

CHAPTER 46

AN ACT concerning higher education and revising parts of the statutory law.

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

1. An additional Subtitle, 12A, is added to Title 18A of the New Jersey Statutes as follows:

SUBTITLE 12A

NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

Part 1.—Authority Structure and General Provisions

Short title.

18A:71A-1. Short Title.

Section 1 shall be known and may be cited as the “Higher Education Student Assistance Authority Law.”

Terms defined.

18A:71A-2. Terms Defined.

As used in this act, unless the context indicates another or different meaning, the following words shall have the following meanings:

“Authority” means the Higher Education Student Assistance Authority established pursuant to this act, or any body, entity, commission, or department succeeding to the principal functions thereof or to whom the powers conferred upon the authority by this act shall be given by law.

“Board” means the governing body of the authority appointed or elected pursuant to N.J.S.18A:71A-4 of this article.

“Bond” means bonds, notes or other obligations of the authority issued pursuant to this act.

“Commission” means the New Jersey Commission on Higher Education.

“Eligible institution” means, unless otherwise defined by this act or by the authority by regulation, an institution having a participation agreement with the authority which is further defined in 20 U.S.C. s.1071 et seq., and which includes an institution of higher education, a proprietary institution of higher education, a postsecondary vocational institution and a vocational school, provided that the institution or school is licensed or approved by the appropriate agency or department and accredited or preaccredited by a nationally recognized accrediting association.

“Executive director” means the chief executive and administrative officer of the authority.

“Fund” means the Higher Education Student Assistance Fund.

“Lender” or “eligible lender” includes the authority and any institution authorized to make loans under 20 U.S.C. s.1071 et seq. which has entered into a participation agreement with the authority.

“Member” means an individual appointed or elected to the board of the authority or serving ex-officio on the board.

“State college” means any college or university created pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

Higher Education Student Assistance Authority created.

18A:71A-3. Higher Education Student Assistance Authority Created.

The Higher Education Student Assistance Authority, a body corporate and politic, shall be established in the Executive Branch of the State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the authority is allocated in but not of the Department of State. The authority shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act in the furthering of access to postsecondary education, whether by loans, grants, scholarships or other means, shall be deemed and held to be an essential governmental function of the State. The authority shall submit its budget request directly to the Division of Budget and Accounting in the Department of the Treasury.

Board of the authority.

18A:71A-4. Board of the Authority.

a. The Board of the Higher Education Student Assistance Authority shall consist of 18 members as follows: the State Treasurer, ex-officio, or a designee; the chairperson of the Commission on Higher Education, ex-officio or a designee from among the public members of the commission; the chairperson of the Board of Directors of the Educational Opportunity Fund, ex-officio, or a designee from among the public members of the board; five representatives from eligible institutions in this State, including one from Rutgers, the State University, one from either the New Jersey Institute of Technology or the University of Medicine and Dentistry of New Jersey, one from the county colleges, one from the State colleges, and one from the independent institutions of higher education in the State; two students from different collegiate institutional sectors; seven public members who shall be residents of this State, including one who shall represent a lender party to a participation agreement with the authority; and the executive director of the authority, or designee, who shall be an ex-officio, non-voting member of the board.

b. The seven public members, including the lender member, shall be appointed by the Governor with the advice and consent of the Senate. No more than four of the public members shall be members of the same political party. The institutional representatives shall be nominated by the respective institution in the case of Rutgers, the State University, New Jersey Institute of Technology, and University of Medicine and Dentistry of New Jersey. The remaining institutional representatives shall be nominated by the respective sector association. Institutional representatives shall be appointed by the Governor with the advice and consent of the Senate. The student members shall be the individuals that the Student Advisory Committee elects as its chairperson and vice-chairperson. The Student Advisory Committee shall be created by the board to include students from all collegiate institutional sectors. The necessary appointments shall be made within 45 days of the enactment of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.).

c. Public and institutional members of the board shall serve a term of four years and until a successor is appointed and qualified, except in the case of the first members so appointed, four of whom shall be appointed for a term of four years, four of whom shall be appointed for a term of three years, two of whom shall be appointed for a term of two years, and two of whom shall be appointed for a term of one year. Student members shall serve a term of office not to exceed two years. Any vacancy in the membership of the board, occurring otherwise than by expiration of term, shall be filled in the same manner as the original appointment or election was made, but for the unexpired term only.

Executive director.

18A:71A-5. Executive Director.

a. The executive director of the authority shall be appointed by the Governor and shall serve at the pleasure of the Governor during the Governor's term of office and until a successor is appointed and qualified, except that the person holding the office of Executive Director of Student Assistance Programs in the Office of Student Assistance in, but not of, the Department of the Treasury, on the effective date of this act shall be the initial executive director of the authority. The executive director shall receive annual compensation, which shall be payable as other State compensation is paid.

b. The executive director shall be:

(1) the chief executive and administrative officer of the authority having general charge and supervision of the work of the authority;

(2) the appointing authority and official agent of the authority for all purposes. The authority shall delegate to the executive director the power to employ financial and computer experts, attorneys, accountants, managers, and such other employees and agents as may be necessary; to fix their compensation; and to promote and discharge the employees and agents;

(3) the budget request officer and the approval officer of the authority;

(4) an officer and an ex-officio, non-voting member of the board; and

(5) authorized, subject to law, to select a designee to act in his place or stead and to have authority over all matters concerning the employment and compensation of staff not classified

under Title 11A of the New Jersey Statutes.

Organization of the board.

18A:71A-6. Organization of the Board.

a. Meetings of the board shall be held at such time and place as the members shall determine. A majority of the members in office at a meeting at which public members of the board are present shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the members present at a meeting at which a quorum is present shall be the acts of the authority. The board shall hold all meetings attended by, or open to, all members of the board in accordance with the "Open Public Meetings Act," P.L. 1975, c.231 (C.10:4-6 et seq.).

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

Notwithstanding the provisions of this section, with regard to the authorization or sale of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which the bonds are authorized or sold after the taking of the action, and the Governor shall indicate approval or disapproval of the action prior to the end of the business day upon which the certified copy of the minutes was furnished to the Governor.

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

c. The officers of the board shall be a chairperson, a vice-chairperson, and one person to act as secretary and treasurer. The chairperson and vice-chairperson shall be elected from among the public members of the board by the board annually and shall hold office until their successors are elected or until their earlier death, disability, resignation, or removal. The secretary and treasurer shall be the executive director or designee. Any vacancy of the chairperson or vice-chairperson caused by the death, disability, resignation, or removal of any officer shall be filled by the members of the board.

Limitation of liability, conflict of interest, compensation.

18A:71A-7. Limitation of Liability, Conflict of Interest, Compensation.

a. The personal liability of members of the board, which shall be a public entity under the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., shall be limited to the extent permitted by N.J.S.59:1-1 et seq., this act, and other applicable New Jersey law.

b. Each member of the board shall comply with the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.).

c. The members of the board shall receive no compensation for their services, but shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

General powers of the authority.

18A:71A-8. General Powers of the Authority.

The authority shall have the power to:

a. adopt bylaws for the regulation of its affairs and the conduct of its business;

- b. maintain an office at such place or places within the State as it may designate;
- c. adopt an official seal and alter the same at pleasure;
- d. sue and be sued in its own name;
- e. retain legal counsel of its choosing. The authority may choose representation by the Attorney General; however, as to claims of a tortious nature, the authority shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the authority elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The authority shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);
- f. make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;
- g. borrow money and to issue bonds, notes and other obligations of the authority to carry out any purposes of the authority under this act, including, without limitation: (1) making or purchasing loans under any provision of this act; (2) purchasing from lenders approved notes or participations in approved notes as provided by law; and (3) refunding of outstanding bonds; but it shall not in any manner, directly or indirectly, pledge the credit of the State;
- h. receive and accept, from any federal or other public agency or governmental entity, grants, including block grants, or loans for or in aid of its programs and powers under this act, and to receive aid and contributions from any other source, of money, property, labor, and other things of value, to be held, used and applied only for the purposes for which the grants, loans and contributions may be made;
- i. acquire, lease as lessee, hold and dispose of real and personal property or any interest therein, in the exercise of its powers and the performance of its duties under this act;
- j. complete, administer, operate, obtain and authorize payment for insurance on and maintain, renovate, repair, modernize, lease or otherwise deal with any property acquired or held by it pursuant to this act;
- k. authorize payment for disbursements, costs, commissions, attorney's fees and other reasonable expenses related to and necessary for the making and protection of guaranteed and other authority loans and the recovery of moneys, loans or management of property acquired in connection with the loans;
- l. adopt rules and regulations to implement this act; and
- m. do all acts and things necessary or appropriate to carry out the objects and purposes of this act.

Further powers of the authority.

18A:71A-9. Further Powers of the Authority.

The authority shall have the following powers to:

- a. further access to postsecondary education, whether by loans, grants, scholarships, savings programs, or other means as approved by the Legislature to meet the expenses of postsecondary education;
- b. make, assist in the placing of federally guaranteed student loans, service or otherwise provide such loans:
 - (1) to persons who are residents of this State or who reside outside this State who are attending and are in good standing in, or who plan to attend, any eligible institution located in this State or elsewhere; or
 - (2) to parents of persons meeting the requirements set forth in paragraph (1) of this subsection, in order to assist them in meeting the expenses of postsecondary education;
- c. guarantee the loans in subsection b. of this section upon such terms and conditions as the authority may prescribe; provided that the amounts may not exceed the annual and aggregate amounts authorized under 20 U.S.C.s.1071 et seq.;
- d. buy and sell approved notes evidencing loans made under this act, and to buy and sell

participations in approved notes made pursuant to this act, either by buying and selling directly or by establishing a separate entity which will serve as a secondary market for student loans under the oversight of the authority, which entity shall take action and adopt rules subject to the approval of the authority;

e. be the State guaranty agency for the State of New Jersey and engage in programs which state guaranty agencies are authorized to participate in pursuant to 20 U.S.C. s.1071 et seq.;

f. be the lead State agency in coordination with the commission in determining policy on student assistance issues;

g. assist students who are parties to loans made, funded, or guaranteed under this act to qualify for federal interest subsidy, special allowance, loan forgiveness or other applicable benefits;

h. establish a separate entity or utilize established agencies to administer loan programs, which entity or agencies shall administer authority loan programs and adopt rules subject to the approval of the authority. Loans made by the entity or agencies shall be subject to the same criteria as to amount, interest and payment as are other loans authorized under this act, and shall be given to students who are eligible for loans under the terms and conditions of the law but have been unable to secure them;

i. be an agency of communication with departments and agencies of the United States on the availability of grants or loans to this State for purposes related to or similar to those set forth in this act;

j. request and receive from any department, division, board, bureau, commission or agency of the State or any subdivision thereof the assistance and data necessary to properly carry out its powers, duties and functions;

k. make and service loans to eligible borrowers through State loan programs established by law;

l. administer loan redemption and related fellowship programs established by law;

m. administer and coordinate grant, scholarship and tuition aid programs as established by law;

n. be the primary State agency for the administration of non-campus based federal grant and scholarship programs for students seeking to meet the expenses of postsecondary education;

o. inform the public of financial aid programs to meet the expenses of postsecondary education;

p. perform audit and review functions, including federally mandated lender and school reviews, campus level State student financial aid program reviews and State-mandated annual internal control reviews; and

q. assist the Attorney General in the investigation of alleged violations of all criminal statutes related to fraud or a breach of fiduciary obligations committed by any person who has obtained or aided and abetted in obtaining loans, loan guarantees, scholarships, and grants or other moneys from this authority; and to work in conjunction with the appropriate prosecuting authorities in the prosecution of cases where it is determined that evidence of criminal activity exists.

Contracts, purchases, records, travel.

18A:71A-10. Contracts, Purchases, Records, Travel.

a. The authority, in the exercise of its power to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, when the sum to be expended exceeds the sum of \$12,300 or, after June 30, 1998, the amount determined pursuant to subsection b. of this section, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder. Waiver of bid advertising and of actual bidding shall be made by resolution of the authority for those goods, services, and contracts described in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 52:34-10). Special rules shall apply to the procurement of professional services when the authority shall consider a variety of factors associated with

rendering the professional services, including price, in awarding of a contract.

This subsection shall not prevent the authority from having any work done by its own employees, nor shall it apply when the safety or protection of its or other public property requires. In the case of exigency or emergency, the authority shall, by resolution passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be so expended.

b. The Governor, in consultation with the Department of the Treasury, shall, not later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, 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, no later than June 1 of each odd-numbered year, notify the authority of the adjustment. The adjustment shall become effective July 1 of each odd-numbered year.

c. The authority, in the exercise of its power to make purchases and enter into contracts, leases and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, subject to subsections a. and b. of this section, for purchases, contracts, leases and agreements payable exclusively with or out of funds transferred from the Higher Education Student Assistance Fund, the purchases, contracts, leases and agreements shall be subject to the authority's sole approval. Approval of the purchases, contracts, leases, and agreements shall not be required by any other department, division, board, bureau, agency, office or officer of the State.

d. The authority, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, may purchase any materials, supplies or equipment pursuant to a contract or contracts for the materials, supplies or equipment entered into on behalf of the State. Any department, division, commission, board, bureau, agency, office or officer of the State may, by joint action with the authority, purchase any articles used or needed by the State and the authority.

e. Records subject to the record retention requirements set forth under 20 U.S.C.s.1071 et seq., 20 U.S.C.s.1070c et seq., and 20 U.S.C.s.1104 et seq. and implementing regulations and rules shall not be "public records" for purposes of the "Destruction of Public Records Law (1953)," P.L.1953, c.410 (C.47: 3-15 et seq.), notwithstanding the provisions of any law to the contrary.

f. The executive director shall have the power to approve of travel consistent with Office of Management and Budget travel regulations, except that for travel that is payable exclusively with or out of funds transferred from the Higher Education Student Assistance Fund, no approval shall be required by the Director of the Office of Management and Budget.

