to revenue producing facilities;
38 that is to say, structures or facilities which produce revenues
39 sufficient to pay the rentals due and to become due under any lease
40 or sublease made under subsection c. of section 18A:72A-26
41 including, without limitation, student unions and parking facilities.

42 (cf: P.L.1994, c.48, s.239)

43

44 44. N.J.S.18A:72A-29 is amended to read as follows:

45 18A:72A-29. All lands and other assets real or personal
46 presently titled in the name of the State Board of Higher Education
47 or the State Department of Higher Education, which are occupied
48 by a public institution of higher education shall be titled in the

1 name of the State of New Jersey only. All conveyances, leases and
2 subleases, pursuant to this chapter shall be made, executed and
3 delivered in the name of the State and shall be signed by the State
4 Treasurer and sealed with the seal of the State.

5 To the extent not otherwise expressly provided under existing
6 law, all powers and duties conferred upon the university or an
7 affiliate pursuant to this chapter shall be exercised and performed
8 by resolution of its board of governors and all powers and duties
9 conferred upon any of said colleges pursuant to this chapter shall be
10 exercised and performed by resolution of its board of trustees.

11 All conveyances, leases and subleases made pursuant to this
12 chapter, when duly authorized by the university, shall be made,
13 executed and delivered in the name of the university and shall be
14 signed by its president or a vice president and sealed with the seal
15 of the university and all conveyances, leases and subleases made
16 pursuant to this chapter, when duly authorized by any of said
17 colleges, shall be made, executed and delivered in the name of the
18 college and shall be signed by the president or a vice president and
19 sealed with the seal of the college.

20 (cf: P.L.1999, c.46, s.50)

21

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

23 18A:72A-30. In addition to the foregoing powers, the authority
24 with respect to private colleges, shall have power:

25 (a) upon application of the **【participating college】** private
26 college to construct, acquire or otherwise provide projects for the
27 use and benefit of the **【participating college】** private college and
28 the students, faculty and staff of such **【participating college】**
29 private college. The **【participating college】** private college for
30 which such a project is undertaken by the authority shall approve
31 the plans and specifications and location of such project;

32 (b) to operate and manage any project provided pursuant to this
33 section, or the authority may lease any such project to the
34 **【participating college】** private college for which such project is
35 provided. At such time as the liabilities of the authority incurred
36 for any such project have been met and the bonds of the authority
37 issued therefor have been paid, or such liabilities and bonds have
38 otherwise been discharged, the authority shall transfer title to all the
39 real and personal property of such project vested in the authority, to
40 the **【participating college】** private college in connection with which
41 such project is then being operated, or to which such project is then
42 leased; provided, however, that if at any time prior thereto such
43 **【participating college】** private college ceases to offer educational
44 facilities, then such title shall vest in the state of New Jersey.

45 Any lease of a project authorized by this section shall be a
46 general obligation of the lessee and may contain provisions, which

1 shall be a part of the contract with the holders of the bonds of the
2 authority issued for such project, as to:

3 (i) pledging all or any part of the moneys, earnings, income and
4 revenues derived by the lessee from such project or any part or parts
5 thereof, or other personal property of the lessee, to secure payments
6 required under the terms of such lease;

7 (ii) the rates, rentals, fees and other charges to be fixed and
8 collected by the lessee, the amounts to be raised in each year
9 thereby, and the use and disposition of such moneys, earnings,
10 income and revenues;

11 (iii) the setting aside of reserves and the creation of special funds
12 and the regulation and disposition thereof;

13 (iv) the procedure, if any, by which the terms of such lease may
14 be amended, the amount of bonds the holders of which must
15 consent thereto, and the manner in which such consent may be
16 given;

17 (v) vesting in a trustee or trustees such specified properties,
18 rights, powers and duties as shall be deemed necessary or desirable
19 for the security of the holders of the bonds of the authority issued
20 for such projects;

21 (vi) the obligations of the lessee with respect to the replacement,
22 reconstruction, maintenance, operation, repairs and insurance of
23 such project;

24 (vii) defining the acts or omissions to act which shall constitute a
25 default in the obligations and duties of the lessee, and providing for
26 the rights and remedies of the authority and of its bondholders in
27 the event of such default;

28 (viii) any other matters, of like or different character, which may
29 be deemed necessary or desirable for the security or protection of
30 the authority or the holders of its bonds.

