

CHAPTER 65
(CORRECTED COPY)

AN ACT concerning public institutions of higher education and the merger of Bloomfield College and Montclair State University, and amending and supplementing various parts of the statutory law.

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

C.18A:64N-9.1 Findings, declarations.

1. The Legislature finds and declares that:

a. Bloomfield College is an independent institution of higher education located in Bloomfield, New Jersey, originally established by an act of the Legislature in 1871 as the “German Theological School of Newark, New Jersey,” and which was later renamed through an act of the Legislature first as the “Bloomfield Theological Seminary” in 1913 and again in 1931 as “Bloomfield College and Seminary.”

b. Bloomfield College is one of the most diverse liberal arts colleges in the nation, with nearly 1,300 undergraduate students and it is the State’s only four-year institution of higher education with the federal designations of being a Minority Serving Institution (MSI), a Hispanic-Serving Institution (HSI), and a Predominantly Black Institution (PBI).

c. Bloomfield College is unable to continue operations as an independent college due to significant financial challenges, which have been further exacerbated by declining enrollment.

d. Due to Bloomfield College’s status as the State’s only MSI, HSI and PBI, it is of great public importance to New Jersey’s system of higher education that Bloomfield College continue operations.

e. Montclair State University is a public institution of higher education with its main campus located in Montclair, Little Falls, and Clifton, New Jersey, and which has been designated by an act of the Legislature as a public research university in the State.

f. Montclair State University is comprised of 10 colleges and schools that serve over 21,000 undergraduate and graduate students in more than 300 doctoral, master’s, and baccalaureate-level programs.

g. Montclair State University has been granted broad powers as a public research university to undertake activities that are necessary or desirable for university purposes, including the ability to acquire property, enter into contracts, form entities, and make decisions regarding the development of the university.

h. Recognizing the public importance of Bloomfield College, and determining that it is both necessary and desirable for university purposes, Montclair State University has entered into an agreement with Bloomfield College for it to become a part of Montclair State University.

i. The preservation of Bloomfield College’s mission through an alignment with Montclair State University is within the public interest and has an important public purpose as it will preserve Bloomfield College’s mission.

C.18A:62-68 Public institution, higher education, governing board, permit, use, building, facility, visitorial power, New Jersey Educational Facilities Authority.

2. a. As used in this section, “authority” means the New Jersey Educational Facilities Authority established pursuant to N.J.S.18A:72A-4.

b. The governing board of a public institution of higher education may permit the use of any part of a building or facility of the institution, or of its subsidiaries or affiliates, in whole or in part, by one or more other public institutions of higher education in a manner that the

education of students in the various institutions of higher education may be conducted cooperatively and made more widely and efficiently available to the people of the State.

Notwithstanding the provisions of this subsection, if the building or facility of the institution is owned by the authority, the governing board of the institution shall obtain the authority's prior written consent to such use as permitted by this subsection.

c. The care, custody, and control of any building or facility used jointly by two or more public institutions of higher education pursuant to subsection b. of this section shall remain vested in the governing board of the institution which permits the use of the building or facility.

d. The care, custody, and control of a building or facility owned by a public institution of higher education and used wholly by a second public institution of higher education shall be exercised by the second institution of higher education, subject to the visitorial power of the first institution.

e. The care, custody, and control of a building or facility of a public institution of higher education owned by the authority and used wholly by a second public institution of higher education shall be exercised by the second institution of higher education, subject to the visitorial power of the first institution and the authority.

3. Section 1 of P.L.1871, c.18 is amended to read as follows:

1. "The German Theological School of Newark, New Jersey," a body politic and corporate in fact and in law, established pursuant to P.L.1871, c.18, that name having been further changed to "Bloomfield Theological Seminary," pursuant to P.L.1913, c.265, and the name having been further changed to the "Bloomfield College and Seminary," pursuant to P.L.1931, c.260, shall hereby be known as "Bloomfield College."