Certain pension, benefits, and employment classification provisions applicable to employees of the authority.

18A:71A-11. Certain Pension, Benefits, and Employment Classification Provisions Applicable to Employees of the Authority.

a. Notwithstanding the provisions of any law to the contrary, any former employee of the Office of Student Assistance who was a participant in the alternate benefit program, P.L.1969, c.242 (C.18A:66-168 et seq.), and who has continued in uninterrupted service with the State may continue to participate in the alternate benefit program on the same terms as other eligible employees.

b. Notwithstanding the provisions of any law to the contrary, professional administrative staff of the authority are eligible to participate in the alternate benefit program under the provisions of P.L.1969, c.242 (C.18A:66-168 et seq.).

c. Notwithstanding the provisions of any law to the contrary, eligible employees of the authority shall be eligible to obtain supplemental tax-deferred annuities with outside investment carriers on the same basis and with the same carriers as available to members of the alternate benefit program under the provisions of P.L.1969, c.242 (C.18A:66-168 et seq.).

d. The total number of employees in unclassified service including the number of vacant unclassified service positions on the date this act becomes effective shall not decrease without

prior authorization by the board.

18A:71A-12. Limitations on issue of bond anticipation notes and other obligations.

18A:71A-12. Limitations on Issue of Bond Anticipation Notes and Other Obligations.

The authority may issue bond anticipation notes and other short-term obligations which may be renewed from time to time, but the maximum maturity of the notes or obligations, including renewals thereof, shall not exceed five years from the date of issue of the original. The notes or obligations shall be paid from any revenues or other moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes or obligations shall be issued in the same manner as bonds, and the resolution or resolutions authorizing them may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

Bonds, bond anticipation notes, other obligations: general provisions.

18A:71A-13. Bonds, Bond Anticipation Notes, Other Obligations: General Provisions.

Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes or obligations shall be general obligations of the authority payable from any revenues or moneys of the authority, subject only to any agreements with the holders of particular bonds, notes or obligations pledging any particular revenues or moneys. Notwithstanding that bonds, notes, and other obligations may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A of the New Jersey Statutes, the Uniform Commercial Code, subject only to the provision of the bonds, notes, and other obligations for registration. The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the members of the authority and shall bear such date or dates, mature at such time or times, not exceeding 35 years from their respective dates, bear interest at such rate or rates including, but not limited to, fixed, variable, floating or adjustable interest rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the resolution or resolutions may provide. The bonds, notes or obligations may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates which shall be exchanged for the definitive bonds.

At any time prior to the issuance and sale of bonds or other obligations by the authority under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority those sums which the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds, notes or other obligations issued for the same programmatic purpose as the funds transferred by the State Treasurer.

Bond resolutions.

18A:71A-14. Bond Resolutions.

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

- a. the pledging of all or any part of the revenues of the authority;
- b. the use and disposition of the revenues;
- c. the setting aside of reserves or sinking funds, and the regulations and disposition thereof;
- d. limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;
- e. the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given;
- f. limitations on the purpose to which the proceeds of sale of any issue of bonds then or

thereafter to be issued may be applied and pledging the proceeds to secure the payment of the bonds or any issue of the bonds;

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

h. the making of covenants other than and in addition to the covenants herein expressly authorized, of like or different character; and the making of the covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure the bonds, notes or other obligations which, in the absolute discretion of the authority, will tend to make the bonds, notes, or other obligations more marketable, notwithstanding that the covenants, acts or things may not be enumerated herein.

Personal liability on bonds, notes and other obligations.

18A:71A-15. Personal Liability on Bonds, Notes and Other Obligations.

Neither the members of the authority, nor any person executing bonds, notes or other obligations issued by it, nor any officer or employee of the authority shall be liable personally on the bonds, notes or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

Purchase by authority of bonds, notes and other obligations.

18A:71A-16. Purchase by Authority of Bonds, Notes and Other Obligations.

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

Security for bonds.

18A:71A-17. Security for Bonds.

In the discretion of the authority, any bonds issued by it may be secured by a trust agreement between the authority and a qualified bank as defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-1 et seq.). The trust agreement or resolution providing for the issuance of the bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly those provisions authorized to be included in any resolution or resolutions of the authority authorizing bonds. Any banking institution, as defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-1 et seq.), may act as depository of the proceeds of bonds or of revenues or other moneys and may furnish such indemnifying bonds or pledge such securities as may be required by the authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, the trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

Liability for payment of bonds.

18A:71A-18. Liability for Payment of Bonds.

Bonds issued pursuant to N.J.S.18A:71A-8 shall not be deemed to constitute a debt or liability of the State or of any political subdivision thereof or a pledge of the faith and credit of the State or of any political subdivision, but shall be payable solely from the funds herein provided. The bonds shall contain on the face a statement to the effect that neither the State of New Jersey nor the authority shall be obligated to pay the same or the interest thereon except from revenues or other moneys of the authority and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds. The issuance of bonds under the provisions of this act shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor.

Rights of bondholders.

18A:71A-19. Rights of Bondholders.

A holder of bonds issued by the authority pursuant to N.J.S.18A:71A-8, or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any trust agreement securing, the bonds, may, either at law or in equity, by suit, action or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder or under the resolution of trust agreement, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof.

Refunding bonds.

18A:71A-20. Refunding Bonds.

a. The authority shall have power to issue bonds for the purposes of refunding any of its bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of the bonds.

b. The proceeds of bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on such date as may be determined by the authority. Any escrowed proceeds, pending such use, may be invested and reinvested in obligations of or guaranteed by the United States of America, or in certificates of deposit or time deposits secured by obligations of or guaranteed by the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. All such bonds shall be subject to the provisions of this act in the same manner and to the same extent as other bonds issued pursuant to this act and N.J.S.18A:71A-8.

Bonds as legal investments.

18A:71A-21. Bonds as Legal Investments.

Bonds, notes and other obligations issued by the authority under the provisions of this act and N.J.S.18A:71A-8, are hereby made securities in which the State and all political subdivisions of the State, their officers, boards, commissions, departments or other agencies, banks, savings banks, savings and loan associations, investment companies, all insurance companies, insurance associations and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons who now are or may hereafter be authorized to invest in bonds, notes or other obligations of the State, may properly and legally invest any funds, including capital belonging to them or within their control; and the bonds, notes or other obligations are hereby made securities which may properly and legally be deposited with and received by any State or municipal officers or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

Pledge of state; exemption from taxation; taxable bond option.

18A:71A-22. Pledge of State; Exemption From Taxation; Taxable Bond Option.

a. The State of New Jersey does pledge to and agree with the holders of the bonds, notes and other obligations issued pursuant to authority contained in this act and N.J.S.18A:71A-8, that the State will not limit the power and obligation of the authority to fulfill the terms of any agreements made with the holders of bonds, notes and other obligations so issued, or in any way

impair the rights or remedies of the holders of the bonds, and will not modify in any way the exemptions for taxation provided for in this act, until the bonds, notes and other obligations together with interest thereon, are fully paid and discharged. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

b. Unless otherwise determined by the authority, all bonds, notes or other obligations issued pursuant to this act are hereby declared to be issued by a body corporate and politic of this State and for an essential public and governmental purpose. The bonds, notes and other obligations, and the interest thereon and the income therefrom, and all fees, charges, funds, revenues, income and other moneys pledged or available to pay or secure the payment of the bonds, notes or other obligations, or interest thereon, shall at all times be exempt from taxation except for transfer, inheritance and estate taxes.

c. With respect to all or any portion of any issue of any bonds, notes or other obligations that the authority may issue in accordance with this act, the authority may covenant, elect and consent that the interest on the bonds be includable under the federal Internal Revenue Code of 1986, as amended, in the gross income of the holders of the bonds to the same extent and in the same manner that the interest on bills, bonds, notes or other obligations of the United States is includable in the gross income of the holders under the federal Internal Revenue Code of 1986, as amended, or in such other manner as the authority may covenant, elect and consent. Bonds issued pursuant to this act are not subject to any limitations or restrictions of any law that may limit the authority's power to issue those bonds.

Higher Education Student Assistance Fund.

18A:71A-23. Higher Education Student Assistance Fund.

The authority shall establish and maintain a special fund called the "Higher Education Student Assistance Fund" solely for its activities as a guaranty agency and lender under 20 U.S.C.s.1071 et seq. The fund shall consist of: a. all moneys appropriated by the Legislature for inclusion in the fund; b. federal advances and other revenues realized as a result of guaranty and lender activities under 20 U.S.C.s.1071 et seq.; c. investment earnings of the fund; d. moneys contributed to the authority by private sources, to be used for the purposes of this act; e. the proceeds received by the sale of its bonds, bond anticipation notes and other obligations as provided by law; and f. the proceeds received by the authority from the resale of notes evidencing approved loans made pursuant to this act.

The authority may in any resolution authorize the establishment within the Higher Education Student Assistance Fund of separate special funds as necessary for moneys to be held in pledge or otherwise for payment or redemption of bonds, notes or other obligations, reserves or other purposes and to covenant as to use and disposition of the moneys held in these special funds.

Loan Reserve Fund.

18A:71A-24. Loan Reserve Fund.

a. Within the Higher Education Student Assistance Fund, the authority shall establish and maintain a special fund called the "Loan Reserve Fund" in which shall be deposited: (1) all reserve funds held by the authority; (2) all moneys appropriated by the State for the purpose of the fund, and (3) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the Loan Reserve Fund shall be held and approved solely for the purchase by the fund of defaulted loans either by payment to a lender or by transfer to the Higher Education Student Assistance Fund, of the total amount of principal and interest then due and owing on any defaulted note, except to the extent that the moneys represent advances made to the authority by the United States of America, or agencies thereof, which the authority may be required to repay, and in the event repayment is required, it shall be made from the Loan Reserve Fund.

b. The sum total of all funds on deposit in the Loan Reserve Fund, hereafter referred to as the "loan reserve requirement," shall in no event be less than the amount required under 20 U.S.C. s.1071 et seq.

c. In order to assure the maintenance of the loan reserve requirement in the Loan Reserve

Fund, there shall be appropriated annually and paid to the authority for deposit in the fund, such sum, if any, as shall be certified by the chairperson of the Board of the Higher Education Student Assistance Authority to the Governor as necessary to maintain the fund in an amount equal to the loan reserve requirement during the then current fiscal year. The chairperson shall annually, on or before December 1, make and deliver to the Governor a certificate stating the sums, if any, required to maintain the fund in the amount equal to the loan reserve requirement, and the sum or sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

d. Moneys in the fund at any time in excess of the loan reserve requirement, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to any other fund or account of the authority, to the extent permitted under 20 U.S.C.s.1071 et seq.

e. Moneys at any time in the Loan Reserve Fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America or such other obligations as the authority may approve, to the extent permitted under 20 U.S.C.s.1071 et seq.

f. For purposes of valuation, investments in the Loan Reserve Fund shall be valued at the lowest of the par value, cost to the authority, or market value of the investments. Valuation on any particular date shall include the amount of interest then earned or accrued to the date on any moneys or investments in the Loan Reserve Fund.

Capital Reserve Fund; use; investment.

18A:71A-25. Capital Reserve Fund; Use; Investment.

a. The authority shall establish and maintain a special fund called the "New Jersey Higher Education Student Assistance Capital Reserve Fund" in which there shall be deposited: (1) all moneys appropriated by the State for the purpose of the fund; (2) all proceeds of bonds required to be deposited therein by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to the proceeds or bonds; and (3) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the capital reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the same shall become due and payable and for the retirement of bonds, and shall not be withdrawn therefrom if the withdrawal would reduce the amount in the capital reserve fund to an amount equal to less than the maximum debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of any contract between the authority and its bondholders and for the payments on account of which interest or principal or retirement of bonds other moneys of the authority are not then available in accordance with the terms of the contract. As used in this section, "maximum debt service reserve" means, as of any date of computation, the lesser of: the largest amount of money required by the terms of all contracts between the authority and its bondholders to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of the contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that bonds will cease to be outstanding after the date of the computation by reason of the payment of bonds at their respective maturities and the payments of the required moneys to sinking funds and the application thereof in accordance with the terms of the contracts to the retirement of bonds; or the amount of money required by the terms of all contracts between the authority and its bondholders to be maintained in the fund.

b. Moneys in the fund at any time in excess of the maximum debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to any other fund or account of the authority.

c. Moneys at any time in the fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America or such other obligations as the authority may approve.

d. For purposes of valuation, investments in the capital reserve fund shall be valued at the lowest of the par value, cost to the authority or market value of the investments. Valuation on

any particular date shall include the amount of interest then earned or accrued to the date on any moneys or investments in the reserve fund.

e. Notwithstanding any other provisions contained in this act, no bonds shall be issued by the authority unless there is in the capital reserve fund the maximum debt service reserve for all bonds then issued and outstanding and the bonds about to be issued; provided that nothing herein shall prevent or preclude the authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds about to be issued, upon their issuance, as is needed to achieve the maximum debt service reserve. The authority may at any time issue its bonds, notes or other obligations for the purpose of providing any amount necessary to increase the amount in the capital reserve fund to the maximum debt service reserve, or to meet such higher or additional reserve as may be fixed by the authority with respect to the fund.

f. In order to assure the maintenance of the maximum debt service reserve in the capital reserve fund, there shall be appropriated annually and paid to the authority for deposit in the fund, such sum, if any, as shall be certified by the chairperson of the Board of Higher Education Student Assistance Authority to the Governor as necessary to restore the fund to an amount equal to the maximum debt service reserve. The chairperson shall annually, on or before December 1, make and deliver to the Governor a certificate stating the sums, if any, required to restore the fund to the amount equal to the maximum debt service reserve, and the sum or sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

g. The capital reserve fund shall be kept separate from any other reserve fund established by the authority and shall not be subject to the provisions of N.J.S.18A:71A-24.

