

[Second Reprint]

SENATE, No. 2501

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED JUNE 14, 2012

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

Assemblyman ALBERT COUTINHO

District 29 (Essex)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Co-Sponsored by:

Senators Gordon, Ruiz and Stack

SYNOPSIS

Establishes new public-private partnership agreement option for construction of State and county college facilities and changes reference from “Commission on Higher Education” to “Secretary of Higher Education” in higher education construction Educational Facilities Authority bond programs.

CURRENT VERSION OF TEXT

As reported by the Assembly Budget Committee on June 21, 2012, with amendments.

(Sponsorship Updated As Of: 6/26/2012)

1 AN ACT concerning construction of facilities at institutions of
 2 higher education ¹**[and]**,¹ revising various parts of the statutory
 3 law ¹, and supplementing Title 18A of the New Jersey Statutes¹.
 4

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

8 1. Section 43 of P.L.2009, c.90 (C.18A:64-85) is amended to
 9 read as follows:

10 43 a. (1) A State college or county college may enter into a
 11 contract with a private entity, subject to subsection f. of this section,
 12 to be referred to as a public-private partnership agreement, that
 13 permits the private entity to assume full financial and administrative
 14 responsibility for the on-campus construction, reconstruction,
 15 repair, alteration, improvement **[or]**, extension, management, or
 16 operation of a building, structure, or facility of, or for the benefit of,
 17 the institution, provided that the project is financed in whole by the
 18 private entity and that the State or institution of higher education, as
 19 applicable, retains full ownership of the land upon which the project
 20 is completed.

21 (2) A public-private partnership agreement may include an
 22 agreement under which a State or county college leases to a private
 23 entity the operation of a dormitory or other revenue-producing
 24 facility to which the college holds title, in exchange for up-front or
 25 structured financing by the private entity for the construction of
 26 classrooms, laboratories, or other academic buildings. Under the
 27 lease agreement, the college shall continue to hold title to the
 28 facility, and the private entity shall be responsible for the
 29 management, operation, and maintenance of the facility. The
 30 private entity shall receive some or all, as per the agreement, of the
 31 revenue generated by the facility and shall operate the facility in
 32 accordance with college standards. A lease agreement shall not
 33 affect the status or employment rights of college employees who are
 34 assigned to, or provide services to, the leased facility. At the end of
 35 the lease term, subsequent revenue generated by the facility, along
 36 with management, operation, and maintenance responsibility, shall
 37 revert to the college.

38 b. (1) A private entity that assumes financial and administrative
 39 responsibility for a project pursuant to subsection a. of this section
 40 shall not be subject to the procurement and contracting
 41 requirements of all statutes applicable to the institution of higher
 42 education at which the project is completed, including, but not
 43 limited to, the "State College Contracts Law," P.L.1986, c.43

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 SBA committee amendments adopted June 18, 2012.

²Assembly ABU committee amendments adopted June 21, 2012.

1 (C.18A:64-52 et seq.), and the "County College Contracts Law,"
2 P.L.1982, c.189 (C.18A:64A-25.1 et seq.). For the purposes of
3 facilitating the financing of a project pursuant to subsection a. of
4 this section, a public entity may become the owner or lessee of the
5 project or the lessee of the land, or both, may become the lessee of a
6 dormitory or other revenue-producing facility to which the college
7 holds title, may issue indebtedness in accordance with the public
8 entity's enabling legislation and, notwithstanding any provision of
9 law to the contrary, shall be empowered to enter into contracts with
10 a private entity and its affiliates without being subject to the
11 procurement and contracting requirements of any statute applicable
12 to the public entity provided that the private entity has been selected
13 by the institution of higher education pursuant to a solicitation of
14 proposals or qualifications. For the purposes of this section, a
15 public entity shall include the New Jersey Economic Development
16 Authority, and any project undertaken pursuant to subsection a. of
17 this section of which the authority becomes the owner or lessee, or
18 which is situated on land of which the authority becomes the lessee,
19 shall be deemed a "project" under the "New Jersey Economic
20 Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

