

18A:72A-49

LEGISLATIVE HISTORY CHECKLIST
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("Higher Education Facilities
Trust Fund")

NJSA: 18A:72-A-49

LAWS OF: 1993 **CHAPTER:** 375

BILL NO: A2837

SPONSOR(S): Haytaian and others

DATE INTRODUCED: October 14, 1993

COMMITTEE: **ASSEMBLY:** Education; Appropriations
SENATE: Budget

AMENDED DURING PASSAGE: Yes Amendments during passage
amended by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 2, 1993
SENATE: December 13, 1993

DATE OF APPROVAL: January 10, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 11-8-93 & 11-15-93
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clippings--attached

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 2837

STATE OF NEW JERSEY

INTRODUCED OCTOBER 14, 1993

By Assemblymen HAYTAIAN, ROCCO, Assemblywoman Weber,
Assemblymen Wolfe, Solomon and Mikulak

1 AN ACT creating the Higher Education Facilities Trust Fund,
2 supplementing P.L.1970, c.13 (C.5:9-1 et seq.) and chapter 72A
3 of Title 18A of the New Jersey Statutes.

4

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

7 1. This act shall be known and may be cited as the "Higher
8 Education Facilities Trust Fund Act."

9 2. The Legislature finds and declares that:

10 a. Higher education plays a vital role in the economic
11 development of the nation and of the State by providing the
12 education and training of the work force of the future and by
13 advancing science and technology through research.

14 b. New Jersey has an intense concentration of high technology
15 industries and research facilities and is the headquarters of some
16 of the world's most productive corporations. In the last decade
17 of the 20th century, it has become obvious that New Jersey's
18 institutions of higher education will have to change and improve
19 their educational and research facilities in order not only to
20 prepare students to fill existing jobs in a highly technical world,
21 but also to create new jobs as well.

22 c. In order for New Jersey students and businesses to be
23 competitive with their international peers, the public and private
24 sectors must continually take steps to enhance the technology
25 and research facilities at our colleges and universities. To do
26 otherwise would result in the failure of New Jersey businesses to
27 remain competitive, a decrease in the number of jobs available to
28 New Jersey workers, a decline in State and personal income, and
29 the loss of potential students to other, more technologically
30 advanced institutions in other states.

31 d. If New Jersey is to maintain the expansion of its economic
32 development and continue to provide an adequately trained work
33 force to retain and attract industry to the State, New Jersey's
34 public and private institutions of higher education must be
35 strengthened to provide services to meet the needs of the 21st
36 century.

37 e. In order to protect the State's economy and preserve and
38 enhance our higher education system in today's global and
39 technological society, there is a crucial need to identify an
40 ongoing funding source to construct, expand, and update
41 instructional, laboratory, communication, and research facilities

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:

¹ Senate SBA committee amendments adopted December 6, 1993.

1 at New Jersey's public and private institutions of higher
2 education.

3 3. There is created within the New Jersey Educational
4 Facilities Authority, established pursuant to N.J.S.18A:72A-1 et
5 seq., the "Higher Education Facilities Trust Fund," hereinafter
6 referred to as the "trust fund." The trust fund shall be
7 maintained as a separate account and administered by the
8 authority to carry out the provisions of this act. The trust fund
9 shall consist of:

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

16 b. all moneys appropriated by the State for the purposes of the
17 trust fund; and

18 c. all interest and investment earnings received on moneys in
19 the trust fund.

20 4. The trust fund shall be used to provide grants to New
21 Jersey's public and private institutions of higher education for
22 the cost, or a portion of the cost, of the construction,
23 reconstruction, development, extension, and improvement of
24 instructional, laboratory, communication, and research facilities.

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

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

28 b. \$38,880,000 for facilities at Rutgers, the State University;

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

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

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

34 f. \$21,000,000 for facilities at the private institutions of
35 higher education; ¹[and]¹

36 g. \$15,000,000 for South Jersey multi-institutional economic
37 development facilities. As used in this section, "South Jersey
38 multi-institutional economic development facilities" means
39 facilities which would promote economic development in the
40 eight southernmost counties of the State and which involve more
41 than one public or private institution of higher education¹; and

42 h. \$20,000,000 for a new facility for Rutgers, the State
43 University, School of Law, Newark¹.

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

47 The Board of Higher Education may reallocate any balance in
48 an amount authorized in subsections a. through ¹[g.] h.¹ of this
49 section which has not been approved by the board for a grant
50 within 18 months of the effective date of this act.