Dissolution.

18A:71A-26. Dissolution.

Should the Legislature act to dissolve the authority, the dissolution shall not be complete until all loans guaranteed have been paid by the borrower, or if in default, by the authority. Thereafter, upon dissolution of the authority, or the cessation of its activities, all assets of the authority, after payment and discharge of its debts and other liabilities, shall be distributed to the State, for exclusively public purposes, or distributed 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.

Effect of partial invalidity; severability.

18A:71A-27. Effect of Partial Invalidity; Severability.

If any clause, sentence, article, paragraph, section or part of this act be adjudged to be unconstitutional or invalid, that judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, article, paragraph, section or part thereof directly involved in the controversy in which the judgment has been rendered.

Transfer of functions, powers and duties of office of student assistance.

18A:71A-28. Transfer of Functions, Powers and Duties of Office of Student Assistance.

a. The Office of Student Assistance in, but not of, the Department of the Treasury is abolished and all its functions, powers, duties and employees are transferred to the Higher Education Student Assistance Authority in, but not of, the Department of State.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Office of Student Assistance or officers thereof in, but not of, the Department of the Treasury, the same shall mean and refer to the Higher Education Student Assistance Authority or the officers thereof in, but not of, the Department of State.

c. Nothing in this act shall be construed to alter the terms and conditions, rights or remedies of any loan, grant or scholarship made by the Office of Student Assistance.

d. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.)

Transfer of Functions, powers and duties of student assistance board.

18A:71A-29. Transfer of Functions, Powers and Duties of Student Assistance Board.

a. The Student Assistance Board in, but not of, the Department of the Treasury established pursuant to section 1 of P.L.1977, c.330 (C.18A:71-15.1), is abolished and all its functions, powers and duties are transferred to the Higher Education Student Assistance Authority in, but not of, the Department of State.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Student Assistance Board in, but not of, the Department of the Treasury, the same shall mean and refer to the Higher Education Student Assistance Authority in, but not of, the Department of State.

c. Nothing in this act shall be construed to alter the terms and conditions of any loan, grant or scholarship made to students through the board.

d. This transfer shall be subject to the provisions of the "State Agency Transfer Act", P.L.1971, c.375 (C.52:14D-1 et seq.).

Transfer of functions, powers and duties of higher education assistance authority.

18A:71A-30. Transfer of Functions, Powers and Duties of Higher Education Assistance Authority.

a. The Higher Education Assistance Authority in, but not of, the Department of the Treasury, established pursuant to N.J.S.18A:72-3, is abolished and all its functions, powers and duties are transferred to the Higher Education Student Assistance Authority in, but not of, the Department of State.

b. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the Higher Education Assistance Authority or the officers thereof in, but not of, the Department of the Treasury, the same shall mean and refer to the Higher Education Student Assistance Authority or the officers thereof in, but not of, the Department of State.

c. Nothing in this act shall be construed to alter the terms and conditions of loans made to students by the authority. Nothing in this act shall be construed to alter the terms, conditions, rights, or remedies of any obligation issued by the authority.

d. This transfer shall be subject to the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

Abolishment of executive director of student assistance programs.

18A:71A-31. Abolishment of Executive Director of Student Assistance Programs.

The Office of the Executive Director of Student Assistance Programs in the Office of Student Assistance, established pursuant to subsection b. of section 17 of P.L.1994, c.48 (C.18A:3B-17), is hereby abolished.

Construction of law.

18A:71A-32. Construction of Law.

The enactment of this revision law shall not:

a. affect the tenure, compensation and pension rights, if any, of the lawful holder thereof, in any position held in the Office of Student Assistance on the effective date of this act and not specifically abolished in this act;

b. alter the term of any employee of the Office of Student Assistance, lawfully employed as of the effective date of this act;

c. alter any terms or conditions of any student loans, grants or scholarships;

d. alter any rights or obligations arising from any law, rule, regulation, order, contract, loan, grant, document, judicial or administrative proceeding.

Higher Education Student Assistance Authority to be responsible for implementation.

18A:71A-33. Higher Education Student Assistance Authority to Be Responsible for Implementation.

The Higher Education Student Assistance Authority, with the aid of any department or officer

thereof, if requested, shall be responsible for any administrative, fiscal and personnel actions necessary to implement the provisions of this act.

Limitation on powers of authority; bond holders protected.

18A:71A-34. Limitation on Powers of Authority; Bond Holders Protected.

The powers conferred in this act upon the Higher Education Student Assistance Authority shall be exercised with due regard for the rights of the holders of bonds of this State or any authority thereof, at any time outstanding, and nothing in, or done pursuant to this act, shall in any way limit, restrict, or alter the obligation or powers of the State or its authorities to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by, or on behalf of the State or any authority thereof with respect to its bonds or for the benefit, protection or security of the holders thereof.

Part 2.— Student Financial Aid

Article 1. State Scholarships and Grants - General Provisions.

Eligible institution defined.

18A:71B-1. Eligible Institution Defined.

Unless otherwise restricted by the authority by regulation, "eligible institution" for purposes of this chapter only means an institution of higher education in this State that is licensed by the Commission on Higher Education and accredited or preaccredited by a nationally recognized accrediting association. Eligible institution shall also include certain proprietary institutions but only for certain degree granting programs as approved by the commission.

Student eligibility.

18A:71B-2. Student Eligibility.

a. A student who is enrolled in an eligible institution and who is eligible for and receives any form of student financial aid through a program administered by the State under this chapter shall be considered to remain domiciled in New Jersey and eligible for continued financial assistance notwithstanding the fact that the student is financially dependent upon the student's parents or guardians and that the parents or guardians change their domicile to another State.

b. A person shall not be awarded financial aid under this chapter unless the person has been a resident of this State for a period of not less than 12 months immediately prior to receiving the financial aid.

c. A person shall not be awarded student financial aid under this chapter unless the person is a United States citizen or eligible noncitizen, as determined under 20 U.S.C.s.1091. The authority shall determine whether persons who were eligible noncitizens prior to the effective date of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, but not after that date, shall continue to be eligible for student financial aid under this chapter.

d. A person who is incarcerated shall not be eligible for student financial aid under this chapter.

Discrimination forbidden.

18A:71B-3. Discrimination Forbidden.

Financial aid under this chapter shall be awarded without regard to race, religion, creed, age, sex, national origin or handicapped status.

Academic year defined.

18A:71B-4. Academic Year Defined.

a. An academic year for the purpose of this chapter means the period between the time the institution which the student is attending opens after the general summer vacation until the beginning of the next succeeding summer vacation.

b. In case an institution operates on a full calendar-year program, the academic year shall

be determined in accordance with rules adopted by the authority, but in no case shall be less than one-fifth of the time required for the completion of a five-year program, or one-fourth of the time required for the four-year program in an institution operating on an academic year as defined in subsection a. of this section.

Notification of authority in the case of withdrawal or change in status.

18A:71B-5. Notification of Authority in the Case of Withdrawal or Change in Status.

In the event a student for any reason ceases to continue to be enrolled or otherwise becomes ineligible during the course of an academic year, the student shall cease to be eligible for financial aid under this chapter. Both the student and the institution shall have the responsibility to notify the authority when a student ceases to be eligible to receive student assistance because of withdrawal for any reason or a change in status from a full to part-time student.

Verification of compliance with military selective service act.

18A:71B-6. Verification of Compliance with Military Selective Service Act.

A student who is subject to the provisions of the "Military Selective Service Act," 50 U.S.C. App. 453, shall not be eligible to receive any State-funded loan, grant, or scholarship for attendance at any postsecondary institution without verification of compliance with the requirements of that act. Verification of compliance shall be satisfied as follows:

a. for a student who uses the Free Application for Federal Student Aid or its equivalent to receive financial aid, verification of military selective service compliance provided under the federal "Higher Education Act of 1965," Pub.L.89-329 (20 U.S.C.s.1001 et seq.) shall be satisfactory;

b. for a student who does not use the Free Application for Federal Student Aid or its equivalent, the institution or agency awarding the financial aid shall not disburse the aid until provided proof, as specified by regulations, that the student has complied with the requirements of the "Military Selective Service Act."

Rules and regulations.

18A:71B-7. Rules and Regulations.

The Higher Education Student Assistance Authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to carry out the provisions of N.J.S.18A:71B-6.

Compliance with terms and conditions of financial aid.

18A:71B-8. Compliance with Terms and Conditions of Financial Aid.

A person shall not be awarded financial aid under this chapter unless the person has complied with all the regulations, rules, and requirements adopted by the authority for the award, regulation and administration of financial aid programs under this chapter.

False information; penalty.

18A:71B-9. False Information; Penalty.

A person who knowingly and willfully furnishes any false or misleading information for the purpose of obtaining a scholarship or tuition assistance grant, or of enabling another to obtain a scholarship or tuition assistance grant under any program administered by the authority shall be guilty of a crime of the fourth degree. A statement to this effect shall be distributed with all State application forms utilized for any State scholarship or grant programs administered by the authority.

Collection of overpayments and ineligible payments of financial aid.

18A:71B-10. Collection of Overpayments and Ineligible Payments of Financial Aid.

Because the institution is responsible for ensuring a student's eligibility for financial aid awarded under this chapter, the institution shall be responsible for collecting any State awards which are overpayments or any State awards for which the student is ineligible in whole or in part. In the event an institution is unable to collect an overpayment or ineligible payment from

the student, the institution may request the authority to collect the debt from the student. If the institution demonstrates to the authority that it has made a good faith effort to collect the debt, the authority may, on a case by case basis, approve this request. If the authority approves this request from an institution, the authority may use collection procedures that include, but are not limited to, the procedures set forth under N.J.S.18A:71C-1 through N.J.S.18A:71C-20.

Article 2. Garden State Scholarships.

Scholarships created.

18A:71B-11. Scholarships Created.

There are hereby created Garden State Scholarships which shall be maintained by the State, awarded to secondary school students with records of distinguished achievement and promise, and used for undergraduate study in eligible institutions. These scholarships may be awarded on the basis of indicators of academic merit defined by the authority without consideration of financial need.

Administration by the authority.

18A:71B-12. Administration by the Authority.

The authority shall administer the provisions of this article, establish criteria, methodology and guidelines for awarding Garden State Scholarships, adopt rules and regulations, and prescribe and provide appropriate forms for application for Garden State Scholarships.

Criteria, methodology and guidelines; revisions.

18A:71B-13. Criteria, Methodology and Guidelines; Revisions.

Any revisions to criteria, methodology and guidelines in effect at the date this act becomes effective shall, after consultation with the Commission on Higher Education, be submitted to the Legislature by the authority, together with appropriate supporting information, and the criteria, methodology, and guidelines shall be deemed approved by the Legislature at the end of 60 calendar days after the date on which they are transmitted to the Legislature, or if the Legislature is not in session on the sixtieth day, then on the next succeeding day on which it is meeting, unless between the date of transmittal and the end of the 60-day period the Legislature passes a concurrent resolution rejecting the criteria, methodology and guidelines in which case the criteria, methodology and guidelines then in effect shall continue in effect.

Award of scholarships.

18A:71B-14. Award of Scholarships.

As determined by the authority and subject to the amount of appropriations available therefor, a Garden State Scholarship shall be awarded annually to each eligible New Jersey resident enrolled as a full-time undergraduate in a curriculum leading to a degree or certificate in an eligible institution.

Renewal of scholarships.

18A:71B-15. Renewal of Scholarships.

Each Garden State Scholarship awarded shall be renewable annually for up to four years except that, in the case of a scholarship holder who is enrolled in a course of study required by the institution to cover five years, the period of the scholarship shall be the length of time regularly required for the completion of the course of study, but each scholarship shall remain in effect only during such period as the undergraduate holder thereof achieves satisfactory academic progress as defined by the institution, continues to meet the eligibility criteria and guidelines established pursuant to N.J.S.18A:71B-12, and is regularly enrolled as a full-time student in an eligible institution.

Amount of scholarship; payments.

18A:71B-16. Amount of Scholarship; Payments.

A Garden State Scholarship shall entitle the recipient to an award in an amount established by

the authority pursuant to N.J.S.18A:71B-12, and subject to the amount of appropriations available therefor. Payments under this article shall be made by the State Treasurer on the order of the executive director in accordance with the rules adopted by the authority.

Limitation.

18A:71B-17. Limitation.

A Garden State Scholarship shall not, when combined with any other financial assistance, exceed, except for a nominal amount as determined by the authority, the student's cost of attendance at the institution where the grants are used.

Article 3. State Tuition Aid Grants.

Grants created; use.

18A:71B-18. Grants Created; Use.

There are hereby created State tuition aid grants which shall be maintained by the State, awarded and administered pursuant to this act, and used by the holders thereof for undergraduate study in eligible institutions.

Administration of provisions.

18A:71B-19. Administration of Provisions.

The authority shall administer the provisions of this article, adopt rules and regulations, and prescribe and provide appropriate forms for application for State tuition aid grants.

Eligibility, prerequisite.