21 (2) As the carrying out of any project described pursuant to this
22 section constitutes the performance of an essential public function,
23 all projects predominantly used in furtherance of the educational
24 purposes of the institution undertaken pursuant to this section,
25 provided it is owned by or leased to a public entity, non-profit
26 business entity, foreign or domestic, or a business entity wholly
27 owned by such non-profit business entity, shall at all times be
28 exempt from property taxation and special assessments of the State,
29 or any municipality, or other political subdivision of the State and,
30 notwithstanding the provisions of section 15 of P.L.1974, c.80
31 (C.34:1B-15) or section 2 of P.L.1977, c.272 (C.54:4-2.2b) or any
32 other section of law to the contrary, shall not be required to make
33 payments in lieu of taxes. The land upon which the project is
34 located shall also at all times be exempt from property taxation.
35 Further, the project and land upon which the project is located shall
36 not be subject to the provisions of section 1 of P.L.1984, c.176
37 (C.54:4-1.10) regarding the tax liability of private parties
38 conducting for profit activities on tax exempt land, or section 1 of
39 P.L.1949, c.177 (C.54:4-2.3) regarding the taxation of leasehold
40 interests in exempt property that are held by nonexempt parties.

41 c. Each worker employed in the construction, rehabilitation, or
42 building maintenance services of facilities by a private entity that
43 has entered into a public-private partnership agreement with a State
44 or county college pursuant to subsection a. of this section shall be
45 paid not less than the prevailing wage rate for the worker's craft or
46 trade as determined by the Commissioner of Labor and Workforce
47 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
48 and P.L.2005, c.379 (C.34:11-56.58 et seq.).

1 d. (1) All construction projects under a public-private
2 partnership agreement entered into pursuant to this section shall
3 contain a project labor agreement. The project labor agreement
4 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
5 seq.), and shall be in a manner that to the greatest extent possible
6 enhances employment opportunities for individuals residing in the
7 county of the project's location. Further, the general contractor,
8 construction manager, design-build team, or subcontractor for a
9 construction project proposed in accordance with this paragraph
10 shall be registered pursuant to the provisions of P.L.1999, c.238
11 (C.34:11-56.48 et seq.), and shall be classified by the Division
12 of Property Management and Construction to perform work
13 on a public-private partnership higher education project. All
14 construction projects proposed in accordance with this paragraph
15 shall be submitted to the New Jersey Economic Development
16 Authority for its review and approval and, when practicable, are
17 encouraged to adhere to the Leadership in Energy and
18 Environmental Design Green Building Rating System as adopted by
19 the United States Green Building Council.

20 (2) Where no public fund has been established for the financing
21 of a public improvement, the chief financial officer of the public
22 owner shall require the private entity for whom the public
23 improvement is being made to post, or cause to be posted, a bond
24 guaranteeing prompt payment of moneys due to the contractor, his
25 or her subcontractors and to all persons furnishing labor or
26 materials to the contractor or his or her subcontractors in the
27 prosecution of the work on the public improvement.

28 e. A general contractor, construction manager, design-build
29 team, or subcontractor shall be registered pursuant to the provisions
30 of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified
31 by the Division of Property Management and Construction to
32 perform work on a public-private partnership higher education
33 project.

34 f. (1) On or before August 1, 2013, all projects proposed in
35 accordance with this section shall be submitted to the New Jersey
36 Economic Development Authority for its review and approval;
37 except that in the case of projects proposed in accordance with
38 paragraph (2) of subsection a. of this section, all projects shall be
39 submitted on or before August 1, 2014. The projects are
40 encouraged, when practicable, to adhere to the green building
41 manual prepared by the Commissioner of Community Affairs
42 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6). Any
43 application that is deemed to be incomplete on August 2, 2013, or
44 on August 2, 2014 in the case of an application submitted pursuant
45 to paragraph (2) of subsection a. of this section, shall not be eligible
46 for consideration.

47 (2) (a) In order for an application to be complete and considered
48 by the authority it shall include, but not be limited to: (i) a public-

1 private partnership agreement between the State or county college
2 and the private developer; (ii) a full description of the project,
3 including a description of any agreement for the lease of a revenue-
4 producing facility related to the project; (iii) the estimated costs and
5 financial documentation for the project; (iv) a timetable for
6 completion of the project extending no more than five years after
7 consideration and approval; and (v) any other requirements that the
8 authority deems appropriate or necessary.