31 (cf: N.J.S.18A:72A-30)

32

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

35 2. The Legislature finds and declares that:

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

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

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

47 d. The **【State Board of】** Commission on Higher Education,
48 which is statutorily responsible for the coordination and planning of

1 higher education in New Jersey, has identified a crucial need to
2 establish a regular financing mechanism for scientific, engineering,
3 technical, computer, communications, and instructional equipment
4 at New Jersey's public and private institutions of higher education.
5 (cf: P.L.1993, c.136, s.2)

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

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

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

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

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

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

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

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

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

28 The **【State Board of】** Commission on Higher Education may
29 apportion the amounts authorized in subsection g. among any other
30 amounts authorized in subsections a. through f.

31 The **【State Board of】** Commission on Higher Education may
32 reallocate any balance in the amounts authorized in subsections a.
33 through g. of this section which have not been fully committed
34 within 18 months of the effective date of this act.

35 The **【State Board of】** Commission on Higher Education shall
36 determine the allocation of moneys deposited into the fund resulting
37 from the issuance by the authority of new bonds because of the
38 retirement of bonds previously issued by the authority.

39 (cf: P.L.1993, c.136, s.6)

40
41 48. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to
42 read as follows:

43 8. The authority shall not enter into a lease agreement with an
44 institution of higher education unless the **【State Board of】**
45 Commission on Higher Education has adopted a resolution which
46 approves the purchase of the higher education equipment by the
47 institution. The **【State board】** commission shall forward a copy of

1 the resolution along with the amount of the approved purchase to
2 the authority.

3 (cf: P.L.1993, c.136, s.8)

4

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

7 10. The **【State Board of】** Commission on Higher Education
8 shall annually submit a report to the Governor and the Legislature
9 on the higher education equipment purchases at public and private
10 institutions of higher education which have been approved by the
11 **【State board】** commission and financed by the New Jersey
12 Educational Facilities Authority pursuant to lease agreements with
13 the institutions.

14 (cf: P.L.1993, c.136, s.10)

15

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

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

23 (cf: P.L.1993, c.136, s.11)

24

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

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

29 a. \$48,000,000 for facilities at the State Colleges;

30 b. \$38,880,000 for facilities at Rutgers, The State University;

31 c. \$20,160,000 for facilities at the University of Medicine and
32 Dentistry of New Jersey;

33 d. \$12,960,000 for facilities at the New Jersey Institute of
34 Technology;

35 e. \$44,000,000 for facilities at the county colleges;

36 f. \$21,000,000 for facilities at the private institutions of higher
37 education;

38 g. \$15,000,000 for South Jersey multi-institutional economic
39 development facilities. As used in this section, "South Jersey multi-
40 institutional economic development facilities" means facilities
41 which would promote economic development in the eight
42 southernmost counties of the State and which involve more than one
43 public or private institution of higher education; and

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

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

1 The **【Board of】** Commission on Higher Education may
2 reallocate any balance in an amount authorized in subsections a.
3 through h. of this section which has not been approved by the
4 **【board】** commission for a grant within 18 months of the effective
5 date of this act.

6 The **【Board of】** Commission on Higher Education shall
7 determine the allocation of moneys deposited into the trust fund
8 resulting from the issuance by the authority of new bonds because
9 of the retirement of bonds previously issued by the authority.

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

16 (cf: P.L.1993, c.375, s.5)

17

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

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

27 b. The **【Board of】** Commission on Higher Education shall
28 review the application and, by resolution, approve or disapprove the
29 grant. For each grant which is approved, the **【board】** commission
30 shall establish the amount and shall forward a copy of the resolution
31 along with the amount of the grant to the authority.

32 c. The **【Board of】** Commission on Higher Education shall
33 submit to the Legislature a copy of the resolution approving the
34 grant along with the amount of the grant. If the Legislature does
35 not disapprove the grant by the adoption of a concurrent resolution
36 within 60 days, the grant shall be deemed to be authorized. In
37 addition, the resolution approving the grant for the new
38 instructional and research facility for Rutgers, The State University,
39 School of Law, Newark, shall be submitted by the **【board】**
40 commission to the Joint Budget Oversight Committee for its
41 approval prior to the **【board's】** commission's submission of the
42 resolution to the Legislature. The **【board】** commission shall
43 provide to the committee such information concerning the grant as
44 the committee may require for its consideration.