18A:71B-20. Eligibility, Prerequisite.

a. A State tuition aid grant shall be awarded annually to each eligible, qualified full-time undergraduate student enrolled in a curriculum leading to a degree or certificate in an eligible institution, or in an institution of higher education in another state, provided that state permits its residents to utilize its state student financial assistance grants in New Jersey institutions of higher education through reciprocity agreements approved by the authority. In no event shall a State tuition aid grant be utilized at an out-of-State institution which is not licensed by that state and accredited by a regional accrediting association recognized by a national accrediting organization.

b. To each New Jersey resident enrolled as a full-time student and meeting the other requirements for eligibility under this chapter, the State shall grant an amount as provided in N.J.S.18A:71B-21. A student shall not be eligible for a grant unless the application is in a form satisfactory to the authority. A student shall not be eligible for grants for more than four and one-half academic years, unless the recipient is enrolled in an undergraduate program regularly requiring five academic years for completion, in which case the authority shall permit five and one-half years of eligibility. Notwithstanding the foregoing provisions, a student receiving aid under the provisions of P.L.1968, c.142 (C.18A:71-28 et seq.) shall be entitled to a sixth year of eligibility. Notwithstanding the foregoing provisions, a county college student who transfers to a four- year institution, or any student who is required to pursue 18 or more credit hours in a remedial or developmental curriculum, as defined by regulations adopted by the authority, is entitled to an additional half year of eligibility. For the purpose of this article, a remedial curriculum shall include only noncredit courses in which a student is directed to enroll by the institution. Eligibility for tuition aid grants may be extended to part-time students through regulations developed by the authority if funds are separately appropriated for this purpose. A student shall not be eligible for grants unless the student maintains such minimum standards of academic performance as are required by the institution of enrollment. A student who is enrolled in a course leading to a degree in theology or divinity shall not be eligible for a tuition aid grant.

c. A person shall not be awarded a State tuition aid grant unless that person:

- (1) satisfies the residency and other requirements provided in article 1 of this part;
- (2) has applied for State tuition aid and has been determined by the authority to be eligible for the tuition aid;

(3) has demonstrated financial need for the tuition aid as determined by and in accordance with standards to be established by the authority; and

(4) maintains satisfactory academic progress in accordance with standards established by the authority.

Amount of grant; reduction of award.

18A:71B-21. Amount of Grant; Reduction of Award.

a. The amount of a tuition aid grant awarded under this article to any student attending an eligible institution shall be established by the authority, but shall not exceed the maximum amount of tuition normally charged at a public institution of higher education for students attending that institution or 50% of the average tuition normally charged at the independent institutions of higher education for students attending those institutions. The amount of a State tuition aid grant awarded under this act to any student attending an institution of higher education in any state other than New Jersey pursuant to this section shall not exceed \$500 in an academic year. The amount of grant to be paid for each semester or its equivalent shall be based on the financial need for the grant, as determined by standards and procedures established by the authority, and subject to the amount of appropriations available therefor.

b. Appropriations for each program category of tuition aid grants shall be separately made by line item.

c. State tuition aid grants shall be awarded by the authority to all eligible applicants without any limitation on the number to be awarded in any year other than the amount of appropriations available therefor. In the event that the amount appropriated is insufficient for full awards to all eligible applicants, the authority, in consultation with the Commission on Higher Education, shall reduce awards equitably among eligible students according to such procedures and guidelines as it shall establish. Any revisions of procedures and guidelines in effect as of the effective date of this act shall be submitted on or before March 1 of the prebudget year by the executive director of the authority to the Joint Budget Oversight Committee of the Legislature, or its successor, together with supporting information. The revised criteria and guidelines may be approved or disapproved by the Joint Budget Oversight Committee, or its successor, at any time; provided that if at the end of a 60-calendar day period after the date on which the revisions are transmitted to the committee, the committee has taken no action, the proposed revised criteria and guidelines shall be deemed to be approved by the committee.

Construction of article.

18A:71B-22. Construction of Article.

This article shall not be construed as granting any authority to control or influence the policies of any educational institution because it accepts students receiving tuition aid grants, nor as requiring any institution to admit or once admitted to continue in the institution any tuition aid recipient.

Article 4. Survivor Tuition Benefits Program.

Scholarships for undergraduate education; eligibility.

18A:71B-23. Scholarships for Undergraduate Education; Eligibility.

Any child or surviving spouse of a member or officer of a New Jersey volunteer fire company, volunteer first aid or rescue squad or municipal fire, police, county police or park police department, State fire service or of the division of State police, or of a permanent, active and full-time officer employee of this State or any political subdivision thereof holding the following titles: State investigator, correction officer, recruit, senior correction officer, sergeant, lieutenant, captain, correction officer duty keeper, court attendant and sheriff's officer, court attendant and sheriff's officer lieutenant, court attendant and sheriff's officer captain, court attendant and sheriff's officer deputy chief, prosecutor's detective, prosecutor's investigator, narcotics officer, marine patrolman, senior marine patrolman, principal marine patrolman, chief, bureau of marine law enforcement, or who is an inspector, assistant, technician, supervisor or superintendent with respect to the enforcement and regulation of weights and measures, or civil

defense or disaster control worker, which member, officer or worker was killed in the performance of his duties as a member of such company, squad or fire or police department or division, or worker in a civil defense or disaster control unit, upon such child or surviving spouse being accepted to pursue a course of undergraduate study in any public institution of higher education of this State, as enumerated in N.J.S.18A:62-1, shall, while enrolled as an undergraduate student in good standing at the institution, have the tuition paid by the State; or upon that child or surviving spouse being accepted to pursue a course of undergraduate study at any independent institution of higher education located in the State, shall, while enrolled as an undergraduate in good standing at that independent institution of higher education, have that part of the tuition which is not more than the highest tuition charged at the public institutions of higher education in this State, enumerated in N.J.S.18A:62-1, paid by the State.

Eligibility for this program shall be limited to a period of eight years from the date of death of the member, officer or worker, in the case of a surviving spouse, and eight years following graduation from high school, in the case of a child, pursuant to rules and regulations established by the authority.

Appropriation of funds.

18A:71B-24. Appropriation of Funds.

There shall be appropriated to the authority in any general or supplemental appropriation act such sums as shall be necessary to carry out the purposes of N.J.S.18A:71B-23.

Article 5. Miss New Jersey Educational Scholarship Program.

Scholarship program established.

18A:71B-25. Scholarship Program Established.

There is established the Miss New Jersey Educational Scholarship program. It shall be the duty of the Higher Education Student Assistance Authority, established pursuant to N.J.S.18A:71A-3, to administer this program.

Scholarship eligibility.

18A:71B-26. Scholarship Eligibility.

A Miss New Jersey Educational Scholarship shall be awarded annually to an individual who has been designated by the Higher Education Student Assistance Authority, in consultation with the Miss New Jersey Pageant Organization, as being an exceptional young leader in the area of civic, cultural or charitable endeavors in the spirit of the Miss New Jersey Pageant. In order to be eligible for the scholarship, the individual shall be enrolled in or accepted into a course of study leading to an initial bachelors degree or a post graduate degree in any public institution of higher education of this State, as enumerated in N.J.S.18A:62-1.

Scholarship conditions.

18A:71B-27. Scholarship Conditions.

Any Miss New Jersey scholarship recipient who enrolls in a public institution of higher education in the State shall be allowed to obtain an initial bachelors degree or a post graduate degree without payment of tuition as long as the individual remains a full time student in good standing at the institution. There shall be appropriated annually to the Higher Education Student Assistance Authority a sum equal to the cost of tuition at each public institution enrolling a Miss New Jersey Scholarship recipient and any other sums as shall be necessary to carry out the purposes of the Miss New Jersey Educational Scholarship program. The scholarship recipient shall be responsible for all other costs.

Article 6. Garden State Savings Bonds.

Definitions.

18A:71B-28. Definitions.

As used in this article:

“Garden State Savings Bonds” means bonds of the State of New Jersey and its authorities issued pursuant to the provisions of this article.

“Institution of higher education” means any public institution of higher education as defined in N.J.S.18A:62-1 and any independent institution of higher education which is an “eligible institution” as defined in section 3 of P.L.1979, c.132 (C.18A:72B-17).

“Issuing officials” means the Governor, the State Treasurer, the Director of the Division of Budget and Accounting in the Department of the Treasury and the issuing authority or agency.

Issue of bonds.

18A:71B-29. Issue of Bonds.

a. In furtherance of the public policy of this article, the State shall set aside, from the bonds of the State of New Jersey authorized to be issued or from the bonds of any authority or agency authorized to be issued, an amount to be determined by the State Treasurer of the total aggregate original principal amount of the bonds. These bonds shall be issued as determined by the issuing officials and shall be known as “Garden State Savings Bonds,” in addition to any other name they may be known as.

b. Garden State Savings Bonds may be issued in low denominations and in the form or forms, whether coupon, fully-registered or book entry, and with or without provisions for interchangeability thereof, as may be determined by the issuing officials, and in such amounts as will allow a large number of New Jersey families to participate in the program, and with the maturity dates which will make funds available to purchasers at the time when the funds are needed for educational purposes.

c. When Garden State Savings Bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials. Each series of bonds so designated shall bear the rate or rates of interest as may be determined by the issuing officials, which interest shall be payable as may be determined by the issuing officials.

Participation by institutions of higher education.

18A:71B-30. Participation by Institutions of Higher Education.

a. The State Treasurer, in consultation with the commission, shall also provide for additional financial incentives to be provided to holders of Garden State Savings Bonds to encourage the enrollment of students at institutions of higher education located in the State of New Jersey. These financial incentives shall be in such forms as determined by the State Treasurer in consultation with issuing officials at the time of the authorization of the Garden State Savings Bonds and shall at a minimum provide that each participating institution shall guarantee that the value of Garden State Savings Bonds redeemed for the purposes of the payment of tuition, fees, and other educational costs at the institution, shall, at the time of matriculation of the student, be increased by not less than six percent of the face value of the bonds at the time of redemption. Two percent of the incentive amount shall be paid by the State, and four percent by participating institutions.

b. Every public institution of higher education in New Jersey shall participate in the financial incentive program. Independent institutions of higher education in New Jersey may elect to participate in the program. Each independent institution which elects to participate shall enter into a contract with the Department of the Treasury which shall, at a minimum, define the terms of participation and establish conditions under which an institution may withdraw from the program. Any independent institution that withdraws from the program shall guarantee to provide the financial incentives in effect for all bonds purchased during the period in which the institution was a participant in the program.

c. The original purchaser and any member of the immediate family of the original purchaser of a Garden State Savings Bond shall be eligible for the financial incentive program established pursuant to this section.

Dollar Amount not to be considered in determining eligibility for monetary assistance.

18A:71B-31. Dollar Amount Not to be Considered in Determining Eligibility for Monetary Assistance.

Annually, the authority shall determine a dollar amount of Garden State Savings Bonds or accumulated bonds, interest or supplemental payment, which shall not be less than \$25,000, unless a greater amount is approved by the authority, which shall not be considered in evaluating the financial needs of a student enrolled at an institution of higher education located in the State of New Jersey, or be deemed a financial resource of or a form of financial aid or assistance to each student, for purposes of determining the eligibility of a student for any scholarship, grant, or monetary assistance awarded by the State; nor shall the amount of any such bonds, interest or supplemental payment as determined by the authority provided for a qualified student under this article reduce the amount of any scholarship, grant or monetary assistance which the student is entitled to be awarded by the State.

Report on results of sale.

18A:71B-32. Report on Results of Sale.

The State Treasurer or the issuing authority or agency shall submit a report after each bond issuance to the commission detailing the results of each separate sale of Garden State Savings Bonds.

Duties of the State Treasurer.

18A:71B-33. Duties of the State Treasurer.

The State Treasurer shall, in consultation with the commission, approve the following:

- a. additional financial incentives as provided in this article;
- b. limits that may be imposed on the amount of Garden State Savings Bonds that may be purchased by individual households;
- c. minimum denominations to market the Garden State Savings Bonds so that they are affordable by individuals; however, each issue shall be offered with sufficient bonds at a purchase price of \$100 to satisfy demand.

In addition, the State Treasurer shall evaluate the feasibility of staggered or periodic forms of payments for Garden State Savings Bonds and shall advise the issuing officials regarding the evaluation.

Assessment of effectiveness of program.

18A:71B-34. Assessment of Effectiveness of Program.

The commission and the State Treasurer shall assess the effectiveness of the program and recommend any necessary changes to the issuing officials regarding future bond sales after the initial sale of Garden State Savings Bonds.

Article 7. New Jersey Better Educational Savings Trust Program.

Legislative findings and declarations.

18A:71B-35. Legislative Findings and Declarations.

The Legislature finds and declares that:

- a. This State is committed to making world-class education accessible and affordable for all New Jersey students;
- b. When families save for college education, they are making an important investment in the future for themselves and the young people of this State;
- c. Incentives are needed to encourage families to save for college education;
- d. The "Small Business Job Protection Act of 1996," Pub.L.104-188, amended the federal Internal Revenue Code to provide for favorable tax treatment for qualified college savings programs and participants in the programs; and
- e. In addition to favorable federal tax treatment for a college savings program and its participants, it is desirable to provide favorable State tax treatment, as a special incentive for student beneficiaries to attend college in this State.

Definitions.

18A:71B-36. Definitions.