4. Section 2 of P.L.1871, c.18 is amended to read as follows:

2. The government of the corporation shall be vested in a board of trustees, which shall consist of not more than 39 persons of legal age all of whom shall be elected by the board of trustees and one-third of whom are to be elected each year. The organization of the initial board of trustees shall be set forth in the corporation's bylaws. The trustees shall be appointed or elected in accordance with the corporation's bylaws as adopted and amended from time to time by the corporation's board of trustees, which shall include provisions for the qualifications for trustees, terms, possible division into classes, and provisions for removal of trustees from office. The trustees and their successors shall manage and care for the estate of both real and personal property of the corporation, and shall have the power to sell, encumber as security for loans, or otherwise dispose of the property in their discretion for the purpose of advancing the objectives of the school, and shall also have power to adopt a constitution and all necessary bylaws and ordinances for the management and government of the school, provided they are not in conflict with the laws of this State.

5. Section 3 of P.L.1871, c.18 is amended to read as follows:

3. a. Whenever deemed by the board of trustees to be in the best interest of the corporation, it shall be lawful for the board of trustees to approve the sale or other disposition of the corporation, or of all or substantially all of the assets of the corporation, in accordance with State law. Upon dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed as set forth in the corporation's bylaws, provided that the distribution shall be for one or more exempt purposes within the meaning of paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.

s.501(c)(3), consistent with the educational purposes of the corporation, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

b. Nothing contained within sections 1 through 5 of P.L.1871, c.18 shall be construed to impair, annul, or affect any vested rights, grants, charter rights, privileges, exemptions, immunities, powers, prerogatives, franchises, or advantages heretofore obtained or enjoyed by the corporation or any constituent unit thereof, under authority of its charter or any act of this State or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment, or fund, all of which are hereby ratified and confirmed, and all of which shall survive and shall continue to vest in the corporation and in any nonprofit entity that merges or consolidates with the corporation, along with the assumption of all of the liabilities that have not been satisfied by the corporation prior to the merger or consolidation, or any nonprofit entity that obtains substantially all of the assets of the corporation or, in the event of a merger or consolidation, substantially all of the assets of the successor of the corporation, upon the dissolution or the winding up of the affairs of the corporation or its successor.

6. Section 4 of P.L.1871, c.18 is amended to read as follows:

4. Without limiting or impinging upon the powers currently vested in the corporation pursuant to sections 1 through 5 of P.L.1871, c.18, the corporation may merge or consolidate with one or more other nonprofit corporations formed under Title 15A of the New Jersey Statutes and operated primarily for educational purposes and exempt under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501(c)(3), as the board of trustees may determine, but consistent with the public purposes of the corporation.

7. Section 5 of P.L.1871, c.18 is amended to read as follows:

5. The corporation may have a member or members, the powers and qualifications for which shall be set forth in the bylaws of the corporation and which shall comply with the provisions of N.J.S.15A:1-1 et seq.

8. Section 1 of P.L.2010, c.99 (C.18A:64-86) is amended to read as follows:

C.18A:64-86 Definitions, State college risk management groups, joint liability funds.

1. As used in P.L.2010, c.99 (C.18A:64-86 et al.):

"Board of trustees" or "trustees" means the board of trustees established pursuant to the bylaws of the public college risk management group to govern or manage the risk management programs, joint liability funds, and related services of the group.

"Certified audit" means an audit upon which an auditor expresses a professional opinion that the accompanying statements present fairly the financial position of a joint liability fund in conformity with generally accepted accounting principles consistently applied, and includes tests of the accounting records and other auditing procedures as considered necessary in the circumstances.

"Commissioner" means the Commissioner of Banking and Insurance.

"Contributions" means the moneys paid by a member of a public college risk management group in amounts as may be set by the board of trustees or other officers as provided in the group's bylaws for the purposes of participating in a joint liability fund or funds, or securing risk management programs or related services.

"Joint liability fund" or "fund" means a joint liability fund established by a public college risk management group pursuant to P.L.2010, c.99 (C.18A:64-86 et al.). The joint liability fund is a fund of public moneys from contributions made by members of a public college risk management group for the purpose of securing insurance, risk management programs, or related services as authorized by this act.

"Public college risk management group" or "group" means an association formed by two or more four-year public institutions of higher education for the development, administration, and provision of risk management programs, joint liability funds for the payment of liabilities incurred by the institutions and not funded by the State of New Jersey pursuant to the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., and related services.