45 d. Each grant awarded under this act shall be contingent upon
46 the recipient governing board entering into a contract or contracts
47 for the commencement of the construction, reconstruction,

1 development, extension, or improvement of the facility within one
2 year of the date on which the funds of the grant are made available.
3 (cf: P.L.1993, c.375, s.6)

4
5 53. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to
6 read as follows:

7 7. In order to ensure the most effective utilization of the moneys
8 in the trust fund and to guide governing boards which elect to apply
9 for a grant, the **【Board of】** Commission on Higher Education shall
10 establish a list of selection criteria and shall specify the information
11 to be included in a grant application.
12 (cf: P.L.1993, c.375, s.7)

13
14 54. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to
15 read as follows:

16 8. In order to ensure proper oversight and review, there is
17 created the "Higher Education Facilities Trust Fund Board" which
18 shall consist of **【six】** five members as follows: the Chair and Vice
19 Chair of the **【Board of】** Commission on Higher Education; the
20 State Treasurer or a designee; the President of the Senate or a
21 designee; and the Speaker of the General Assembly or a designee**【**;
22 and the Chancellor of Higher Education who shall serve ex officio
23 without vote**】**. The board shall ensure that the revenue provided to
24 the trust fund is adequate to support the grants approved by the
25 **【Board of】** Commission on Higher Education. At the end of each
26 three-year period following the approval of this act, the board shall
27 review, in consultation with the **【Board of】** Commission on Higher
28 Education, the physical plant needs of public and private
29 institutions of higher education in the State and shall recommend to
30 the Governor and the Legislature a plan to increase, as necessary,
31 the availability and uses of grants made from the trust fund.
32 (cf: P.L.1993, c.375, s.8)

33
34 55. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended
35 to read as follows:

36 11. The **【Board of】** Commission on Higher Education, in
37 consultation with the New Jersey Educational Facilities Authority,
38 shall adopt, pursuant to the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations
40 necessary to carry out the provisions of this act.
41 (cf: P.L.1993, c.375, s.11)

42
43 56. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to
44 read as follows:

45 10. This act shall not apply to the following activities:
46 a. the publication or dissemination, in the ordinary course of
47 business, of news items, advertising which does not constitute

- 1 communication with the general public, editorials or other
2 comments by a newspaper, book publisher, regularly published
3 periodical, or radio or television station, including an owner, editor
4 or employee thereof;
- 5 b. acts of an officer or employee of the Government of this
6 State or any of its political subdivisions, or of the Government of
7 the United States or of any State or territory thereof or any of their
8 political subdivisions, in carrying out the duties of their public
9 office or employment, except as provided in section 12 of
10 P.L. ,c. (C.)(pending before the Legislature as this bill);
- 11 c. acts of bona fide religious groups acting solely for the
12 purpose of protecting the public right to practice the doctrines of
13 such religious groups;
- 14 d. acts of a duly organized national, State or local committee of
15 a political party;
- 16 e. acts of a person in testifying before a legislative committee
17 or commission, at a public hearing duly called by the Governor on
18 legislative proposals or on legislation passed and pending his
19 approval, or before any officer or body empowered by law to issue,
20 promulgate or adopt administrative rules and regulations in behalf
21 of a nonprofit organization incorporated as such in this State who
22 receives no compensation therefor beyond the reimbursement of
23 necessary and actual expenses, and who makes no other
24 communication with a member of the Legislature, legislative staff,
25 the Governor, the Governor's staff, or an officer or staff member of
26 the Executive Branch in connection with the subject of his
27 testimony;
- 28 f. acts of a person in communicating with or providing benefits
29 to a member of the Legislature, legislative staff, the Governor, the
30 Governor's staff, or an officer or staff member of the Executive
31 Branch if such communication or provision of benefits is
32 undertaken by him as a personal expression and not incident to his
33 employment, even if it is upon a matter relevant to the interests of a
34 person by whom or which he is employed, and if he receives no
35 additional compensation or reward, in money or otherwise, for or as
36 a result of such communication or provision of benefits;
- 37 g. with regard to influencing governmental processes as
38 defined in subsections t. and u. of section 3 of P.L.1971, c.183
39 (C.52:13C-20) any communications, matters or acts of an attorney
40 falling within the attorney-client privilege while engaging in the
41 practice of law to the extent that confidentiality is required in order
42 for the attorney to exercise his ethical duties as a lawyer; and
- 43 h. with regard to influencing governmental processes as
44 defined in subsections t. and u. of section 3 of P.L.1971, c.183
45 (C.52:13C-20) any communications, matters or acts involving
46 collective negotiations, or the interpretation or violation of
47 collective negotiation agreements, of a labor organization of any
48 kind which exists or is constituted for the purpose, in whole or in