As used in this article:

"Account" means an individual trust account or savings account established in accordance with this article;

"Authority" means the Higher Education Student Assistance Authority;

"Contributor" means the person or organization contributing to and maintaining an account and having the right to withdraw funds from the account before the account is disbursed to or for the benefit of the designated beneficiary;

"Designated beneficiary" means: a. the individual designated at the time the account is opened as the individual whose higher education expenses are expected to be paid from the account; b. the replacement beneficiary if the change in designated beneficiary would not result in a distribution that is included in federal gross income under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529; and c. in the case of an interest in the program purchased by a state or local government or an organization described in paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.501 and exempt from taxation under subsection (a) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.501, as a part of a scholarship program operated by the government or organization, the individual receiving the interest as a scholarship;

"Higher education institution" means an eligible educational institution as defined in or for purposes of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529. Higher education institution shall include a proprietary institution if expenses for tuition at the institution would be considered qualified higher education expenses under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529, but only for degree granting programs licensed or approved by the Commission on Higher Education or for other proprietary institutions as determined by the authority;

"Investment Manager" means the Division of Investment in the Department of the Treasury or the private entities authorized to do business in this State that may be designated by the authority to invest the funds of the trust pursuant to the terms of this article;

"Member of the family" means a member of the family as defined in or for purposes of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529;

"Nonqualified withdrawal" means a withdrawal from an account other than: a. a qualified withdrawal; b. a withdrawal made as the result of the death or disability of the designated beneficiary of an account; c. a withdrawal made on account of a scholarship (or allowance or payment described in subparagraph (B) or (C) of paragraph (1) of subsection (d) of section 135 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.135) received by the designated beneficiary, but only to the extent of the amount of that scholarship, allowance or payment; d. a rollover or change in designated beneficiary which would not result in a distribution includible in federal gross income under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529; or e. any other withdrawal if the failure of the program to impose a more than de minimis penalty on the withdrawal would cause the program not to be a qualified State tuition program under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529;

"Program" means the "New Jersey Better Educational Savings Trust (NJBEST) Program" established pursuant to this article;

"Qualified higher education expenses" means expenses described in paragraph (3) of subsection (e) of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529 incurred in connection with the enrollment of a designated beneficiary at a higher education institution;

"Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account; but a withdrawal shall not be considered a qualified withdrawal if the failure of the program to impose a more than de minimis penalty on the withdrawal would cause the program not to qualify as a qualified State tuition program under section 529 of the federal Internal Revenue Code of 1986, U.S.C.s.529;

"Trust" means the "New Jersey Better Educational Savings Trust" established pursuant to N.J.S.18A:71B-37.

New Jersey Better Educational Savings Trust created.

18A:71B-37. New Jersey Better Educational Savings Trust Created.

There is created within the Higher Education Student Assistance Authority the New Jersey Better Educational Savings Trust (NJBEST). The trust shall provide a mechanism through which the authority, as trustee, holds accounts established and maintained pursuant to the provisions of this article to finance the cost of qualified higher education expenses.

Administration of the program; powers of the authority.

18A:71B-38. Administration of the Program; Powers of the Authority.

The Higher Education Student Assistance Authority shall administer the NJBEST Program. The authority shall have the power to:

- a. serve as trustee of the trust;
- b. adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to carry out the provisions of this article;
- c. prescribe and provide appropriate forms for participation in the program;
- d. select an investment manager and any other contractors needed to manage and market the program;
- e. monitor the investment manager and any other contractors by audits and other reports;
- f. collect reasonable administrative fees in connection with any contract or transaction relating to the program;
- g. impose penalties for nonqualified withdrawals;
- h. take all actions required so that the program is treated as a qualified State tuition program under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529; and
- i. perform any other acts which may be deemed necessary or appropriate to carry out the objects and purposes of this article.

Immunity.

18A:71B-39. Immunity.

Neither the members of the authority, nor any officer or employee of the authority shall be liable personally for the debts, liabilities or obligations of the program established pursuant to this article.

Selection of investment manager.

18A:71B-40. Selection of Investment Manager.

a. The authority shall select an investment manager or managers to invest the funds of the trust or the funds in accounts. In making this selection, any investment manager shall be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89), and the authority shall consider the impact of fees and costs imposed by the manager or managers on yield to contributors.

b. The authority may select more than one investment manager and investment instrument for the program if it is in the best interest of contributors and will not interfere with the administration of the program.

c. The authority may provide a contributor with a choice of investment managers or investment instruments or both for the program if both of the following conditions exist:

(1) the federal Internal Revenue Service has provided guidance that providing a contributor with a choice of investment managers or instruments under a State tuition program will not cause the program to fail to qualify for favorable tax treatment under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529; and

(2) the authority concludes that a choice of investment managers or of investment instruments is in the best interest of contributors and will not interfere with the administration of the program.

d. If the authority terminates the designation of an investment manager to hold accounts, and accounts must be moved from that investment manager to another investment manager, the authority shall select the investment manager and type of investment instrument to which the balance of the account is moved, unless the federal Internal Revenue Service provides guidance that allowing the contributor to select among several investment managers or investment

instruments that have been selected by the authority would not cause a program to cease to be a qualified State tuition program for the purposes of section 529 of the federal Internal Revenue Code, 26 U.S.C.s.529.

Operation of program; fees.

18A:71B-41. Operation of Program; Fees.

a. The program shall be operated as a trust through the use of accounts for designated beneficiaries. An account may be opened by any person who desires to save to pay the qualified higher education expenses of an individual by satisfying each of the following requirements:

- (1) completing an application in the form prescribed by the authority;
- (2) paying the one-time application fee established by the authority;
- (3) making the minimum contribution required by the authority for opening an account;
- (4) designating the account or accounts to be opened; and
- (5) in the case of an account to which subsection a. of N.J.S.A.18A:71B-44 would apply, demonstrating to the satisfaction of the authority that either the contributor, if an individual, or the designated beneficiary is a New Jersey resident. The requirement of New Jersey residency for either the contributor or the designated beneficiary would not apply to an account to which subsection b. of N.J.S.18A:71B-44 would apply unless otherwise determined by the authority.

b. Except as provided under N.J.S.18A:71B-42, only the contributor may make contributions to an account after the account is opened.

c. Contributions to accounts shall be made only in cash, as defined by the authority pursuant to regulations, in accordance with section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529.

d. Contributors may withdraw all or part of the balance from an account on sixty days' notice or a shorter period, as may be authorized by the authority pursuant to regulations.

e. A contributor may change the designated beneficiary of an account or rollover all or a portion of an account to another account if the change or rollover would not result in a distribution includible in gross income under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529, in accordance with procedures established by the authority.

f. In the case of any nonqualified withdrawal, a penalty at a level established by the authority and sufficient to be considered a more than de minimis penalty for purposes of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529, shall be withheld and paid to the authority for use in operating and marketing the program. The authority may elect not to impose a penalty if that section ceases to include a provision requiring more than de minimis penalties for a program to qualify as a qualified State tuition program.

g. If a contributor makes a nonqualified withdrawal and a penalty amount is not withheld pursuant to subsection f. of this section or the amount withheld is less than the amount required to be withheld under that subsection, the contributor shall pay the unpaid portion of the penalty to the authority at the same time that the contributor files a State income tax return for the taxable year of the withdrawal, or if the contributor does not file a return, the unpaid portion of the penalty shall be paid on or before the due date for the filing of that income tax return.

h. Each account shall be maintained separately from each other account under the program.

i. Separate records and accounting shall be maintained for each account for each designated beneficiary.

j. A contributor to or designated beneficiary of any account shall not direct the investment of any contributions to an account or the earnings from the account, except as permitted under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529.

k. A contributor or a designated beneficiary shall not use an interest in an account as security for a loan. Any pledge of an interest in an account is of no force and effect.

l. The maximum contribution for any designated beneficiary shall be determined by the authority pursuant to regulations, in accordance with section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529.

m. Statements, reports on distributions and information returns relating to accounts shall be prepared, distributed, and filed to the extent required by section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529, or regulations issued thereunder.

n. The authority may charge, impose and collect reasonable administrative fees and service charges in connection with any agreement, contract or transaction relating to the program. These fees and charges may be imposed directly on contributors or may be taken as a percentage of the investment earnings on accounts.

o. The State or any State agency, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit contributions to accounts through payroll deductions made by the appropriate officer or officers of the State, State agency, county, municipality, or political subdivision. The contributions shall be held and administered in accordance with this act.

NJBEST scholarship; conditions.

18A:71B-42. NJBEST Scholarship; Conditions.

a. An amount of no less than \$500 shall be provided by the State for the qualified higher education expenses of a designated beneficiary at the time of a qualified withdrawal provided that:

(1) the contributor demonstrates, to the satisfaction of the authority, that the contributor participated in the program for at least four years by making a qualifying minimum initial deposit or qualifying minimum annual contributions, or both, as shall be determined by the authority, for a designated beneficiary;

(2) the designated beneficiary demonstrates, to the satisfaction of the authority, attendance or enrollment in a higher education institution in this State, at the time of initial attendance or enrollment in the higher education institution; and

(3) either the contributor, if an individual, or the designated beneficiary demonstrates, to the satisfaction of the authority, that the contributor or designated beneficiary is a New Jersey resident.

b. The amount provided under subsection a. of this section shall meet the requirements of a qualified scholarship within the meaning of section 117 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.117, for a designated beneficiary satisfying the requirements of subsection a. of this section.

c. A designated beneficiary shall not receive more than one State scholarship provided pursuant to subsection a. of this section.

Determination of dollar amount of account.

18A:71B-43. Determination of Dollar Amount of Account.

Annually, the authority shall determine a dollar amount of an account, which shall not be less than \$25,000, which shall not be considered in evaluating the financial needs of a student enrolled in an institution of higher education located in the State of New Jersey, or be deemed a financial resource or a form of financial aid or assistance to a student, for purposes of determining the eligibility of a student for any scholarship, grant, or monetary assistance awarded by the State; nor shall the amount of any account as determined by the authority provided for a designated beneficiary under this article reduce the amount of any scholarship grant or monetary assistance which the student is entitled to be awarded by the State.

Assurance of availability of principal.

18A:71B-44. Assurance of Availability of Principal.

a. If the investment manager is the Division of Investment in the Department of the Treasury, in order to assure the availability of principal of any amount contributed under this article, there shall be paid to the authority for deposit in the trust, at the time of distribution, subject to appropriation, such sum, if any, as shall be certified by the chairperson of the authority as necessary to provide that amount at the time of distribution. The chairperson shall make and deliver to the Governor, or his designee, the certificate stating the sums, if any, required to make available in the trust the amount aforesaid, and the sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

b. If the investment manager is a private entity, the investment of the principal and interest of any amount contributed under this article shall be backed by the full faith and credit of the

United States or be fully insured by the Federal Deposit Insurance Corporation or other similar insurer backed by the full faith and credit of the United States. No account balance shall exceed the maximum amount of insurance provided by the insurer. No investment is permitted in derivatives of eligible securities, and any investment must be designed to balance prospective payments according to the guidelines established.

Construction.

18A:71B-45. Construction.

a. Nothing in this article shall be construed to:

(1) guarantee that a designated beneficiary will be admitted to a higher education institution or be allowed to continue enrollment at or graduate from a higher education institution after admission;

(2) establish State residency for a person merely because the person is a designated beneficiary; or

(3) guarantee that amounts saved pursuant to the program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

b. Nothing in this article establishes any obligation of this State or any agency or instrumentality of this State to guarantee for the benefit of any contributor or designated beneficiary any of the following:

(1) the rate of interest or other return on any account; or

(2) the payment of interest or other return on any account.

c. Nothing in this article establishes any obligation or liability of this State or any agency or instrumentality of this State with respect to any federal or State tax liability of any contributor or designated beneficiary in this program.

d. Under regulations promulgated by the authority, every contract and application that may be used in connection with a contribution to an account shall clearly indicate that the account is not insured by this State nor is the investment return guaranteed by this State.

Federal income tax consequences.

18A:71B-46. Federal Income Tax Consequences.

If the Congress of the United States enacts legislation that exempts educational savings accounts from federal income taxation, sections N.J.S.18A:71B-42 and N.J.S.18A:71B-43 shall apply with respect to such educational savings accounts as if they were accounts established under this act and the beneficiaries of the accounts were designated beneficiaries subject to the approval of the New Jersey Higher Education Assistance Authority.

Article 8. Veterinary Medical Education.

Contracts with accredited schools of veterinary medicine.

18A:71B-47. Contracts with Accredited Schools of Veterinary Medicine.

The authority is hereby authorized to contract with any and all accredited schools of veterinary medicine in the United States for the acceptance of students who are residents of New Jersey for at least 12 months and desire to study veterinary medicine, and to expend annually within the limits of available appropriations such sums as are necessary to accomplish the intent of this act.

Contracts with consent of advisory committee; members.

18A:71B-48. Contracts with Consent of Advisory Committee; Members.

All contracts provided for in N.J.S.18A:71B-47 shall only be entered into by the authority with the advice and consent of an advisory committee consisting of the following: the Dean of Cook College, Rutgers, the State University of New Jersey, or a designee; the President of the New Jersey Veterinary Medical Association; the Secretary of the New Jersey Veterinary Medical Examining Board; and four New Jersey veterinarians appointed by the Governor for terms of four years each.

Organization of committee; expenses.

18A:71B-49. Organization of Committee; Expenses.

The advisory committee shall organize annually by the appointment of one of its members as chairperson and one as vice-chairperson. Members shall serve without compensation, but shall be entitled to all necessary expenses.

Article 9. State Aid to Schools of Professional Nursing.

Definitions.

18A:71B-50. Definitions.