"Risk management program" means a plan, and activities carried out under the plan, by a public college risk management group to reduce risk of loss with respect to liabilities incurred by the four-year public institutions of higher education, including safety engineering and other loss prevention and control techniques. A risk management program also includes the administration of one or more joint liability funds, including the processing and defense of claims brought against or on behalf of members of the group.

9. Section 2 of P.L.2010, c.99 (C.18A:64-87) is amended to read as follows:

C.18A:64-87 State college authorized, insure, contract, provide, certain insurable interests.

2. A four-year public institution of higher education is authorized to insure, contract or provide for any insurable interest of the institution in the manner authorized by section 3 of P.L.2010, c.99 (C.18A:64-88), for the following:

- a. Any loss or damage to its property, real or personal, motor vehicles, equipment or apparatus;
- b. Loss or damage from liability as established by the "New Jersey Contractual Liability Act," N.J.S.59:13-1 et seq.;
- c. Loss or damage from liability as established by the workers' compensation law, R.S.34:15-1 et seq.; and
- d. Expenses of defending any claim against the institution, trustee, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim, not eligible for defense and indemnification by the State of New Jersey in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

10. Section 3 of P.L.2010, c.99 (C.18A:64-88) is amended to read as follows:

C.18A:64-88 State college risk management group, formation, membership.

3. a. Any two or more four-year public institutions of higher education may form and become members of a public college risk management group. A four-year public institution of higher education may take this action by resolution of the governing board of the institution. Through membership in a public college risk management group, a four-year public institution of higher education may participate in any joint liability funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish funds for coverages authorized in section 2 of P.L.2010, c.99 (C.18A:64-87) and to jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint liability funds, joint insurance purchases, and related services.

b. The bylaws of the public college risk management group shall provide that any four-year public institution of higher education may join the group, provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A public college risk management group may sue or be sued for the liabilities and coverages authorized by section 2 of P.L.2010, c.99 (C.18A:64-87) and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner and the Office of the Attorney General of the appointment.

d. A public college risk management group shall not be considered or deemed to be an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of joint liability funds, risk management programs, and related services shall not constitute the transaction of insurance or the conducting of an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3 of the Revised Statutes.

11. Section 4 of P.L.2010, c.99 (C.18A:64-89) is amended to read as follows:

C.18A:64-89 State college risk management group, bylaws.

4. a. The bylaws of a public college risk management group shall:

- (1) set forth a statement of purposes of the group;
- (2) set forth provisions for organization of the group, including governance by a board of trustees;
- (3) provide for the delivery of risk management programs in conjunction with any joint liability fund which the board of trustees shall establish;
- (4) set forth procedures to enforce the collection of any contributions or payments in default;
- (5) set forth membership standards as required in section 3 of P.L.2010, c.99 (C.18A:64-88);
- (6) require that, for each joint liability fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained, if available, unless otherwise recommended by the trustees upon the advice and report of an independent actuary;
- (7) set forth procedures for:
 - (a) withdrawal from the group and a fund by a member;
 - (b) termination of the group or fund and disposition of assets; and
 - (c) determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;
- (8) require an annual certified audit to be prepared and filed with the commissioner;
- (9) require that any joint liability fund be developed and operated in accordance with accepted and sound actuarial practices;
- (10) provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund; and
- (11) set forth other provisions as desired for operation and governance of the group.

b. The bylaws of a public college risk management group shall provide for governance of the group by a board of trustees selected in accordance with the provisions of the bylaws. The bylaws shall provide for trustee powers and duties and shall include, but not be limited to, the following powers of the board of trustees:

(1) to determine and establish contributions and rates, loss reserves, surplus, limits of coverage, limits of excess or reinsurance, coverage documents, dividends and other financial and operating policies of the group or fund;

(2) to invest moneys held in trust under a fund in investments which are approved for investment by regulation of the State Investment Council for surplus moneys of the State;

(3) to purchase, acquire, hold, lease, sell and convey real and personal property, all of which property shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes;

(4) to collect and disburse all money due to or payable by the group, or authorize such collection and disbursement;

(5) to enter into contracts with other persons or with public bodies of this State for any professional, administrative or other services as may be necessary to carry out the purposes of the group or any fund;

(6) to purchase and serve as the master policyholders, if desired, for any insurance, including excess or reinsurance; and

(7) to do all other things necessary and proper to carry out the purposes for which the group is established.