1 part, of collective bargaining, or of dealing with employers
2 concerning the grievances, terms or conditions of employment, or
3 of other mutual aid or protection in connection with employment.

4 (cf: 2004, c.27, s.18)

5
6 57. This act shall take effect on the 180th day after the date of
7 enactment, but the Commission on Higher Education may take such
8 anticipatory administrative action in advance thereof as shall be
9 necessary for the implementation of this act.

10 11 12 STATEMENT

13
14 This bill makes various statutory changes to improve the
15 structure, financing, and fiscal management of higher education in
16 New Jersey. Specifically, the bill implements many of the
17 recommendations contained in the October 2007 Report of the State
18 Commission of Investigation (SCI) entitled "Vulnerable to Abuse:
19 The Importance of Restoring Accountability, Transparency and
20 Oversight to Public Higher Education Governance." In addition,
21 the bill includes numerous provisions that will improve the capacity
22 of the Commission on Higher Education and the New Jersey
23 Educational Facilities Authority to aid in the planning and
24 development of higher education in New Jersey.

25 In response to the SCI recommendations, this bill includes
26 provisions to:

- 27 • establish effective and efficient State oversight of public
28 higher education;
- 29 • strengthen State college and university governing boards;
- 30 • implement Sarbanes-Oxley style standards to improve public
31 higher education fiscal accountability; and
- 32 • enact controls on higher education lobbying.

33 The bill requires the governing board of a public research university
34 or a State college to establish:

- 35 • an audit committee;
- 36 • a nominations and governance committee;
- 37 • a compensation committee; and
- 38 • an executive committee.

39 The bill provides for the creation of a new cabinet-level position,
40 the Secretary of Higher Education. The secretary will be appointed
41 by the Governor with the advice and consent of the Senate and will
42 serve as executive director of the New Jersey Commission on
43 Higher Education. The bill increases the number of members
44 serving on the commission from 11 to 15.

45 This bill expands the authority of the New Jersey Educational
46 Facilities Authority by allowing it to issue bonds on behalf of an
47 affiliate organization of a public institution of higher education or
48 of a private institution of higher education in order to allow for

1 some forms of public/private partnerships such as the development
2 of certain student housing and other revenue-generating projects.
3 The bill makes clear that an affiliate which participates with the
4 authority in undertaking the financing and construction or
5 acquisition of a project will be subject to the applicable provisions
6 of the "New Jersey Prevailing Wage Act." An affiliate will also be
7 subject to State contracting laws.

8 The bill also would allow the authority to issue bonds to finance
9 tax-exempt working capital loans for public and private institutions
10 of higher education. Institutions which may, for example, have
11 cash flow needs in certain months, such as July and December when
12 payroll must be paid prior to the tuition checks arriving, typically
13 satisfy these needs through bank lines of credit, paying taxable
14 rates. The tax-exempt loans that will be available pursuant to the
15 provisions of this act are limited under federal Internal Revenue
16 Service rules as to the amount an institution can borrow and the
17 time permitted for repayment.

ASSEMBLY HIGHER EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3245

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 15, 2009

The Assembly Higher Education Committee reports favorably Assembly Bill No. 3245 with committee amendments.

As amended, this bill makes various statutory changes to improve the structure, financing, and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled “Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.” In addition, the bill includes numerous provisions that will improve the capacity of the Commission on Higher Education and the New Jersey Educational Facilities Authority (EFA) to aid in the planning and development of higher education in New Jersey.

In response to the SCI recommendations, this bill includes provisions to:

- establish effective and efficient State oversight of public higher education;
- strengthen State college and university governing boards;
- implement Sarbanes-Oxley style standards to improve public higher education fiscal accountability; and
- enact controls on higher education lobbying.