As used in this article:

“Operational expense” means those funds devoted to or required for the regular or ordinary expenses of the school of professional nursing, including administration, maintenance and salary expenses;

“School of professional nursing” means a school in New Jersey offering a program of nursing instruction not exceeding four years beyond high school, which is affiliated with a hospital and holds a certificate of accreditation issued by the New Jersey Board of Nursing, provided that the school is not eligible to receive State aid for its nursing program under any other law;

“Student” means any full-time student who is a resident of this State and who enters a school of professional nursing to begin a program of nursing instruction or any part-time student who is a resident of this State who enters an upper division program of nursing instruction in a school of professional nursing.

Application for State support; form of application; certificate of accreditation by New Jersey Board of Nursing.

18A:71B-51. Application for State Support; Form of Application; Certificate of Accreditation by New Jersey Board of Nursing.

A school of professional nursing may apply for and receive State aid towards the operational expense of the school. The application shall be upon forms prepared and provided by the authority and shall contain such information as the authority shall require. Each application shall be first submitted to the New Jersey Board of Nursing which shall certify thereon whether the school is accredited and whether or not the accreditation has been suspended or revoked.

Operational support by State; limitation.

18A:71B-52. Operational Support by State; Limitation.

Within the limits of funds appropriated for purposes of this article, any school of professional nursing whose application has been approved by the authority shall be entitled to receive State aid for the operational expense of the school to the extent of one-half thereof or \$600 per full-time student, whichever is the lesser amount and a pro rata amount for part-time students.

Part 3.—Student Loans

Article 1. Federal Student Loan Program

Administration by the authority.

18A:71C-1. Administration by the authority.

It shall be the duty of the authority to administer the Federal Family Education Loan Program for this State. The authority shall adopt rules and regulations, and prescribe and provide appropriate forms for application as may be necessary or appropriate for administering the programs of a State guaranty agency, pursuant to 20 U.S.C.s.1071 et seq.

As used in this act:

“Federal Family Education Loan” (FFEL) program means the programs of the United States government making low interest loans available to students or parents of students to pay for their cost of attending post-secondary institutions established pursuant to 20 U.S.C.s.1071.

“Federal loan” or “FFEL Loan” means any loan made under the FFEL program.

“Guaranty agency” means any State agency or not-for-profit corporation which has entered

into an agreement with the United States Secretary of Education to guarantee loans made under the FFEL program and which guarantees loans to eligible residents and nonresidents of this State.

Application; grounds for approval.

18A:71C-2. Application; Grounds for Approval.

Any application for a federal loan under this article shall be submitted to the authority for its approval, and the authority shall approve the application only if it finds that the applicant is an eligible borrower under the "Higher Education Act of 1965," Pub.L.89-329 (20 U.S.C.s.1001 et seq.), and implementing rules and regulations, and has complied with all rules adopted by the authority pursuant to this article in connection with the granting of the loans.

Approval and granting of federal loan.

18A:71C-3. Approval and Granting of Federal Loan.

Upon approval by the authority of a federal loan application, any eligible lender may make a loan as approved and upon the terms and conditions required under this article, but no moneys shall be advanced or paid under any loan until the applicant has satisfied the authority, and the eligible institution certifies to the lender that the applicant, or the person on behalf of whom the parent is the applicant, has been admitted to, or is in regular attendance and in good standing at, an eligible institution located in this State or elsewhere. Any lender making a loan shall cooperate with the authority in supervising the use of credit in accordance with its purposes. If disbursement of loan proceeds is in the form of a check, the check representing the loan proceeds shall be made payable to the applicant and the eligible institution jointly, except when the applicant is attending an eligible institution not located in the United States, in which instance the check may be made payable to the applicant only. Disbursement may also be made by master check, electronic funds transfer, or other methods permitted under 20 U.S.C.s.1071 et seq.

Federal loan evidenced by note; interest rate; method of payment; security.

18A:71C-4. Federal Loan Evidenced by Note; Interest Rate; Method of Payment; Security.

Each federal loan made under this article shall:

- a. be evidenced by a note or other obligation approved by the authority;
- b. bear interest at a rate not exceeding the maximum percentage per annum permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations;
- c. be payable in such manner or in such installments as permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations; and
- d. be secured only by the personal liability of the maker, and not by any endorsers, co-maker's collateral, or other security, except as may be permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations.

Extension and refinancing of federal loans.

18A:71C-5. Extension and Refinancing of Federal Loans.

Any loan made under this article may be extended or refinanced at the discretion of the lender without affecting the obligation of the authority hereunder for such period and under such terms as permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations, and any loan may be reduced at any time at the option of the borrower.

Purchase of notes.

18A:71C-6. Purchase of Notes.

Whenever any approved note, including notes held by the authority in the Higher Education Student Assistance Fund, or any installment thereon, shall be in default as defined under 20 U.S.C.s.1071 et seq., upon the death or total and permanent disability of the borrower, or upon any other reason for payment of a claim permitted under 20 U.S.C.s.1071 et seq., the authority shall, upon the demand of a lender and subject to a lender's meeting federal and authority due diligence requirements, purchase the note by paying to the lender or by transferring to the Higher Education Student Assistance Fund out of the Loan Reserve Fund, the amount of principal,

interest and other permissible charges then due and owing on the note, as herein provided.

Falsely securing federal loan a misdemeanor; penalty.

18A:71C-7. Falsely Securing Federal Loan a Misdemeanor; Penalty.

Any person who, having obtained a federal loan under this act, solicits, applies for, or accepts another such loan, except as specifically authorized in this act, and any person who knowingly or willfully furnishes any false or misleading information for the purpose of obtaining a loan, or of enabling another to obtain a loan, under this act, shall be guilty of a crime of the fourth degree.

Repayment—Compromises, modifications and other determinations made by authority.

18A:71C-8. Repayment—Compromises, Modifications and Other Determinations Made by Authority.

The authority may, with respect to the exercise of its functions related to loans guaranteed by it under this article, to the extent consistent with 20 U.S.C.s.1071 et seq. and notwithstanding the provisions of any other law to the contrary:

- a. consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, or other provisions of any note, or any instrument securing a loan which has been guaranteed by the authority;
- b. authorize payment or compromise, subject to the approval or approvals required under the authority's write off and compromise procedures, of any claim upon or arising as a result of any such guaranty; and
- c. authorize payment, compromise, waiver or release, of any debt, right, title, claim, lien or demand, however acquired, including any equity or right of redemption, and the waiver or release of any debt, right, title, claim, lien or demand including any equity or right of redemption shall be sufficient if executed by the executive director or designee on behalf of the authority. The register or county clerk of any county and the clerk of any court is hereby authorized to cancel of record any lien, including, but not limited to, judgments, chattel mortgages and conditional sales agreements whenever the document evidencing the cancellation or request for cancellation is signed by the executive director or designee on behalf of the authority. The register and the clerk of any county are authorized to record any documents of the authority signed by the executive director or designee.

Contracts, promissory notes, made by minor, valid and binding.

18A:71C-9. Contracts, Promissory Notes, made by Minor, Valid and Binding.

Any contract, promissory note, or other written obligation made by any minor to repay or secure payment of a loan made under this article, payment whereof is guaranteed or insured by the authority, or which forms part of the same transaction as the making of the loan shall, notwithstanding any provision of law to the contrary, be as valid and binding as if the person were at the time of the making and execution 18 years of age, and it may be enforced in any action or proceeding by or against the person in his own name, and shall be valid without the consent of the parent or guardian of the person, and the person shall not disaffirm the instrument because of his age, nor shall the person hereafter interpose the defense that he is, or was, at the time of the making and execution, a minor in any action or proceeding arising out of any such loan.

Deduction of overdue student loan payments from wages of employees of the state, institution of higher education and public authorities.

18A:71C-10. Deduction of Overdue Student Loan Payments From Wages of Employees of the State, Institution of Higher Education and Public Authorities.

Whenever any officer or employee of the State of New Jersey, a public institution of higher education in this State now or hereafter established or authorized by law, any independent institution of higher education in this State now or hereafter established that receives State funds, or any public authority established pursuant to State law, has failed to make scheduled payments to the Higher Education Student Assistance Authority on any note held by that

authority pursuant to N.J.S.18A:71C-6, there shall be deducted from the wages of the employee the full amount of both any arrears payment and any schedule payment due to the Higher Education Student Assistance Authority until such time as the note is fully satisfied.

In the case of State officers or employees on the centralized regular bi-weekly payroll, the Department of the Treasury shall make the deduction and shall transmit the payments to the Higher Education Student Assistance Authority, but the Department of the Treasury shall retain an amount, as established by regulation of the authority, of the moneys collected to defray the cost of collection.

In the case of officers and employees not on the centralized regular bi-weekly payroll, the chief financial officer of the institution or the public authority shall make the deduction and transmit the payments to the Higher Education Student Assistance Authority, but the institution or public authority shall retain an amount, as established by regulations of the Higher Education Student Assistance Authority, of the moneys collected to defray the cost of collection.

Regulations.

18A:71C-11. Regulations.

The Department of the Treasury and the authority shall jointly promulgate regulations concerning the procedures and methods to be employed for the implementation of the provisions of this act concerning deductions for overdue student loan payments from wages. The regulations shall be consistent with all federal requirements or limitations regarding any information utilized in any collection, and shall in addition provide for due notice to the employee of an opportunity for a hearing upon request prior to any collection.

Deduction of overdue student loan payments from wages of county and municipal employees.

18A:71C-12. Deduction of Overdue Student Loan Payments from Wages of County and Municipal Employees.

Whenever any officer or employee of a county or municipality has failed to make scheduled payments to the authority on any note held by the authority pursuant to N.J.S.18A:71C-6, the chief financial officer of the appropriate local unit shall deduct from the wages of the employee the full amount of both any arrears payment and any scheduled payment due to the authority, but the local unit shall retain an amount not to exceed 1% of the moneys collected to defray the cost of collection.

Guidelines for payment of arrearages.

18A:71C-13. Guidelines for Payment of Arrearages.

The Division of Local Government Services in the Department of Community Affairs, in conjunction with the Department of the Treasury and the Higher Education Student Assistance Authority, shall prepare guidelines concerning the procedures and methods to be employed by local units for the implementation of N.J.S.18A:71C-12. The guidelines, and all actions taken by local units, shall be consistent with all federal regulations and limitations regarding any information utilized in any collection.

Deduction of overdue student loan payments from wages of certain boards or authorities.

18A:71C-14. Deduction of Overdue Student Loan Payments From Wages of Certain Boards or Authorities.

Whenever any officer or employee of a local board of education, a county or municipal board of health or an autonomous authority created by a county or municipality pursuant to statute has failed to make scheduled payments to the Higher Education Student Assistance Authority on any note held by that authority pursuant to N.J.S.18A:71C-6, the board or autonomous authority shall deduct from the wages of the employee the full amount of both any arrears payment and any scheduled payment due to the Higher Education Student Assistance Authority until such time as the note is fully satisfied. The board or autonomous authority shall transmit the payments to the Higher Education Student Assistance Authority, but the board or autonomous authority may retain an amount of the moneys collected as established by regulations of the Higher Education Student Assistance Authority to defray the cost of collection.

Guidelines for payment of arrearages.

18A:71C-15. Guidelines for Payment of Arrearages.

The Department of Education and the Division of Local Government Services in the Department of Community Affairs, in conjunction with the Department of the Treasury and the Higher Education Student Assistance Authority, shall prepare guidelines concerning the procedures and methods to be employed by boards and autonomous authorities for the implementation of N.J.S.18A:71C-14. The guidelines, and all actions taken by a board or autonomous authority pursuant to this act, shall be consistent with all federal regulations or limitations regarding any information utilized in any collection.

Deduction of overdue student loan payments from wages of employees of the private sector.

18A:71C-16. Deduction of Overdue Student Loan Payments From Wages of Employees of the Private Sector.

Whenever any officer or employee or any employer within or outside this State not described in N.J.S.18A:71C-10, N.J.S.18A:71C-12 or N.J.S.18A:71C-14 has failed to make scheduled payments to the Higher Education Student Assistance Authority on any note or other written obligation held by that authority, there shall be deducted from the wages of the employee the full amount of both any arrears payment and any scheduled payment due to the Higher Education Student Assistance Authority until such time as the note or other written obligation is fully satisfied.

The employer shall retain an amount, as established by regulations promulgated jointly by the Department of the Treasury and the Higher Education Student Assistance Authority, of the moneys collected to defray the cost of collection.

An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage deduction in accordance with this section by reason of the fact the individual's wages have been subject to wage deduction under this section, and the individual may sue in a State court of competent jurisdiction any employer who takes this action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order another remedy as may be reasonably necessary.

Lien not treated as wage execution.

18A:71C-17. Lien Not Treated as Wage Execution.

The lien against an employee's wages undertaken pursuant to N.J.S.18A:71C-10, N.J.S.18A:71C-12, N.J.S.18A:71C-14 and N.J.S.18A:71C-16 shall not be considered an execution against wages pursuant to N.J.S.2A:17-52, and shall not prevent the simultaneous satisfaction of an execution from the amount of wages remaining after the satisfaction of this debt.

Exchange of information with other State departments and agencies.

18A:71C-18. Exchange of Information with Other State Departments and Agencies.

The authority may use the following procedures to locate borrowers who have failed to make scheduled payments to the authority on any note held by the authority:

a. the authority may furnish the name and Social Security number of a delinquent or defaulted borrower to the Division of Pensions and Benefits, the Division of Taxation, the Division of Motor Vehicles, the Department of Human Services, the Casino Control Commission, and any State professional or licensing board or body. Except as prohibited by federal or State law, these departments, divisions, boards, and bodies shall return to the authority the address of any borrower or the address of the employer of any borrower that appears in its most recent records;

b. the authority may furnish the name and Social Security number of any delinquent or defaulted borrower to the Department of Labor. Except as prohibited by federal or State law, the Department of Labor shall return to the authority the address of the employer of any such borrower that appears in its most recent records;

c. the authority shall reimburse the department, division, board or body listed in subsections

a. and b. of this section for any costs associated with services performed pursuant to this section. Information furnished to the authority by the entities listed in subsections a. and b. shall be considered confidential and shall not be disclosed except to a federal department or agency entitled to the information because the disclosure is necessary for the proper administration of this article.