12. Section 5 of P.L.2010, c.99 (C.18A:64-90) is amended to read as follows:

C.18A:64-90 State college risk management group, board of trustees.

5. a. The board of trustees of a public college risk management group shall have not less than three or more than 15 trustees. A trustee shall be a natural person 18 years of age or older who is a resident of this State. A majority of the trustees of a group shall be members or employees of member institutions of higher education, provided that a trustee who ceases to be a member or employee of a four-year public institution of higher education may be allowed to serve for not more than 90 days following cessation without violating this provision.

b. A trustee shall not be paid a salary, except that the written trust instrument may provide for reimbursement for actual expenses incurred on behalf of the fund and for compensation not to exceed \$200 for any day or portion of a day spent at a meeting of the trustees. Except as otherwise provided in this act, a trustee shall not enter into any contract with the group or receive any moneys or other compensation or thing of value whatsoever from the group for services performed for or on behalf of the group.

13. Section 6 of P.L.2010, c.99 (C.18A:64-91) is amended to read as follows:

C.18A:64-91 Bylaws required, functioning; annual report.

6. a. A public college risk management group, or any joint liability fund of the group, shall not begin functioning as a means of providing coverage or protection for or among its members until the group's bylaws have been filed with and approved by the commissioner. The commissioner may disapprove the bylaws only if the bylaws do not conform with the provisions of P.L.2010, c.99 (C.18A:64-86 et al.). The commissioner shall set forth the reasons for disapproval in writing. If the commissioner fails to approve or disapprove the bylaws within 60 days following filing of the bylaws with the commissioner, the bylaws shall be deemed approved. The reasonable costs of the commissioner's review of the bylaws shall be chargeable to the colleges seeking to establish the group.

b. A public college risk management group shall file an annual report, on a form to be prescribed by the commissioner, and shall include a financial statement of the group's assets

and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require.

c. The commissioner shall have authority to examine the books, records and affairs of any public college risk management group or any of its liability funds at a time to be fixed by the commissioner. The reasonable costs of any examination or review shall be chargeable to the public college risk management group.

d. If at any time the commissioner determines that the public college risk management group has experienced a deterioration in its financial condition which adversely affects or will adversely affect its ability to pay expected losses, the commissioner may:

(1) require an increase in the reserves of the group as required by section 4 of P.L.2010, c.99 (C.18A:64-89); or

(2) require the purchase of excess insurance or reinsurance.

14. Section 7 of P.L.2010, c.99 (C.18A:64-92) is amended to read as follows:

C.18A:64-92 Appropriation, payment, funds, premiums.

7. Funds for premiums required by the contract between the governing body of the four-year public institution of higher education and the board of trustees of the public college risk management group shall be appropriated and paid as set forth in the contract in the same manner as appropriations are made for other expenses of the four-year public institution of higher education.

15. Section 8 of P.L.2010, c.99 (C.18A:64-93) is amended to read as follows:

C.18A:64-93 Rules, regulations.

8. The Commissioner of Banking and Insurance shall promulgate rules and regulations necessary to effectuate the purposes of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations shall include, but not be limited to, the establishment, operation, modification and dissolution of a public college joint liability fund established pursuant to the provisions of P.L.2010, c.99 (C.18A:64-86 et al.).

16. Section 9 of P.L.2017, c.178 (C.18A:64N-9) is amended to read as follows:

C.18A:64N-9 Powers, duties.