51 The Board of Higher Education shall determine the allocation
52 of moneys deposited into the trust fund resulting from the
53 issuance by the authority of new bonds because of the retirement
54 of bonds previously issued by the authority.

1 The facilities funded by grants from the trust fund shall follow
2 the principles of affirmative action and equal opportunity
3 employment. In furtherance of these principles, the Board of
4 Higher Education shall continue its policy of encouraging
5 institutions to solicit bids from, and award contracts to, minority
6 and women-owned businesses.

7 6. a. The governing board of a public or private institution of
8 higher education may determine, by resolution, to apply for a
9 grant from the trust fund. Upon adoption of the resolution, the
10 board shall file an application with the Board of Higher
11 Education, which application shall include a complete description
12 of the project to be financed and an identification of any
13 additional sources of revenue to be used.

14 b. The Board of Higher Education shall review the application
15 and, by resolution, approve or disapprove the grant. For each
16 grant which is approved, the board shall establish the amount and
17 shall forward a copy of the resolution along with the amount of
18 the grant to the authority.

19 c. The Board of Higher Education shall submit to the
20 Legislature a copy of the resolution approving the grant along
21 with the amount of the grant. If the Legislature does not
22 disapprove the grant by the adoption of a concurrent resolution
23 within 60 days, the grant shall be deemed to be authorized. ¹In
24 addition, the resolution approving the grant for the new
25 instructional and research facility for Rutgers, The State
26 University, School of Law, Newark, shall be submitted by the
27 board to the Joint Budget Oversight Committee for its approval
28 prior to the board's submission of the resolution to the
29 Legislature. The board shall provide to the committee such
30 information concerning the grant as the committee may require
31 for its consideration.¹

32 d. Each grant awarded under this act shall be contingent upon
33 the recipient governing board entering into a contract or
34 contracts for the commencement of the construction,
35 reconstruction, development, extension, or improvement of the
36 facility within one year of the date on which the funds of the
37 grant are made available.

38 7. In order to ensure the most effective utilization of the
39 moneys in the trust fund and to guide governing boards which
40 elect to apply for a grant, the Board of Higher Education shall
41 establish a list of selection criteria and shall specify the
42 information to be included in a grant application.

43 8. In order to ensure proper oversight and review, there is
44 created the "Higher Education Facilities Trust Fund Board"
45 which shall consist of six members as follows: the Chair and Vice
46 Chair of the Board of Higher Education; the State Treasurer or a
47 designee; the President of the Senate or a designee; the Speaker
48 of the General Assembly or a designee; and the Chancellor of
49 Higher Education who shall serve ex officio without vote. The
50 board shall ensure that the revenue provided to the trust fund is
51 adequate to support the grants approved by the Board of Higher
52 Education. At the end of each three-year period following the
53 approval of this act, the board shall review, in consultation with
54 the Board of Higher Education, the physical plant needs of public

1 and private institutions of higher education in the State and shall
2 recommend to the Governor and the Legislature a plan to
3 increase, as necessary, the availability and uses of grants made
4 from the trust fund.

5 9. a. The authority shall from time to time issue bonds or
6 notes in an amount sufficient to finance the grants provided
7 under this act and to finance the administrative costs associated
8 with the approval process and the issuance of the bonds or notes,
9 except that the total outstanding principal amount of the bonds
10 or notes shall not exceed ¹[\$200,000,000] \$220,000,000¹ and the
11 term of any bond issued shall not exceed 10 years. In computing
12 the foregoing limitation as to amount, there shall be excluded all
13 bonds which shall be issued for refunding purposes, provided that
14 the refunding shall be determined by the authority to result in a
15 debt service savings. The authority shall issue the bonds or notes
16 in such manner as it shall determine in accordance with the
17 provisions of P.L. ,c. (C.)(now pending before the
18 Legislature as this bill) and the "New Jersey educational
19 facilities authority law," N.J.S.18A:72A-1 et seq., provided that
20 no bonds or notes shall be issued pursuant to this section without
21 the prior written consent of the State Treasurer.