Professional or occupational misconduct.

18A:71C-19. Professional or Occupational Misconduct.

a. Notwithstanding provisions of any law to the contrary, any State professional or occupational licensing board shall define a borrower's delinquent or default status of any loan made or guaranteed by the authority as misconduct punishable by the denial, suspension, or revocation of the borrower's professional or occupational license by that board.

b. For the purposes of this section:

"License" means the whole or part of any State agency permit, certificate, approval, registration, charter or similar form of permission to engage in a profession, trade, business or occupation and any notification required to be made to any State agency that a profession, trade, business or occupation is being engaged in or is expected to be commenced; provided that "license" shall not include any original charter or certificate of incorporation granted by any State agency;

"State agency" means the legislative or executive branch of the State, including, but not limited to, any department, board, bureau, commission, division, office, council, agency, or instrumentality thereof, or independent agency, public authority or public benefit corporation.

Deductions of overdue payments from State lottery winnings.

18A:71C-20. Deductions of Overdue Payments from State Lottery Winnings.

a. The Director of the Division of State Lottery in the Department of the Treasury and the executive director shall initiate an ongoing data exchange in the Office of Telecommunications and Information Systems in the Department of the Treasury before a payment is made of a State lottery prize in excess of \$1,000.

b. The executive director shall periodically supply the Office of Telecommunications and Information Systems with a list of those individuals with delinquent or defaulted student loan repayments to the authority.

c. The Director of the Division of State Lottery shall promptly provide the Office of Telecommunications and Information Systems with a prize winners list, which shall include the prize claimant's name, address and Social Security number and the amount of the pending payment.

d. The Office of Telecommunications and Information Systems shall cross check the lottery list with the data supplied by the executive director for a Social Security number match. If a match is made, the Office of Telecommunications and Information Systems shall notify the authority.

e. If a lottery prize claimant is on the list of individual delinquents or in default of a student loan, the authority shall promptly notify the Department of the Treasury and the Division of the State Lottery of the claimant's name, address, Social Security number and the outstanding amount of the student loan. The Department of the Treasury shall, after withholding any appropriate amount for income tax or such other withholdings as may be required under federal or State law, withhold this amount from the pending lottery payment and transmit this amount to the authority. If the amount of the student loan outstanding is greater than the amount available from the lottery payment, the entire amount available shall be transmitted to the authority.

f. Any of the claimant's lottery prize funds remaining after withholding pursuant to subsection e. of this section shall be paid to the claimant in accordance with lottery procedures.

g. The State Treasurer in consultation with the authority shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purpose of this section including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the

Department of the Treasury seeks to withhold funds of the amount to be withheld and the reason therefor and providing the prize winner with the opportunity for a hearing upon request prior to the disposition of any funds. The State Treasurer shall also provide, by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section. For purposes of this section, "prompt notice" shall mean within 14 days or less.

Article 2. State Loan Programs

College loans to assist state students loan program.

18A:71C-21. College Loans to Assist State Students Loan Program.

There is hereby established within the authority a New Jersey College Loans to Assist State Students (NJCLASS) Loan Program. Under the NJCLASS Loan Program, the authority shall make loans available in such amounts as necessary to ensure that student loans remain generally available to, or for the benefit of, eligible students who are not eligible for, or have additional financial need beyond, a federally insured student loan and who meet the eligibility criteria set forth in N.J.S.18A:71C-27.

18A:71C-22. College Loans to Assist State Students Loan Fund.

a. The authority shall establish and maintain a special fund called the "New Jersey College Loans to Assist State Students (NJCLASS) Loan Fund" in which there shall be deposited: (1) all funds received by the authority from the sale of State bonds as provided by law; (2) all moneys appropriated by the State for the purpose of the fund; (3) all funds contributed to the authority by private sources, to be used for the purposes of this article; and (4) any other moneys or funds of the authority, including the proceeds of bonds, bond anticipation notes, and other obligations issued by the authority, which it determines to deposit therein. Moneys in the NJCLASS Loan Fund shall be held and applied to make loans pursuant to this article and to pay for the costs of administering the NJCLASS Loan Program.

b. The sum total of all funds on deposit in the NJCLASS Loan Fund shall be maintained in the amount determined by the authority to be necessary to fulfill its responsibilities as set forth in this article.

c. Moneys in the NJCLASS Loan Fund at any time in excess of the NJCLASS Loan Program requirements, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to any other fund or account of the authority.

d. Moneys at any time in the NJCLASS Loan Fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by, the United States of America or such other obligations as the authority may approve.

Eligible borrower.

18A:71C-23. Eligible Borrower.

Loans under the NJCLASS Loan Program may be made to eligible borrowers. An eligible borrower is an eligible student or any parent, spouse, legal guardian or other relative providing financial support for a dependent eligible student. The authority shall set maximum loan amounts for each participant based on such factors as the cost of attending the particular institution, family income, value of family assets or other factors the authority may consider relevant. The loans may be secured by such endorsement, co-maker's collateral or other security as may be required by rules and regulations established by the authority.

Eligible institution.

18A:71C-24. Eligible Institution.

Unless restricted by the authority by regulations, "eligible institution" means, for the purposes of this article only, an institution of higher education licensed by the appropriate agency or department and accredited or preaccredited by a nationally recognized accrediting association. Eligible institutions shall also include certain proprietary institutions but only for degree granting programs approved by the commission or for other proprietary institutions as determined by the

authority.

Maximum loan amounts.

18A:71C-25. Maximum Loan Amounts.

The authority shall establish maximum annual loan amounts and maximum total loan amounts which may be made under the NJCLASS Loan Program; however, the amount of a NJCLASS Loan Program loan may not exceed, in combination with other financial aid, the total education costs of attending an eligible institution as determined by that institution plus the amount of interest payments which may be deferred pursuant to N.J.S.18A:71C-26.

Accrual of interest; payment.

18A:71C-26. Accrual of Interest; Payment.

Interest on each NJCLASS Loan Program loan shall accrue from the date of the making of the loan; however, the payment of the principal or the interest or both may be deferred until a time or times determined by the authority. The rate of interest on each loan shall be determined by the authority.

Student eligibility.

18A:71C-27. Student Eligibility.

a. Unless otherwise restricted by the authority by regulation, an eligible student under the NJCLASS Loan Program shall:

(1) be a New Jersey resident enrolled on at least a part-time basis as an undergraduate or graduate student in an eligible institution in New Jersey; or

(2) be a New Jersey resident enrolled on at least a part-time basis as an undergraduate or graduate student in an eligible institution outside of New Jersey; or

(3) reside outside the State and be enrolled on at least a part-time basis as an undergraduate or graduate student in an eligible institution in New Jersey.

b. To be eligible for a NJCLASS loan financed in whole or in part by qualified student loan bonds, as described under section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b), the student in addition to meeting the requirements of subsection a. of this section, shall meet the eligibility criteria described in section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b), or not be in violation of any other criteria which would result in the bonds no longer to be qualified under section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b).

Limitations on program; fees.

18A:71C-28. Limitations on Program; Fees.

a. The authority may limit the number of students who receive NJCLASS Loan Program loans for attendance at any educational institution with a default rate exceeding the standard which will be set by the authority.

b. The authority may place a limitation upon the number of NJCLASS Loan Program loans made pursuant to this article, if, in its judgment, a limitation is necessary to preserve the fiscal viability of the fund.

c. The authority may establish and collect a fee, to be paid by each eligible borrower under the NJCLASS Loan Program to assist in the support of the administration of the NJCLASS Loan Program by the authority and to assist in covering the cost of loan defaults.

Applicability of information exchange, collection procedures, repayment determinations and other federal provisions.

18A:71C-29. Applicability of Information Exchange, Collection Procedures, Repayment Determinations and Other Federal Provisions.

Unless expressly limited to federal programs, the information exchange, wage withholding, collection procedures, repayment determinations, and other provisions set forth under article 1 of this part shall apply to the NJCLASS Loan Program.

Act not to affect higher education student assistance fund.

18A:71C-30. Act Not to Affect Higher Education Student Assistance Fund.

Nothing in this article shall be construed to limit the power of the authority to establish and maintain the Higher Education Student Assistance Fund or to alter the terms and conditions of loans made to students under that fund.

Falsely securing State loan; crime.

18A:71C-31. Falsely Securing State Loan; Crime.

Any person who, having obtained a State loan under this act, solicits, applies for, or accepts another such loan, except as specifically authorized in this act, and any person who knowingly or willfully furnishes any false or misleading information for the purpose of obtaining a loan, or of enabling another to obtain a loan, under this act, shall be guilty of a crime of the fourth degree.

Article 3. Loan Redemption Program

Definitions.

18A:71C-32. Definitions.

As used in N.J.S.18A:71C-32 through N.J.S.18A:71C-48:

“Eligible student loan expenses” means the cumulative total of the annual student loans covering the cost of attendance at an undergraduate institution of medical, dental, or other primary care professional education. Interest paid or due on student loans that an applicant has taken out for use in paying the costs of undergraduate medical, dental, or other primary care professional education shall be considered eligible for reimbursement under the program. The authority may establish a limit on the total amount of student loans which may be redeemed for participants under the program, provided that the total redemption of student loans does not exceed \$120,000 either in State funds or the sum of federal, State, and other non-federal matching funds, pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable.

“Health professional shortage area” (HPSA) means an urban or rural area, a population group or a public or non-profit private medical facility or other public facility which the Secretary of Health and Human Services determines has a health professional shortage pursuant to section 332 of the Public Health Service Act (42 U.S.C. s.254e).

“Primary care” means the practice of family medicine, general internal medicine, general pediatrics, general obstetrics, gynecology, and any other areas of medicine which the Commissioner of Health and Senior Services may define as primary care. Primary care also includes the practice of general dentistry and pedodontics, as well as the professions of nurse-practitioner, certified nurse-midwife, and physician assistant.

“Primary Care Physician and Dentist Loan Redemption Program” means a program which provides for the redemption of the eligible student loan expenses of its participants.

“State designated underserved area” means a geographic area in this State which has been ranked by the Commissioner of Health and Senior Services on the basis of health status and economic indicators as reflecting a medical or dental health professional shortage.

“Undergraduate medical, dental, or other professional primary care professional education” means the period of time between entry into medical school, dental school, or other primary care professional training program and the award of the medical (M.D., D.O.) degree, the dental (D.M.D., D.D.S.) degree, or other primary care professional degree respectively.

Primary care physician and dentist loan redemption program established.

18A:71C-33. Primary Care Physician and Dentist Loan Redemption Program Established.

There is established a Primary Care Physician and Dentist Loan Redemption Program within the Higher Education Student Assistance Authority. The program shall provide for the redemption of a portion of the eligible student loan expenses of program participants for each year of service in a State designated underserved area.

Eligibility for participation in program.

18A:71C-34. Eligibility for Participation in Program.

To be eligible to participate in the Primary Care Physician and Dentist Loan Redemption Program, an applicant shall:

- a. be a resident of the State;
- b. be a graduate of a medical school approved by the State Board of Medical Examiners for the purpose of licensure and receive a recommendation from the school's medical staff concerning participation in the loan redemption program in the case of a physician; be a graduate of a dental school approved by the New Jersey State Board of Dentistry for the purpose of licensure and receive a recommendation from the school's dental staff concerning participation in the loan redemption program in the case of a dentist; or be a graduate of another state-approved primary care professional training program for the purpose of licensure or certification and receive a recommendation from the program's professional staff concerning participation in the loan redemption program in the case of another primary care provider;
- c. in the case of a physician, have completed an accredited residency training program and received a recommendation from the director of the training program concerning participation in the loan redemption program; and
- d. agree to practice primary care, as appropriate, in a State designated underserved area.

Ranking of State designated underserved areas.

18A:71C-35. Ranking of State Designated Underserved Areas.

The Commissioner of Health and Senior Services, after consultation with the Commissioner of Corrections and the Commissioner of Human Services, shall designate and establish a ranking of State designated underserved areas. The criteria used by the Commissioner of Health and Senior Services in designating areas shall include, but not be limited to:

- a. the financial resources of the population under consideration;
- b. the population's access to primary care services; and
- c. appropriate physician, dentist, or other primary care staffing in State, county, municipal and private nonprofit health care facilities.

The Commissioner of Health and Senior Services shall transmit the list of State designated underserved areas and the number of positions needed in each area to the executive director or designee.

Entry into program; agreements.

18A:71C-36. Entry into Program; Agreements.

A medical, dental, nursing, or other primary care student who is eligible and interested in participating in the loan redemption program shall sign a nonbinding agreement with the Higher Education Student Assistance Authority or its designated agent upon completion of the final year of undergraduate medical, dental, or other primary care training, as appropriate. At the end of the final year or residency training in the case of a physician; at the end of the final year of undergraduate dental training or residency training if the training is required in a primary care dental speciality in the case of a dentist; and at the end of the final year of other primary care training in the case of another primary care provider, the applicant shall sign a contractual agreement with the authority or its designated agent. The agreement shall specify the applicant's dates of required service, the initial period to cover a minimum of two years, and the total amount of eligible student loan expenses to be redeemed by the State in return for service. The agreement shall also stipulate that the applicant has knowledge of and agrees to the six-month probationary period required prior to final acceptance into the program pursuant to N.J.S.18A:71C-38.