9. The board of trustees of Montclair State University shall have the general supervision over and be vested with the conduct of the university. It shall have the power and duty to:

a. Adopt, use, and modify, as it deems appropriate, its corporate seal;

b. Determine the educational curriculum and program of the university, including approving the establishment of new educational programs, departments, or schools, and the discontinuance of existing educational programs, departments, or schools at the university, provided that the action is consistent with the university's programmatic mission and that the action is reviewed by the New Jersey President's Council pursuant to subsection c. of section 8 of P.L.1994, c.48 (C.18A:3B-8) or approved by the Secretary of Higher Education pursuant to subsection f. of section 14 of P.L.1994, c.48 (C.18A:3B-14), as applicable;

c. Determine policies for the organization, administration, and development of the university;

d. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and submit an

annual request for appropriation to the Division of Budget and Accounting in the Department of the Treasury in accordance with law;

e. Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

g. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university and an ex officio member of the board of trustees, without vote, and shall serve at the pleasure of the board of trustees;

h. In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative, and teaching staffs as shall be required and fix their compensation and terms of employment;

i. Consistent with the provisions of its budget, this act and any and all controlling collective bargaining agreements, have the power, upon nomination or recommendation of the president, to appoint, remove, promote and transfer all other officers, agents, or employees which may be required to carry out the provisions of this act and prescribe qualifications for those positions, and assign requisite duties and determine and fix respective compensation for those positions in accordance with duly adopted salary program parameters;

j. Grant diplomas, certificates or degrees;

k. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States, including any public institution of higher education in the State or their subsidiaries or affiliates, or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

l. Exercise the right of eminent domain, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), to acquire any property or interest therein;

m. Adopt, after consultation with the president and faculty, bylaws and make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this act as are necessary and proper for the administration and operation of the university and the carrying out of its purposes;

n. Establish fees for room and board sufficient for the operation, maintenance, and rental of student housing and food services facilities;

o. Fix and determine tuition rates and other fees to be paid by students;

p. Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

q. Acquire, by gift, purchase, condemnation or otherwise, own, lease, dispose of, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

r. Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings;

s. Manage and maintain, and provide for the payment of all charges on and expenses in respect of, all properties utilized by the university;

t. Borrow money and to secure the same by a mortgage on its property or any part thereof, and to enter into any credit agreement for the needs of the university, as deemed requisite by the board, in such amounts and for such time and upon such terms as may be determined by the board, provided that no such borrowing shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any other new program, educational department or school;

v. Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for the performance of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds \$33,000 or the amount determined by the Governor as provided herein, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board.

Commencing July 1, 2017 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work performed by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

w. Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent, consistent with the purposes and provisions of this act and in accordance with State and federal law, as follows:

Investment in nonprofit corporations or for-profit corporations organized and operated pursuant to the provisions of subsection x. of this section may utilize income realized from the sale or licensing of intellectual property as well as the reinvestment of earnings on intellectual property. Investment in nonprofit corporations may also utilize income from overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 5 of subsection x. of this section;

x. (1) Participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures to support such purposes including, but not limited to, those engaged in the development, manufacture, or marketing of products, technology, scientific information or services and create or form for-profit or nonprofit corporations to engage in such activities; provided that:

(a) any such participation shall be consistent with the mission of the university;

(b) the board shall have determined that such participation is prudent; and

(c) unit work performed by employees of the university represented by one of the existing executive branch Statewide collective negotiations units is not transferred to the subsidiary corporation, limited partnership, general partnership, or joint venture created pursuant to this subsection or to persons employed by such subsidiary corporation, limited partnership, general partnership, or joint venture;

(2) The decision to participate in any activity described in paragraph (1) of this subsection, including the creation or formation of for-profit or nonprofit corporations, shall be articulated in the minutes of the board of trustees meeting in which the action was approved;

(3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall continue to apply to the university, its employees, and officers;

(4) Nothing herein shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit or be payable out of property or funds of the State;

(5) Funds directly appropriated to the university from the State or derived from the university's academic programs shall not be utilized by the for-profit or nonprofit corporations organized and operated pursuant to this subsection in the development, manufacture, or marketing of products, technology or scientific information;

(6) Employees of any joint venture, subsidiary corporation, partnership, or other jural entity formed, entered into, or owned wholly or in part by the university shall not be deemed public employees, however, any public employees of the university who may be assigned to support any joint venture, subsidiary corporation, partnership, or other jural entity formed, entered into, or owned wholly or in part by the university shall continue to be deemed public employees;

(7) A joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university shall not be deemed an instrumentality of the State of New Jersey;