9 (b) As part of the estimated costs and financial documentation
10 for the project the application shall contain a long-range
11 maintenance plan and shall specify the expenditures that qualify as
12 an appropriate investment in maintenance. This long-range
13 maintenance plan shall be approved by the authority pursuant to
14 regulations promulgated by the authority that reflect national
15 building maintenance standards and other appropriate building
16 maintenance benchmarks. All contracts to implement a long-range
17 maintenance plan pursuant to this paragraph shall contain a project
18 labor agreement. The project labor agreement shall be subject to
19 the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in
20 a manner that to the greatest extent possible enhances employment
21 opportunities for individuals residing in the county of the project's
22 location.

23 (3) The authority shall review all completed applications, and
24 request additional information as is needed to make a complete
25 assessment of the project. No project shall be undertaken until final
26 approval has been granted by the authority; provided, however, that
27 the authority shall retain the right to revoke approval if it
28 determines that the project has deviated from the plan submitted
29 pursuant to paragraph (2) of this subsection.

30 (4) The authority may promulgate any rules and regulations
31 necessary to implement this subsection, including provisions for
32 fees to cover administrative costs.

33 Where no public fund has been established for the financing of a
34 public improvement, the chief financial officer of the public owner
35 shall require the private entity for whom the public improvement is
36 being made to post, or cause to be posted, a bond guaranteeing
37 prompt payment of moneys due to the contractor, his or her
38 subcontractors and to all persons furnishing labor or materials to the
39 contractor or his or her subcontractors in the prosecution of the
40 work on the public improvement.

41 g. The provisions of P.L.2009, c.136 (C.52:18-42 et al.) shall
42 not apply to any project carried out pursuant to this section.
43 (cf: P.L.2012, c.10, s.1)

44
45 2. Section 2 of P.L.1993, c.136 (C.18A:72A-41) is amended to
46 read as follows:

47 2. The Legislature finds and declares that:

1 a. Higher education plays a vital role in the economic
2 development of the nation and the State by providing the education
3 and training of the work force of the future and by advancing
4 science and technology through research;

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

8 c. The current inventory of instructional and research
9 equipment at the colleges and universities within the State is aging,
10 both chronologically and technologically, and much of it has been
11 rendered obsolete; and

12 d. The **【Commission on】** Secretary of Higher Education, which
13 is statutorily responsible for the coordination and planning of higher
14 education in New Jersey, has identified a crucial need to establish a
15 regular financing mechanism for scientific, engineering, technical,
16 computer, communications, and instructional equipment at New
17 Jersey's public and private institutions of higher education.

18 (cf: P.L.2009, c.308, s.32)

19
20 3. Section 6 of P.L.1993, c.136 (C.18A:72A-43) is amended to
21 read as follows:

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

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

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

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

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

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

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

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

41 The **【Commission on】** Secretary of Higher Education may
42 apportion the amounts authorized in subsection g. among any other
43 amounts authorized in subsections a. through f.

44 The **【Commission on】** Secretary of Higher Education may
45 reallocate any balance in the amounts authorized in subsections a.
46 through g. of this section which have not been fully committed
47 within 18 months of the effective date of this act.

1 The **【Commission on】** Secretary of Higher Education shall
2 determine the allocation of moneys deposited into the fund resulting
3 from the issuance by the authority of new bonds because of the
4 retirement of bonds previously issued by the authority.
5 (cf: P.L.2009, c.308, s.34)

6
7 4. Section 8 of P.L.1993, c.136 (C.18A:72A-45) is amended to
8 read as follows:

9 8. The authority shall not enter into a lease agreement with an
10 institution of higher education unless the **【Commission on】**
11 Secretary of Higher Education has ²**【adopted a resolution which**
12 **approves】** approved² the purchase of the higher education
13 equipment by the institution. The **【commission】** secretary shall
14 ²**【forward a copy of the resolution along with the amount of the**
15 **approved purchase】** provide a written certification of such approval
16 including the amount approved² to the authority.

17 (cf: P.L.2009, c.308, s.35)

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

21 10. The **【Commission on】** Secretary of Higher Education shall
22 annually submit a report to the Governor and the Legislature on the
23 higher education equipment purchases at public and private
24 institutions of higher education which have been approved by the
25 **【commission】** secretary and financed by the New Jersey
26 Educational Facilities Authority pursuant to lease agreements with
27 the institutions.