22 b. Bonds or notes issued pursuant to this act shall not be in any
23 way a debt or liability of the State or of any political subdivision
24 thereof other than the authority and shall not create or
25 constitute any indebtedness, liability or obligation of the State or
26 of any political subdivision thereof, or be or constitute a pledge
27 of the faith and credit of the State or of any political subdivision
28 thereof, but all bonds or notes, unless funded or refunded by the
29 bonds or notes of the authority, shall be payable solely from
30 revenues of funds pledged or available for their payment as
31 authorized by this act. Each bond shall contain on its face a
32 statement to the effect that the authority is obligated to pay the
33 principal thereof, redemption premium, if any, or the interest
34 thereon only from revenue or funds of the authority and that
35 neither the State nor any political subdivision thereof is obligated
36 to pay the principal thereof, redemption premium, if any, or
37 interest thereon and that neither the faith and credit nor the
38 taxing power of the State or of any political subdivision thereof is
39 pledged to the payment of the principal of, redemption premium,
40 if any, or the interest on the bonds.

41 c. The State of New Jersey does hereby pledge to and
42 covenant and agree with the holders of any bonds or notes issued
43 pursuant to the authorization of P.L. ,c. (C.)(now pending
44 before the Legislature as this bill) that the State shall not limit
45 or alter the rights or powers hereby vested in the authority to
46 perform and fulfill the terms of any agreement made with the
47 holders of the bonds or notes, or to fix, establish, charge and
48 collect such rents, fees, rates, payments, or other charges as may
49 be convenient or necessary to produce sufficient revenues to
50 meet all expenses of the authority and to fulfill the terms of any
51 agreement made with the holders of the bonds and notes,
52 together with interest thereon, with interest on any unpaid
53 installments of interest, and all costs and expenses in connection
54 with any action or proceedings by or on behalf of the holders,

1 until the bonds and notes, together with interest thereon, are
2 fully met and discharged or provided for.

3 10. For the purposes of P.L.1970, c.13 (C.5:9-1 et seq.), any
4 trust fund established to provide grants to New Jersey's public
5 and private institutions of higher education for the construction,
6 reconstruction, development, extension, and improvement of
7 instructional, laboratory, communication, and research facilities
8 shall be considered eligible for State aid from the net proceeds of
9 any State lottery, as shall be provided by law.

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

15 12. This act shall take effect immediately.

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20 _____
21 Creates the "Higher Education Facilities Trust Fund" to provide
grants to public and private institutions of higher education.

1 12. This act shall take effect immediately.

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3

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STATEMENT

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6 This bill creates the "Higher Education Facilities Trust Fund"
7 in the New Jersey Educational Facilities Authority. The trust
8 fund would be used to provide grants to New Jersey's public and
9 private institutions of higher education for the cost of the
10 construction, reconstruction, development, extension, and
11 improvement of instructional, laboratory, communication, and
12 research facilities.

13 Under the provisions of the bill, the trust fund would be
14 financed by moneys received from the issuance of bonds or notes
15 by the authority and an annual appropriation from the net
16 proceeds of the State lottery in an amount sufficient to pay the
17 principal and interest on the bonds or notes. The bill provides
18 that the total outstanding principal amount of the bonds or notes
19 shall not exceed \$200,000,000 and that the term of any bond shall
20 not exceed 10 years.

21 The initial grants from the trust fund would be allocated as
22 follows: \$48,000,000 for facilities at the State Colleges;
23 \$38,880,000 for facilities at Rutgers, the State University;
24 \$20,160,000 for facilities at the University of Medicine and
25 Dentistry of New Jersey; \$12,960,000 for facilities at the New
26 Jersey Institute of Technology; \$44,000,000 for facilities at the
27 county colleges; \$21,000,000 for facilities at the private
28 institutions of higher education; and \$15,000,000 for South Jersey
29 multi-institutional economic development facilities which are
30 defined as facilities which would promote economic development
31 in the eight southernmost counties of the State and which involve
32 more than one public or private institution of higher education.
33 The Board of Higher Education would determine the allocation of
34 moneys deposited into the trust fund resulting from the issuance
35 by the authority of new bonds because of the retirement of bonds
36 previously issued by the authority.

37 Upon the adoption of a resolution, the governing board of a
38 public or private institution of higher education may determine to
39 file an application for a grant with the Board of Higher
40 Education. The Board of Higher Education would approve a grant
41 and establish its amount. Any grant approved by the Board of
42 Higher Education would be submitted to the Legislature and
43 deemed authorized if the Legislature did not adopt a concurrent
44 resolution of disapproval within 60 days. In order to ensure the
45 most effective utilization of the moneys in the trust fund and to
46 guide governing boards which elect to apply for a grant, the
47 Board of Higher Education would establish a list of selection
48 criteria and specify the information to be included in a grant
49 application.