(8) Income realized by the university pursuant to this subsection may be invested, reinvested, or retained by the board in accordance with the provisions of this act or State or federal law for use in furtherance of any of the purposes of this act or of other applicable statutes;

(9) The board shall annually report to the State Treasurer on the operation of all joint ventures, subsidiary corporations, partnerships, or such other jural entities entered into or owned wholly or in part by the university; and

(10) This subsection shall apply if a joint venture, subsidiary corporation, partnership, or other jural entity entered into or owned wholly or in part by the university, is expressly formed, created, or owned by the university pursuant to the authority set forth in this subsection. Further, this subsection shall in no way be construed to prohibit or limit the university from separately pursuing any other activities permitted by the authority granted under this act, or

separately utilizing any other powers expressly authorized by this act for any activity consistent with the university's institutional mission, including to participate as the general partner or as a limited partner, either directly or through a subsidiary corporation created by the university, in limited partnerships, general partnerships, or joint ventures, otherwise than pursuant to this subsection;

y. Sue and be sued in its own name;

z. Retain independent counsel including representation by the Attorney General in accordance with subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and, notwithstanding any other provision of law to the contrary, if the university elects not to be represented by the Attorney General in any matter in which the university is solely responsible for any potential liability, it shall be permitted to do so upon notice to the Attorney General;

aa. (1) Procure and enter into contracts for any type of insurance and indemnify and defend against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the university, whether part-time, full-time, compensated or non-compensated in the performance of the duties of his office or employment or any other insurable risk. In addition, the university shall carry its own liability insurance or maintain an actuarially sound program of self-insurance. Any joint venture, subsidiary corporation, or partnership or such other jural entity entered into or owned wholly or in part by the university shall carry insurance or maintain reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

(2) Moneys in the fund known as the Self-Insurance Trust Fund administered by the State Treasurer shall continue to be available to the university solely to indemnify and defend claims against the university and its employees, officers and servants but only to the extent that the university has elected on behalf of itself and its employees to obtain representation from the Attorney General pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6) and such entity or individuals would have been entitled to defense and indemnification pursuant to the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., as a State entity or State employee but for the provision of subsection z. of this section. Any expenditure of such funds shall be made only in accordance with the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., including but not limited to the provisions of chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall be construed to authorize the use of the Self-Insurance Trust Fund to indemnify or insure in any way, directly or indirectly the activities of any joint venture, partnership or corporation entered into or created by the university pursuant to subsection x. of this section;

bb. Create auxiliary organizations subject to the provisions of P.L.1982, c.16 (C.18A:64-26 et seq.);

cc. Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited, to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders;

dd. Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university; and

ee. Merge or consolidate, including through or with subsidiary corporations created by the university, with one or more other nonprofit corporations formed and operated primarily for educational purposes and exempt under paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.501(c)(3)), as the board of trustees may determine, but consistent with the public purposes of the corporation, and shall assume any

vested rights, grants, charter rights, privileges, exemptions, immunities, powers, prerogatives, franchises or advantages, debts, or liabilities of the nonprofit corporation.

A merger or consolidation with a subsidiary corporation created by the university pursuant to this subsection occurring after the effective date of P.L.2023, c.65 (C.18A:64N-9.1 et al.) shall not require approval of the Office of the Attorney General.

17. Section 11 of P.L.2017, c.178 (C.18A:64N-11) is amended to read as follows:

C.18A:64N-11 Participating contracting unit, competitive pricing system.

11. a. The university is authorized to be a participating contracting unit in a cooperative pricing system or a joint purchasing agreement established pursuant to the laws of this State.

b. The university may make purchases and contract for services through the use of a nationally recognized and accepted cooperative purchasing agreement, including a cooperative purchasing agreement in existence as of the effective date of P.L.2016, c.50 (C.18A:64-63.1 et al.), in accordance with the provisions of paragraph (3) of subsection b. of section 7 of P.L.1996, c.16 (C.52:34-6.2).

c. The State Treasurer may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes of this section.

18. Section 16 of P.L.2017, c.178 (C.18A:64N-16) is amended to read as follows:

C.18A:64N-16 Immunity, personal liability.