28 (cf: P.L.2009, c.308, s.36)

29
30 6. Section 11 of P.L.1993, c.136 (C.18A:72A-48) is amended
31 to read as follows:

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

37 (cf: P.L.2009, c.308, s.37)

38
39 7. Section 5 of P.L.1993, c.375 (C.18A:72A-53) is amended to
40 read as follows:

41 5. The initial grants from the trust fund shall be allocated as
42 follows:

- 43 a. \$48,000,000 for facilities at the State Colleges;
44 b. \$38,880,000 for facilities at Rutgers, The State University;
45 c. \$20,160,000 for facilities at the University of Medicine and
46 Dentistry of New Jersey;

- 1 d. \$12,960,000 for facilities at the New Jersey Institute of
2 Technology;
3 e. \$44,000,000 for facilities at the county colleges;
4 f. \$21,000,000 for facilities at the private institutions of higher
5 education;
6 g. \$15,000,000 for South Jersey multi-institutional economic
7 development facilities. As used in this section, "South Jersey multi-
8 institutional economic development facilities" means facilities
9 which would promote economic development in the eight
10 southernmost counties of the State and which involve more than one
11 public or private institution of higher education; and
12 h. \$20,000,000 for a new facility for Rutgers, The State
13 University, School of Law, Newark.

14 The amount authorized in subsection g. may be apportioned
15 among any other amounts authorized in subsections a. through f. of
16 this section.

17 The **【Commission on】** Secretary of Higher Education may
18 reallocate any balance in an amount authorized in subsections a.
19 through h. of this section which has not been approved by the
20 **【commission】** secretary for a grant within 18 months of the
21 effective date of this act.

22 The **【Commission on】** Secretary of Higher Education shall
23 determine the allocation of moneys deposited into the trust fund
24 resulting from the issuance by the authority of new bonds because
25 of the retirement of bonds previously issued by the authority.

26 The facilities funded by grants from the trust fund shall follow
27 the principles of affirmative action and equal opportunity
28 employment. In furtherance of these principles, the **【Commission**
29 **on】** Secretary of Higher Education shall continue **【its】** the policy of
30 encouraging institutions to solicit bids from, and award contracts to,
31 minority and women-owned businesses.

32 (cf: P.L.2009, c.308, s.38)
33

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

36 6. a. The governing board of a public or private institution of
37 higher education may determine, by resolution, to apply for a grant
38 from the trust fund. Upon adoption of the resolution, the board shall
39 file an application with the **【Commission on】** Secretary of Higher
40 Education, which application shall include a complete description
41 of the project to be financed and an identification of any additional
42 sources of revenue to be used.

43 b. The **【Commission on】** Secretary of Higher Education shall
44 review the application and ²**【, by resolution,】**² approve or
45 disapprove the grant. For each grant which is approved, the
46 **【commission】** secretary shall establish the amount and shall
47 ²**【forward a copy of the resolution along with the amount of the**

1 grant] send a written certification of such approval including the
2 amount approved² to the authority.

3 c. The [Commission on] Secretary of Higher Education shall
4 submit to the Legislature a copy of the ²[resolution approving the
5 grant along with the amount of the grant] written certification of
6 the approval of the grant and the amount thereof². If the Legislature
7 does not disapprove the grant by the adoption of a concurrent
8 resolution within 60 days, the grant shall be deemed to be
9 authorized. In addition, the resolution approving the grant for the
10 new instructional and research facility for Rutgers, The State
11 University, School of Law, Newark, shall be submitted by the
12 [commission] secretary to the Joint Budget Oversight Committee
13 for its approval prior to the commission's submission of the
14 resolution to the Legislature. The [commission] secretary shall
15 provide to the committee such information concerning the grant as
16 the committee may require for its consideration.