50 The bill also establishes a six-member board consisting of the
51 Chair and Vice Chair of the Board of Higher Education; the State
52 Treasurer, the President of the Senate, the Speaker of the
53 General Assembly or their designees; and the Chancellor of
54 Higher Education. It is the responsibility of the board to ensure

1 that the revenue provided to the trust fund is adequate to support
2 the grants approved and authorized. The board would also review,
3 in consultation with the Board of Higher Education, the physical
4 plant needs of higher education at the end of each three-year
5 period and recommend a plan to increase the availability and uses
6 of grants from the trust fund as necessary.

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11 Creates the "Higher Education Facilities Trust Fund" to provide
12 grants to public and private institutions of higher education.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2837

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1993

The Assembly Education Committee reports favorably Assembly Bill No. 2837.

This bill creates the "Higher Education Facilities Trust Fund" in the New Jersey Educational Facilities Authority. The trust fund would be used to provide grants to New Jersey's public and private institutions of higher education for the cost of the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities.

Under the provisions of the bill, the trust fund would be financed by moneys received from the issuance of bonds or notes by the authority plus an annual appropriation from the net proceeds of the State lottery in an amount sufficient to pay the principal and interest on the bonds or notes. The total outstanding principal amount of the bonds or notes shall not exceed \$200,000,000 and the term of any bond shall not exceed 10 years.

The initial grants from the trust fund are to be allocated as follows: \$48,000,000 for facilities at the State Colleges; \$38,880,000 for facilities at Rutgers, the State University; \$20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey; \$12,960,000 for facilities at the New Jersey Institute of Technology; \$44,000,000 for facilities at the county colleges; \$21,000,000 for facilities at the private institutions of higher education; and \$15,000,000 for South Jersey multi-institutional economic development facilities which are defined as facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education. The Board of Higher Education would determine the allocation of moneys which are deposited into the trust fund as a result of additional bonds which may be issued by the authority following retirement of any bonds previously issued by the authority.

In order to be eligible for a grant, the governing board of a public or private institution of higher education must adopt a resolution to request a grant and file an application with the Board of Higher Education. The Board of Higher Education will then approve the grant and establish its amount. The grant will be deemed authorized by the Legislature if the Legislature does not adopt a concurrent resolution of disapproval within 60 days. The Board of Higher Education must establish a list of selection criteria and specify the information to be included in a grant application.

The bill establishes a six-member board consisting of the Chair and Vice-Chair of the Board of Higher Education; the State Treasurer; the President of the Senate; the Speaker of the General

Assembly or their designees; and the Chancellor of Higher Education in order to ensure that the revenue provided to the trust fund is adequate to support the grants approved and authorized. The board would also review, in consultation with the Board of Higher Education, the physical plant needs of higher education at the end of each three-year period and recommend a plan to increase the availability and uses of grants from the trust fund as necessary.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2837

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 1993

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2837.

Assembly Bill No. 2837 creates the "Higher Education Facilities Trust Fund" in the New Jersey Educational Facilities Authority. The trust fund will be used to provide grants to New Jersey's public and private institutions of higher education for the cost of the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities.

The trust fund will be financed by moneys received from the issuance of bonds or notes by the authority plus an annual appropriation from the net proceeds of the State lottery in an amount sufficient to pay the principal and interest on the bonds or notes. The total outstanding principal amount of the bonds or notes shall not exceed \$200,000,000 and the term of any bond shall not exceed 10 years.

The initial grants from the trust fund are to be allocated as follows: \$48,000,000 for facilities at the State Colleges; \$38,880,000 for facilities at Rutgers, the State University; \$20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey; \$12,960,000 for facilities at the New Jersey Institute of Technology; \$44,000,000 for facilities at the county colleges; \$21,000,000 for facilities at the private institutions of higher education; and \$15,000,000 for "South Jersey multi-institutional economic development facilities," defined as facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education. The Board of Higher Education (BHE) will determine the allocation of moneys which are deposited into the trust fund as a result of additional bonds which may be issued by the authority following retirement of any bonds previously issued by the authority.

In order to be eligible for a grant, the governing board of a public or private institution of higher education must adopt a resolution to request a grant and file an application with the BHE, who will then approve the grant and establish its amount. The grant will be deemed authorized by the Legislature if the Legislature does not adopt a concurrent resolution of disapproval within 60 days. The BHE must establish a list of selection criteria and specify the information to be included in a grant application.