16. No trustee or officer of the university shall be personally liable for any debt, obligation, or other liability of the university or incurred by or on behalf of the university or any constituent unit, subsidiary, or affiliate thereof.

19. Section 21 of P.L.2017, c.178 (C.18A:64N-21) is amended to read as follows:

C.18A:64N-21 Effect, establishment, body corporate, politic, Montclair State University.

21. Upon the establishment of the body corporate and politic known as Montclair State University:

a. All appropriations, grants, debt service, research funds, and other monies available to Montclair State University prior to the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.) and to become available shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available to Montclair State University prior to the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.) and to become available to or for Montclair State University shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and federal law or otherwise;

c. All employees of Montclair State University prior to and following the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.) shall become employees of the university. Nothing in this act shall be construed so as to deprive any person of any right of tenure or under any retirement system or to any pension, disability, social security or similar benefit, to which the person is entitled by law or contractually. All persons employed at Montclair State University shall continue to be represented by the majority representative that represented them on and

after the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.), shall continue to be represented by the executive branch Statewide collective negotiations units they were in on and after the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.), and shall continue to be covered by the collective negotiations agreements that were in effect on and after the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.). Pursuant to section 12 of P.L.1986, c.42 (C.18A:64-21.1), the Governor shall continue to function as the public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), for persons employed at Montclair State University. For the purposes of this section, "executive branch Statewide collective negotiations units" mean the units specified in subsection b. of section 1 of P.L.2005, c.142 (C.34:13A-5.10). The employees of Montclair State University employed on the effective date of P.L.2017, c.178 (C.18A:64N-1 et al.) shall not be considered new employees for any purpose and shall retain any accrued seniority, rank, and tenure, which shall be applied when determining eligibility for all benefits, including all paid leave time, longevity increases, promotions and health benefits. Nothing in P.L.2017, c.178 (C.18A:64N-1 et al.) shall be construed to deprive any person employed at Montclair State University of any tenure rights or to in any manner affect the tenure, rank, or academic track of any employees holding a faculty position. Such tenure, rank and academic track shall continue to be through Montclair State University and shall be held or granted pursuant to the authority of the board of trustees of Montclair State University for all current and future employees employed at Montclair State University. Nothing in P.L.2017, c.178 (C.18A:64N-1 et al.) shall be construed to deprive any officers or employees employed at Montclair State University of their rights, privileges, obligations or status under any pension, retirement, health benefits system, civil service law or any other law of this State;

d. All files, papers, records, equipment and other personal property of Montclair State University shall be transferred to the university;

e. All orders, rules or regulations theretofore made or promulgated by Montclair State University shall continue in full force and effect as the orders, rules and regulations of the university until amended or repealed by the university; and

f. Any person who becomes an employee of Montclair State University or a subsidiary corporation of the university other than a subsidiary corporation expressly formed pursuant to subsection x. of section 9 of P.L.2017, c.178 (C.18A:64N-9) through a merger or consolidation with another entity, shall be deemed a public employee and shall, as applicable, become a member of the Statewide collective negotiations unit which encompasses the employee's position and shall be represented by the majority representatives of that unit.

20. Section 24 of P.L.2017, c.178 (C.18A:64N-24) is amended to read as follows:

C.18A:64N-24 Powers, Secretary of Higher Education.

24. a. The general powers of supervision and control of the Secretary of Higher Education at the request of the Governor over Montclair State University include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of the laws of the State.

b. Notwithstanding any other provision of law to the contrary, Montclair State University, through its board of trustees, shall have the care, custody, control, and title of such property acquired through a merger or consolidation occurring on or after the effective date of P.L.2023, c.65 (C.18A:64N-9.1 et al.), including through or with a subsidiary corporation created by the university, with one or more other nonprofit corporations formed and operated primarily for educational purposes and exempt under paragraph (3) of subsection (c) of section 501 of the

Internal Revenue Code (26 U.S.C. s.501(c)(3)), subject to the visitorial powers of the Secretary of Higher Education at the request of the Governor. Any transfer of property owned by the New Jersey Educational Facilities Authority to the university shall be in accordance with subsection (g) of N.J.S.18A:72A-5.

21. This act shall take effect immediately.

Approved June 30, 2023.