17 d. Each grant awarded under this act shall be contingent upon
18 the recipient governing board entering into a contract or contracts
19 for the commencement of the construction, reconstruction,
20 development, extension, or improvement of the facility within one
21 year of the date on which the funds of the grant are made available.
22 (cf: P.L.2009, c.308, s.39)

23

24 9. Section 7 of P.L.1993, c.375 (C.18A:72A-55) is amended to
25 read as follows:

26 7. In order to ensure the most effective utilization of the
27 moneys in the trust fund and to guide governing boards which elect
28 to apply for a grant, the [Commission on] Secretary of Higher
29 Education shall establish a list of selection criteria and shall specify
30 the information to be included in a grant application.
31 (cf: P.L.2009, c.308, s.40)

32

33 10. Section 8 of P.L.1993, c.375 (C.18A:72A-56) is amended to
34 read as follows:

35 8. In order to ensure proper oversight and review, there is
36 created the "Higher Education Facilities Trust Fund Board" which
37 shall consist of [five] four members as follows: the [Chair and
38 Vice Chair of the Commission on] Secretary of Higher Education;
39 the State Treasurer or a designee; the President of the Senate or a
40 designee; and the Speaker of the General Assembly or a designee.
41 The board shall ensure that the revenue provided to the trust fund is
42 adequate to support the grants approved by the [Commission on]
43 Secretary of Higher Education. At the end of each three-year period
44 following the approval of this act, the board shall review, in
45 consultation with the [Commission on] Secretary of Higher
46 Education, the physical plant needs of public and private
47 institutions of higher education in the State and shall recommend to

1 the Governor and the Legislature a plan to increase, as necessary,
2 the availability and uses of grants made from the trust fund.

3 (cf: P.L.2009, c.308, s.41)

4
5 11. Section 11 of P.L.1993, c.375 (C.18A:72A-58) is amended
6 to read as follows:

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

12 (cf: P.L.2009, c.308, s.43)

13
14 12. Section 5 of P.L.1997, c.238 (C.18A:72A-63) is amended to
15 read as follows:

16 5. The use of a grant from the technology fund shall require a
17 matching amount from an institution equal to the amount of the
18 grant provided. The initial grants from the technology fund shall be
19 allocated as follows:

20 a. a minimum of \$12,600,000 for the acquisition of higher
21 education technology infrastructure at the State colleges;

22 b. a minimum of \$7,722,000 for the acquisition of higher
23 education technology infrastructure at Rutgers, The State
24 University;

25 c. a minimum of \$4,306,500 for the acquisition of higher
26 education technology infrastructure at the University of Medicine
27 and Dentistry of New Jersey;

28 d. a minimum of \$2,821,500 for the acquisition of higher
29 education technology infrastructure at the New Jersey Institute of
30 Technology;

31 e. a minimum of \$12,600,000 for the acquisition of higher
32 education technology infrastructure at the county colleges;

33 f. a minimum of \$4,950,000 for the acquisition of higher
34 education technology infrastructure at private institutions of higher
35 education;

36 g. a maximum of \$5,000,000 for interconnectivity among the
37 higher education institutions. Expenditures shall be based on an
38 inter-institutional needs assessment. If, as a result of the needs
39 assessment, less than \$5,000,000 is expended from the funds
40 allocated in this subsection, the remaining funds shall be allocated
41 among the institutions designated in subsections a. through f. of this
42 section based on the percentage of the total funds allocated in each
43 of the subsections a. through f.; and

44 h. a minimum of \$5,000,000 for non-matching public library
45 grants or for Statewide library technology initiatives through the
46 New Jersey State Library.

47 The **【Commission on】** Secretary of Higher Education may
48 reallocate any balance in the amount authorized in subsections a.

1 through g. of this section, which has not been approved by the
2 **【commission】** secretary for a grant within 18 months of the
3 effective date of P.L.1997, c.238 (C.18A:72A-59 et seq.).

4 The **【commission】** secretary shall determine the allocation of
5 moneys deposited into the technology fund resulting from the
6 issuance by the authority of new bonds because of the retirement of
7 bonds previously issued by the authority.

8 Acquisition of technology infrastructure funded by grants from
9 the technology fund shall follow the principles of affirmative action
10 and equal opportunity employment. In furtherance of these
11 principles, the **【commission】** secretary shall continue its policy of
12 encouraging institutions to solicit bids from, and award contracts to,
13 minority and women-owned businesses.

14 (cf: P.L.1997, c.238, s.5)

15
16 13. Section 6 of P.L.1997, c.238 (C.18A:72A-64) is amended to
17 read as follows:

18 6. a. The governing board of a public or private institution of
19 higher education may determine, by resolution, to apply for a grant
20 from the technology fund. Upon adoption of the resolution, the
21 board shall file an application with the **【Commission on】** Secretary
22 of Higher Education, which application shall include a complete
23 description of the technology infrastructure to be acquired and an
24 identification of the sources of revenue to be used for the required
25 institutional match.