The bill requires the governing board of a public research university or a State college to establish:

- an audit committee;
- a nominations and governance committee;
- a compensation committee; and
- an executive committee.

The bill provides for the creation of a new cabinet-level position, the Secretary of Higher Education. The secretary will be appointed by the Governor with the advice and consent of the Senate and will serve as executive director of the New Jersey Commission on Higher Education. The bill increases the number of members serving on the commission from 11 to 15.

This bill expands the authority of the EFA by allowing it to issue bonds on behalf of an affiliate organization of a public institution of higher education or of an independent institution of higher education in order to allow for some forms of public/private partnerships (such as the development of certain student housing and other revenue-generating projects). The bill makes clear that an affiliate which participates with the authority in undertaking the financing and construction or acquisition of a project will be subject to the applicable provisions of the "New Jersey Prevailing Wage Act." An affiliate will also be subject to State contracting laws. The tenant of an affiliate seeking to undertake "fit out" construction will be subject to State contracting laws.

The bill provides for the establishment of other forms of public/private partnerships in higher education. The bill permits a State college or county college to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for an on-campus construction project, provided that the project is financed entirely by the private entity and the State or the institution, as applicable, retains ownership of the land and any building resulting from the project. The private entity in this case will be subject to the procurement and contracting requirements applicable to the institution of higher education and to the applicable provisions of the "New Jersey Prevailing Wage Act." In addition, the bill increases the allowable duration of certain contracts entered into by State and county colleges to 30 years, including contracts for the provision of food supplies and services and for the management and operation of bookstores.

The bill also would allow the EFA to issue bonds to finance tax-exempt working capital loans for public and independent institutions of higher education. Institutions which may, for example, have cash flow needs in certain months, such as July and December when payroll must be paid prior to the tuition checks arriving, typically satisfy these needs through bank lines of credit, paying taxable rates. The tax-exempt loans that will be available pursuant to the provisions of this bill are limited under federal Internal Revenue Service rules as to the amount an institution can borrow and the time permitted for repayment.

COMMITTEE AMENDMENTS:

The committee amended the bill to do the following:

- provide that the Governor will consult with and receive recommendations from the New Jersey Presidents' Council, in addition to the commission, when appointing the Secretary of Higher Education;
- delete a provision requiring that the commission design, administer, and enforce financial accountability standards and

establish internal control standards for public research universities and State colleges;

- modify the composition and responsibilities of the audit committee;

- provide that the independent outside audit be conducted in accordance with nationally recognized auditing and accounting standards rather than standards established by the commission;

- require the president and chief financial officer of a public research university or a State college to submit the annual audit to the commission and certify that the financial statements do not contain any untrue statements or omissions of material fact;

- delete a provision requiring that a new employee of a public research university or a State college receive a criminal history record check;

- delete the requirement that the institution's governing board establish a professional services committee and instead require that the board establish policies concerning professional services contracts;

- require public research universities and State colleges to provide information and training to their governing board members on legal and ethical responsibilities;

- modify the process set forth in the bill by which a public research university or State college may seek a change to its programmatic mission, including the imposition of a time limit for the commission's response to the institution's petition;

- clarify that the long-range facilities plan will be for projects developed with State funds and will be amended every five years;

- add a provision permitting a State college or county college to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for an on-campus construction project, provided that certain conditions are met;

- change terminology of "extension sites" to "branch campuses" in the provision that requires the commission's review and recommendation of the institution's plan for such an entity and include further clarification of the types of branch campuses that are subject to the commission's review;

- add a provision requiring the commission to appoint and convene a network of academics and researchers to develop economic development policies and programs for the higher education community;

- clarify that the only affiliates that are required by the bill to comply with the procurement and contracting requirements applicable to institutions of higher education are affiliates that borrow funds from the EFA, and that tenants of affiliates seeking to "fit out" the property of an affiliate may do so;

- amend the State college and county college contracting laws to permit the institutions to enter into contracts for terms up to 30 years in the case of certain types of contracts, including contracts for the

provision of food supplies and services and the management and operation of bookstores;

- amend the definition of “working capital” to clarify that it only refers to funds which will be borrowed and repaid within the same budget year;

- provide that the administrative costs associated with the approval process and the issuance of certain bonds by the EFA will not be included within the statutory limit on the total aggregate principal amount of bonds issued, and that these administrative costs will also not be included in the total principal amount of bonds eligible for State support pursuant to the County College Chapter 12 program; and

- allow a municipality, as defined in the bill, and an institution of higher education to enter into a higher education partnership agreement for the development of a higher education project.