The bill establishes a six-member board, consisting of the Chair and Vice-Chair of the BHE; the State Treasurer; the President of the Senate and the Speaker of the General Assembly or their designees; and the Chancellor of Higher Education; to ensure that the revenue provided to the trust fund is adequate to support the grants approved and authorized. The board will also review, in

consultation with the BHE, the physical plant needs of higher education at the end of each three-year period and recommend a plan to increase the availability and uses of grants from the trust fund as necessary.

FISCAL IMPACT:

The bill authorizes the New Jersey Educational Facilities Authority to issue bonds or notes, the outstanding principal amount of which shall not exceed \$200,000,000 and the term of which shall not exceed 10 years. Principal and interest on the bonds or notes is to be paid by an annual appropriation from the net proceeds of the State lottery. The amount of the annual appropriation required to pay the interest and principal in any year will depend on the principal amount of debt outstanding, the interest rate required of the issuing authority at the time of issue, and the principal amount of debt redeemed in the year.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2837

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1993

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2837, with committee amendments.

Assembly Bill No. 2837, as amended, creates the "Higher Education Facilities Trust Fund" in the New Jersey Educational Facilities Authority. The trust fund will be used to provide grants to New Jersey's public and private institutions of higher education for the cost of the construction, reconstruction, development, extension, and improvement of instructional, laboratory, communication, and research facilities.

The trust fund will be financed by moneys received from the issuance of bonds or notes by the authority plus an annual appropriation from the net proceeds of the State lottery in an amount sufficient to pay the principal and interest on the bonds or notes. The total outstanding principal amount of the bonds or notes cannot exceed \$220,000,000 and the term of any bond cannot exceed 10 years.

The initial grants from the trust fund are to be allocated as follows: \$48,000,000 for facilities at the State Colleges; \$38,880,000 for facilities at Rutgers, the State University; \$20,160,000 for facilities at the University of Medicine and Dentistry of New Jersey; \$12,960,000 for facilities at the New Jersey Institute of Technology; \$44,000,000 for facilities at the county colleges; \$21,000,000 for facilities at the private institutions of higher education; \$15,000,000 for "South Jersey multi-institutional economic development facilities," defined as facilities which would promote economic development in the eight southernmost counties of the State and which involve more than one public or private institution of higher education; and \$20,000,000 for a new facility for Rutgers University Law School at Newark.. The Board of Higher Education (BHE) will determine the allocation of moneys which are deposited into the trust fund as a result of additional bonds which may be issued by the authority after any bonds previously issued are retired.

In order to be eligible for a grant, the governing board of a public or private institution of higher education must adopt a resolution to request a grant and file an application with the BHE, which will then approve the grant and establish its amount. The grant will be deemed approved by the Legislature if the Legislature does not adopt a concurrent resolution of disapproval within 60 days. The BHE must establish a list of selection criteria and specify the information to be included in a grant application.

The bill establishes a six-member board, consisting of the Chair and Vice-Chair of the BHE; the State Treasurer; the President of the Senate and the Speaker of the General Assembly or their designees; and the Chancellor of Higher Education; to ensure that

the revenue provided to the trust fund is adequate to support the grants approved and authorized. The board will also review, in consultation with the BHE, the physical plant needs of higher education at the end of each three-year period and recommend a plan to increase the availability and uses of grants from the trust fund as necessary.

As amended and reported by the committee, this bill is identical to Senate Bill No. 2215 of 1993 as that bill was amended and reported by this committee on December 6, 1993.

COMMITTEE AMENDMENTS

The committee amended the bill to increase the outstanding maximum principal amount of the bonds from \$200 million to \$220 million, include an additional amount of \$20 million for a new instructional and research facility for Rutgers University Law School at Newark, and require the approval of the Joint Budget Oversight Committee for this additional grant for the law school.

According to Rutgers University, these funds are essential because of the present condition of the existing law school facility. The accreditation of the law school is threatened and a significant reason is the deteriorated condition of the facility.

FISCAL IMPACT

The bill authorizes the New Jersey Educational Facilities Authority to issue bonds or notes, the outstanding principal amount of which cannot exceed \$220,000,000 and the term of which cannot exceed 10 years. Principal and interest on the bonds or notes is to be paid by an annual appropriation from the net proceeds of the State lottery. The amount of the annual appropriation required to pay the interest and principal in any year will depend on the principal amount of debt outstanding, the interest rate required of the issuing authority at the time of issue, and the principal amount of debt redeemed in the year.