26 b. The **【commission】** secretary shall review the application
27 and²**【, by resolution,】**² approve or disapprove the grant. For each
28 grant which is approved, the **【commission】** secretary shall
29 establish the amount and shall ²**【forward a copy of the resolution**
30 **along with the amount of the grant】** send written certification of the
31 approval of the grant including the approved amount² to the
32 authority.

33 c. Each grant awarded under this act shall be contingent upon
34 the recipient governing board entering into a contract or contracts
35 for the acquisition of technology infrastructure within one year of
36 the date on which the funds of the grant are made available to the
37 institution.

38 (cf: P.L.1997, c.238, s.6)

39
40 14. Section 9 of P.L.1997, c.238 (C.18A:72A-67) is amended to
41 read as follows:

42 9. The authority shall not enter into an agreement with an
43 institution of higher education unless the **【Commission on】**
44 Secretary of Higher Education has ²**【adopted a resolution which**
45 **approves】** approved² the acquisition of the higher education

1 technology infrastructure by the institution.

2 (cf: P.L.1997, c.238, s.9)

3

4 15. Section 11 of P.L.1997, c.238 (C.18A:72A-69) is amended
5 to read as follows:

6 11. In order to ensure the most effective utilization of the
7 moneys in the technology fund and to guide governing boards
8 which elect to apply for a grant, the **【Commission on】** Secretary of
9 Higher Education shall establish criteria for approval and shall
10 specify the information to be included in a grant application.

11 (cf: P.L.1997, c.238, s.11)

12

13 16. Section 12 of P.L.1997, c.238 (C.18A:72A-70) is amended
14 to read as follows:

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

20 (cf: P.L.1997, c.238, s.12)

21

22 17. Section 13 of P.L.1997, c.238 (C.18A:72A-71) is amended
23 to read as follows:

24 13. The **【Commission on】** Secretary of Higher Education shall
25 annually submit a report to the Governor and the Legislature on the
26 higher education technology infrastructure purchases at public and
27 private institutions of higher education, which have been approved
28 by the **【commission】** secretary and financed by the New Jersey
29 Educational Facilities Authority pursuant to this act.

30 (cf: P.L.1997, c.238, s.13)

31

32 18. Section 4 of P.L.1999, c.217 (C.18A:72A-75) is amended to
33 read as follows:

34 4. The capital improvement fund shall be used to provide
35 grants to New Jersey's four-year public and private institutions of
36 higher education for the cost, or a portion of the cost, of the
37 renewal, renovation, improvement, expansion, construction, and
38 reconstruction of facilities and technology infrastructure. Each
39 institution shall use the grants for existing renewal and renovations
40 needs at instructional, laboratory, communication, research, and
41 administrative facilities. An institution may use up to 20% of a
42 grant within student-support facilities for renewal and renovation or
43 improvement, expansion, construction, and reconstruction. If all
44 renewal and renovation is completed at instructional, laboratory,
45 communication, research, and administrative facilities or is
46 accounted for through other funding sources, or if an institution is
47 granted an exemption by the **【Commission on】** Secretary of Higher
48 Education for the purpose of maximizing federal grant fund

1 recoveries or for the purpose of replacing a building when projected
2 renewal and renovation costs exceed the projected cost of
3 replacement, then grant funds may be used for the improvement,
4 expansion, construction, and reconstruction of instructional,
5 laboratory, communication, and research facilities, or technology
6 infrastructure.

7 As used in this act:

8 "renewal and renovation" means making the changes necessary
9 to address deferred capital maintenance needs, to meet all State and
10 federal health, safety, fire, and building code standards, or to
11 provide a safe and appropriate educational or working environment;

12 "student-support facilities" mean student resident halls, student
13 dining facilities, student activity centers, and student health centers;
14 and

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

18 (cf: P.L.2002, c.96)

19
20 19. Section 5 of P.L.1999, c.217 (C.18A:72A-76) is amended to
21 read as follows:

22 5. a. An amount not to exceed \$550,000,000 in the capital
23 improvement fund shall be allocated as follows:

24 \$169,000,000 for Rutgers, The State University;

25 \$95,062,500 for the University of Medicine and Dentistry of
26 New Jersey;

27 \$60,937,500 for the New Jersey Institute of Technology;

28 \$175,000,000 for the State colleges and universities; and

29 \$50,000,000 for the private institutions of higher education.