MINORITY STATEMENT

By Assemblymen Merkt and Rumpf

The sponsors of this bill should be commended for their efforts to reform the higher education system and improve transparency by adopting several recommendations of the State Commission of Investigation (SCI). However, concerns about additional costs to taxpayers – particularly at a time when taxpayers are more heavily burdened than ever and State revenue is declining – should have been taken more seriously by the committee in considering this bill.

First, the bill establishes the new cabinet post of Secretary of Higher Education to execute functions presently performed by the Executive Director of the Commission on Higher Education. At the least, this accomplishes nothing but incur costs for a pay raise and related administrative expenses; at worst, it is a means of paving the way to re-establishing a new and more expansive Department of Higher Education. It is unclear how this shuffling of a single position can meaningfully contribute to better oversight, and so it must be viewed in the context of government’s tendency to grow the bureaucracy. In addition, the Legislature has already created two large new cabinet departments within the past few years, the Department of the Public Advocate and the Department of Children and Families. There is no demonstrated need to spend money on yet another cabinet position or department.

Second, the bill greatly expands the borrowing authority of the New Jersey Educational Facilities Authority (EFA) at a time when overall public debt in this State is already a crushing weight on the taxpayers and the economy. No solid information has been made available as to the likely fiscal impact of this proposed expansion of debt. Furthermore, less than three months ago the voters of New Jersey amended the State Constitution to sharply limit the issuance of debt

through any State agency or independent authority without prior voter approval. This legislation is a disservice to them and their decision.

The bill has been certified for a fiscal note, but none has yet been prepared. At any time, but particularly during the current difficult economic circumstances, the Legislature should at the very least exercise due diligence to determine the potential costs of new legislation before advancing it. Without the benefit of a fiscal note or estimate, amendments were offered to delete the cabinet designation and the expanded bonding authority, but these were tabled on a party-line vote of the committee.

For the reasons set forth above, this legislation should not be advanced at this time in its present form.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3245

with Assembly Floor Amendments
(Proposed by Assemblyman DIEGNAN)

ADOPTED: DECEMBER 7, 2009

These Assembly amendments delete provisions from the bill that would:

- require public institutions of higher education to submit long-range facilities plans to the Commission on Higher Education;
- expand the authority of the New Jersey Educational Facilities Authority (EFA) by allowing it to issue bonds on behalf of an affiliate organization of a public or independent institution of higher education in order to allow for some forms of public/private partnerships;
- allow the EFA to issue bonds to finance tax-exempt working capital loans for public and independent institutions of higher education;
- permit a State college or county college, under certain circumstances, to enter into a contract with a private entity that allows the private entity to assume full financial and administrative responsibility for certain types of on-campus construction projects; and
- increase the allowable duration of certain contracts entered into by State and county colleges to 30 years, including contracts for the provision of food supplies and services and for the management and operation of bookstores.

These Assembly amendments make this bill identical to S-1609(2R).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3245

**STATE OF NEW JERSEY
213th LEGISLATURE**

DATED: JANUARY 15, 2010

SUMMARY

- Synopsis:** Provides for improved structure and fiscal management of higher education in New Jersey.
- Type of Impact:** An expenditure increase from the General Fund.
- Agencies Affected:** Public institutions of higher education; New Jersey Commission on Higher Education; New Jersey Educational Facilities Authority.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate	Indeterminate	Indeterminate

- Assembly Bill No. 3245 (2R) of 2008 makes various statutory changes to improve the structure and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled “Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.”
- The bill requires the governing board of each four-year public institution of higher education to receive training on their ethical and legal responsibilities as board members, and to form specific committees to improve institutional oversight, fiscal management, and accountability. The bill also requires four-year public institutions of higher education to appoint an internal auditor to periodically audit and report on the institution’s internal controls and to retain an independent outside auditor who is a certified public accountant.
- The bill establishes the position of Secretary of Higher Education, a new cabinet-level position, and provides that the executive director of the New Jersey Commission on Higher Education (CHE) would serve as the first Secretary of Higher Education. The bill also expands the responsibilities of the CHE to include developing and enforcing a code of standards to define and regulate the types of activities in which a governmental affairs agent is permitted to engage in on behalf of four-year public institutions, reviewing petitions for a

change in an institution's programmatic mission, and reviewing and approving each institution's petition to establish a branch campus outside of the State or the country.