30 b. The **[commission]** secretary may reallocate any balance in
31 an amount authorized in subsection a. of this section which has not
32 been approved by the **[commission]** secretary for grants within 24
33 months of the adoption of regulations by the **[commission]**
34 secretary. The **[commission]** secretary may allocate any additional
35 moneys in the capital improvement fund to institutions for capital
36 improvement projects as the **[commission]** secretary determines
37 and shall determine the allocation of moneys deposited into the
38 fund resulting from the issuance by the authority of new bonds
39 because of the retirement of bonds previously issued by the
40 authority.

41 c. The facilities and technology infrastructure funded by grants
42 from the capital improvement fund shall follow the principles of
43 affirmative action and equal opportunity employment. In
44 furtherance of these principles, the **[commission]** secretary shall
45 continue **[its]** the policy of encouraging institutions to solicit bids
46 from, and award contracts to, minority and women-owned

1 businesses.

2 (cf: P.L.1999, c.217, s.5)

3

4 20. Section 6 of P.L.1999, c.217 (C.18A:72A-77) is amended to
5 read as follows:

6 6. a. The governing board of a four-year public or private
7 institution of higher education may determine, by resolution, to
8 apply for a grant from the capital improvement fund. Upon
9 adoption of the resolution, the board shall file an application with
10 the **【commission】** secretary, which application shall include a
11 complete description of the project to be financed and an
12 identification of any additional sources of revenue to be used.

13 b. In order to ensure the most effective utilization of the
14 moneys in the capital improvement fund and to guide governing
15 boards which elect to apply for a grant, the **【commission】** secretary
16 shall establish a list of grant criteria and shall specify the
17 information to be included in a grant application.

18 c. The **【commission】** secretary shall review the application and
19 ²[, by resolution,]² approve or disapprove the grant. When a grant
20 is approved, the **【commission】** secretary shall establish the amount
21 and shall ²[forward a copy of the resolution along with the amount
22 of the grant] send a written certification of the approval of the grant
23 and the amount of the grant² to the authority.

24 d. The **【commission】** secretary shall submit to the Legislature
25 a copy of the ²[resolution approving the grant along with the
26 amount of the grant] written certification of the grant and the
27 amount thereof². If the Legislature does not disapprove the grant
28 by the adoption of a concurrent resolution within 45 days, the grant
29 shall be deemed to be authorized.

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

36 (cf: P.L.1999, c.217, s.6)

37

38 21. Section 15 of P.L.1999, c.217 (C.18A:72A-80) is amended
39 to read as follows:

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

45 (cf: P.L.1999, c.217, s.15)

1 22. (New section) The Secretary of Higher Education shall
2 exercise all the powers and duties previously exercised by the
3 Commission on Higher Education under the Higher Education
4 Equipment Leasing Fund Act,” P.L.1993, c.136 (C.18A:72A-40 et
5 seq.), the “Higher Education Facilities Trust Fund Act,” P.L.1993,
6 c.375 (C.18A:72A-49 et seq.), the “Higher Education Technology
7 Infrastructure Fund Act,” P.L.1997, c.238 (C.18A:72A-59 et seq.),
8 and the “Higher Education Capital Improvement Fund Act,”
9 P.L.1999, c.217 (C.18A:72A-72 et seq.).

10
11 ¹23. (New section) The authority shall not enter into a lease
12 agreement with an institution of higher education without the
13 review and approval of the Joint Budget Oversight Committee. The
14 Joint Budget Oversight Committee shall approve or disapprove each
15 lease agreement within 10 working days of receipt of the lease
16 information or the lease agreement shall be deemed approved.¹

17
18 ¹24. (New section) The authority shall not provide grant funding
19 without the review and approval of the Joint Budget Oversight
20 Committee. The Joint Budget Oversight Committee shall approve
21 or disapprove each grant within 10 working days of receipt of the
22 grant information or the grant shall be deemed approved.¹

23
24 ¹[23.] 25.¹ This act shall take effect immediately.