- The bill revises various statutes to increase the bond issue capacity of the New Jersey Educational Facility Authority (EFA). The bill stipulates that the cap on outstanding bonds included under several higher education-related bond programs would not include the administrative costs associated with the approval and issuance of the bonds.

BILL DESCRIPTION

Assembly Bill No. 3245 (2R) of 2008 makes various statutory changes to improve the structure and fiscal management of higher education in New Jersey. Specifically, the bill implements many of the recommendations contained in the October 2007 Report of the State Commission of Investigation (SCI) entitled "Vulnerable to Abuse: The Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance." In addition, the bill includes numerous provisions designed to improve the capacity of the Commission on Higher Education to aid in the planning and development of higher education in New Jersey.

In response to the SCI recommendations, this bill includes provisions to:

- establish effective and efficient State oversight of public higher education;
- strengthen State college and university governing boards;
- implement Sarbanes-Oxley style standards to improve public higher education fiscal accountability; and
- enact controls on higher education lobbying.

The bill requires the governing board of a public research university or a State college to establish:

- an audit committee;
- a nominations and governance committee;
- a compensation committee; and
- an executive committee.

The bill provides for the creation of a new cabinet-level position, the Secretary of Higher Education. The secretary will be appointed by the Governor with the advice and consent of the Senate and will serve as executive director of the New Jersey Commission on Higher Education. The bill increases the number of members serving on the commission from 11 to 15.

The bill requires the commission's review and recommendation of a public institution of higher education's plan to establish a branch campus.

The bill also requires public research universities and State colleges to provide information and training to their governing board members on legal and ethical responsibilities.

The bill also amends a number of statutes that deal with the issuance of bonds by the New Jersey Educational Facilities Authority (EFA) for higher education capital purposes. The bill provides that the administrative costs associated with the approval process and the issuance of certain bonds by the EFA will not be included within the statutory limit on the total aggregate principal amount of bonds issued.

FISCAL ANALYSIS***EXECUTIVE BRANCH***

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that the fiscal impact of Assembly Bill No. 3245 (2R) will be to increase State costs by an indeterminate amount.

The bill requires members of the governing board of each four-year public institution of higher education to receive training on their ethical and legal responsibilities as board members, and to form specific committees to improve institutional oversight, fiscal management, and accountability. The bill also requires four-year public institutions of higher education to appoint an internal auditor to periodically audit and report on the institution's internal controls and to retain an independent outside auditor who is a certified public accountant. These training and personnel requirements may impose additional costs on the four-year public institutions but it is not possible to estimate the extent of those costs.

The bill establishes a new cabinet-level position, Secretary of Higher Education, and provides that the executive director of the New Jersey Commission on Higher Education (CHE) would serve as the first Secretary. The bill also expands the responsibilities of the CHE to include developing and enforcing a code of standards to define and regulate the types of activities in which a governmental affairs agent is permitted to engage on behalf of four-year public institutions, reviewing petitions for a change in an institution's programmatic mission, and reviewing and approving an institution's petition to establish a branch campus outside of the State or the country. The commission's costs will increase if additional staff is needed for the commission to perform the functions outlined under the bill. State costs may also rise based on the differential between the compensation paid to the commission's executive director and the compensation to be paid to the Secretary of Higher Education.

The bill also provides that the cap on outstanding bonds included under several higher education-related bond programs will not include the administrative costs associated with the approval and issuance of the bonds. Under current law, those administrative costs are included within the bond cap established in statute. While State expenditures will rise under the bill due to increased debt service payments as a result of an increase in bond capacity to cover the administrative costs associated with the approval and issuance of the bonds, it is not clear by what amount as the schedule, amount, terms, and administrative costs associated with future bond issuances are unknown. The EFA has indicated that since 2004 the administrative costs associated with the approval and issuance of the affected bonds has averaged 1.23 percent of the amount of bonds issued.

Section: Education

*Analyst: Osomo Thomas
Senior Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

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 (C. 52:13B-6 et seq.).