Redemption limits; start of service.

18A:71C-37. Redemption Limits; Start of Service.

- a. Maximum redemption of loans under the loan redemption program shall amount to 18% of principal and interest of eligible student loan expenses in return for one full year of service in a State designated medically underserved area, an additional 26% for a second full year of

service, an additional 28% for a third full year of service and an additional 28% for a fourth full year of service for a total redemption of eligible student loan expenses of up to, but not to exceed, \$120,000 either (1) in State funds or (2) the sum of federal, State, and other non-federal funds pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable. Service in a State designated underserved area shall begin within two years of completion of the medical residency training program in the case of a physician; within two years of completion of undergraduate dental training or residency training if the training is required in a primary care dental specialty in the case of a dentist; and within two years of completion of other primary care professional training if the training is required in the case of another primary care provider.

b. A participant who enters an agreement to fulfill service in a State designated underserved area that is also a federal HPSA shall be permitted a total redemption of eligible student loan expenses for four years of service up to, but not to exceed, the sum of federal, State and other non-federal matching funds provided pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1).

Probationary period.

18A:71C-38. Probationary Period.

Each program participant shall serve a six-month probationary period upon initial placement in a service site within the State designated underserved area. During that period, the medical or dental staff of the service site, as appropriate, together with the program participant, shall evaluate the suitability of the placement for the participant. At the end of the probationary period, the medical or dental staff shall recommend the continuation of the program participant's present placement, a change in placement, or its determination that the participant is an unsuitable candidate for the loan redemption program. If the medical or dental staff of the service site recommends a change in placement, the executive director or a designee shall place the program participant in an alternate placement within a State designated underserved area. If the medical or dental staff determines that the program participant is not a suitable candidate for the program, the executive director shall take this recommendation into consideration in regard to the participant's final acceptance into the program. No loan redemption payment shall be made during the six-month probationary period; however, a program participant shall receive credit for the six-month period in calculating the first year of required service under the loan redemption contract.

Matching of participants with areas.

18A:71C-39. Matching of Participants with Areas.

The executive director or designee, in consultation with the Commissioner of Health and Senior Services, shall match program participants to State designated underserved areas based upon the ranking of the underserved areas established by the commissioner and on the basis of participant preference.

Determination of number of positions; selection of participants.

18A:71C-40. Determination of Number of Positions; Selection of Participants.

The executive director or designee shall annually determine the number of program positions available on the basis of the need for primary care physicians, dentists, and other primary care providers in State designated underserved areas as determined by the Commissioner of Health and Senior Services and the State and federal funds available for the program. Once the number of program positions has been determined, the executive director or designee shall select the program participants from among those students who have applied to the program and who meet the criteria established pursuant to N.J.S.18A:71C-34. In selecting program participants, the executive director shall accord priority to applicants in the following manner:

a. first, to any applicant who is completing a fourth, third or second year of a loan redemption contract;

b. second, to any applicant whose residence in the State at the time of entry into postsecondary education was within a State designated underserved area; and

c. third, to any applicant according to the severity of the physician, dentist, or other primary care provider shortage in the area selected by the applicant.

In the event that there are more applicants who have the same priority than there are program positions, the executive director shall select participants by means of a lottery or other form of random selection.

Nullification of agreement.

18A:71C-41. Nullification of Agreement.

A physician, dentist, or other primary care provider who has previously entered into a contract with the authority may nullify the agreement by notifying the authority in writing and reassuming full responsibility for the remaining outstanding balance of the loan debt. In no event shall service in a State designated underserved area for less than the full calendar year of each period of service entitle the participant to any benefits under the loan redemption program. A participant seeking to nullify the contract before completing a second full year of service shall be required to pay 50% of the redeemed portion of indebtedness in not more than one year following nullification of the agreement.

Death or permanent disability of participant.

18A:71C-42. Death or Permanent Disability of Participant.

In case of a program participant's death or total and permanent disability, the authority shall nullify the service obligation of the student. The nullification shall terminate the authority's obligations under the loan redemption contract, except in the event that a participant's death or total and permanent disability occurs after the second year of service, the authority shall redeem the current year of service. When continued enforcement of the contract may result in extreme hardship, the authority may nullify or suspend the service obligation of the student.

Conviction of crime; gross negligence; license suspension or revocation.

18A:71C-43. Conviction of Crime; Gross Negligence; License Suspension or Revocation.

In case of a program participant's conviction of a crime or an act of gross negligence in the performance of service obligations or when the license to practice has been suspended or revoked, the executive director or designee shall have the authority to terminate the participant's service in the program and require forfeiture of the amount redeemed for the current year of service.

National Health Service Corps Loan Repayment Program participants not eligible.

18A:71C-44. National Health Service Corps Loan Repayment Program Participants Not Eligible.

A student who is participating in the federally administered National Health Service Corps Loan Repayment Program, section 338B of the Public Health Service Act (42 U.S.C.s.254 l-1), shall not be eligible to participate simultaneously in the Primary Care Physician and Dentist Loan Redemption Program.

Report on performance.

18A:71C-45. Report on Performance.

Prior to repayment of the annual amount eligible for redemption, each program participant shall report to the authority or its designated agent, in such manner and form as it shall prescribe, information on the participant's performance of service in the State designated underserved area as required under the contract.

Recruitment.

18A:71C-46. Recruitment.

The executive director or designee and the Commissioner of Health and Senior Services, in cooperation with their designated agent, shall together establish a procedure for the recruitment of program applicants at medical and dental schools and health centers. The procedure shall provide for the participation of the medical and dental staff, as appropriate, of those facilities in

the selection of appropriate applicants for the program.

Federal funds.

18A:71C-47. Federal Funds.

The authority shall annually apply for any federal funds which may be available to implement the provisions of this act.

Rules and regulations.

18A:71C-48. Rules and Regulations.

The authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to implement the provisions of N.J.S.18A:71C-32 through N.J.S.18A:71C-47.

C.18A:11-10 Board of Education may receive property for awarding scholarships.

2. Any board of education may accept, receive, add to and hold in trust real or personal property, heretofore or hereafter acquired by inter vivos or testamentary gift, for the purpose of awarding scholarships to students for higher education in colleges, universities and graduate schools, whether located within or without this State, upon such terms and conditions, not inconsistent with this section, as may be imposed by the donor of the property. The board shall, by resolution, provide for the acceptance, application, custody and management of property donated to it for higher education scholarship purposes.

C.38A:3-23 Free tuition for dependent of prisoner of war, person missing in action; terms defined.

3. a. Any dependent of a prisoner of war or a person missing in action, upon his being accepted to pursue a course of undergraduate study in any private institution of higher education in this State or in any public institution of higher education of this State as enumerated in N.J.S.18A:62-1, shall be allowed to obtain a bachelors degree, or certificate of completion, for so long as he is eligible, free of tuition. Once a person qualifies as a dependent under this act there shall be no situation such as the return of the parent or the reported death of the parent that will terminate the eligibility of the dependent to the benefits under this act.

b. As used in this section:

"Dependent" means any child born before, during or after the period of time the child's parent was a prisoner of war or a person missing in action, or any child legally adopted or in the legal custody of the parent prior to, during or after the time the parent was a prisoner of war or a person missing in action.

"Prisoner of war" and "person missing in action" means any person who was a resident of this State at the time he or she entered service of the United States Armed Forces, or whose official residence is within this State, and who, while serving in said United States Armed Forces, has been declared to be a prisoner of war, or to be a person missing in action as established by the Secretary of Defense after January 1, 1960.

C.38A:3-24 Definitions applicable to sections 4 through 11.

4. As used in sections 4 through 11 of this act:

a. "Approved course of study" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is accepted for Veteran's Educational Assistance pursuant to federal law.

b. "Approved educational institution" means (1) any academic, professional or vocational school operating within this State or (2) any graduate level school operating within the United States or (3) any academic, professional or vocational school operating outside of this State; provided that the institution shall have made a prior written agreement to accept the tuition credit and reimbursement provided for in sections 8 and 9 of this act; provided further, that no more than 20% of the eligible veterans under paragraphs (1) and (3) of this subsection shall attend an approved educational institution operating outside of this State. To qualify as an "approved educational institution" under this act, an institution must have been approved for

Veteran's Educational Assistance pursuant to federal law.

c. "Department" means the Department of Military and Veterans' Affairs and includes any deputies or employees of the department designated to administer and enforce this act.

d. "Eligible veteran" means any veteran of the Armed Forces of the United States residing in New Jersey who is or was eligible for Veteran's Educational Assistance pursuant to federal law and who (1) was domiciled in New Jersey at the time of his induction into the armed forces, or (2) has been domiciled in New Jersey for a period of not less than 12 consecutive months prior to the date of application, exclusive of any time spent on active duty.

C.38A:3-25 Full-time course equivalents established.

5. For the purposes of sections 4 through 11 of this act:

a. (1) an institutional trade or technical course offered at a nonaccredited school on a clock-hour basis involving shop practice as an integral part thereof shall be considered a full-time course when a minimum of 30 hours per week of attendance is required with no more than two and one-half hours of rest periods per week and no more than three hours of supervised study per week allowed;

(2) an institutional course offered at a nonaccredited school on a clock-hour basis in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of 25 hours per week net of instruction, which may include customary intervals not to exceed 10 minutes between hours of instruction, is required and no more than three hours of supervised study per week is allowed;

b. (1) an institutional trade or technical course offered at an accredited school on a clock-hour basis which leads to a standard trade or technical degree and involves shop practice as an integral part thereof shall be considered a full-time course when a minimum of 22 hours per week of attendance is required with no more than two and one-half hours of rest periods per week and no more than three hours of supervised study per week allowed;

(2) an institutional course offered at an accredited school on a clock-hour basis which leads to a standard trade or technical degree in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of 18 hours per week of instruction, which may include customary intervals not to exceed 10 minutes between hours of instruction, is required and no more than two and one-half hours of supervised study is allowed;

c. an academic high school course requiring 16 units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this subsection, a unit is defined to be not less than 120 60-minute hours or their equivalent of study in any subject in one academic year; and

d. an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of 14 semester hours or the equivalent thereof, for which credit is granted toward a standard college degree, including those for which no credit is granted but which are required to be taken to correct an educational deficiency, is required, except that when the college or university certifies, upon the request of the department, that (a) full-time tuition is charged to all undergraduate students carrying a minimum of less than 14 semester hours or the equivalent thereof or (b) all undergraduate students carrying a minimum of less than 14 semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by the college or university with the minimum number of semester hours shall be considered a full-time course, but in the event the minimum number of semester hours is less than 12 semester hours or the equivalent thereof, then 12 semester hours or the equivalent thereof shall be considered a full-time course.

Each eligible veteran may select an approved course of study at any approved educational institution selected by him, which will accept and retain him as a student or trainee in any field or branch of knowledge which the institution finds him qualified to undertake or pursue.

C.38A:3-26 Tuition credit for eligible veterans.

6. Any eligible veteran who desires tuition credit pursuant to this act, within eight years from the date of (a) his separation from active duty or (b) March 3, 1976, whichever is later,

shall submit an application to the department which shall be in a form and contain information as the department shall prescribe. The department shall approve the application unless it finds that the veteran is ineligible for or not entitled to tuition credit or that his course of study is not approved pursuant to this act, or that he has already been approved. The department shall notify the veteran and his selected educational institution of the approval of his application.

C.38A:3-27 Schedule for tuition credit to eligible veteran.

7. a. Each eligible veteran shall be entitled to tuition credit pursuant to this act in accordance with the following schedule:

(1) For a period of one semester, or the equivalent thereof in part-time tuition credit, in the case of educational institutions regularly operated on the semester system, for each three months or fraction thereof of the veteran's service on active duty after December 31, 1960 and before May 7, 1975. If an eligible veteran has served a period of 18 months or more on active duty during such period of time, he shall be entitled to tuition credit pursuant to this act for a period of eight semesters, or the equivalent thereof in part-time tuition credit. The maximum credit hereunder shall be for a period of eight semesters; or

(2) For a period of one-quarter, or the equivalent thereof in part-time tuition credit, in the case of educational institutions regularly operated on the quarter system, for each two months or fraction thereof of the veteran's service on active duty after December 31, 1960 and before May 7, 1975. If an eligible veteran has served a period of 18 months or more on active duty during that period of time, he shall be entitled to tuition credit pursuant to this act for a period of 12 quarters. The maximum credit hereunder shall be for a period of 12 quarters; or

(3) For a period of one and one-half months of any tuition period, or the equivalent thereof in part-time tuition credit, in the case of educational institutions not operated on the quarter or semester system, for each month or fraction thereof of the veteran's service on active duty after December 31, 1960 and before May 7, 1975. If an eligible veteran has served a period of 18 months or more on active duty during that period of time, he shall be entitled to tuition credit pursuant to this act for 36 months of tuition credit, or the equivalent thereof in part-time tuition credit. The maximum credit hereunder shall be for a period of 36 months.

b. If an eligible veteran shall change his program of study from an educational institution regularly operated on the quarter or semester system or otherwise to an educational institution regularly operated on a different system, the remainder of his credit shall accordingly be redistributed by the department in such manner as to carry out the intent of this act.

C.38A:3-28 Amount of benefits.

8. Benefits hereunder shall be in the form of tuition credits limited by the lesser of full tuition or:

a. for educational institutions regularly operated on the semester system, \$200 per semester.
b. for educational institutions regularly operated on the quarter system, \$100 per quarter.
c. for educational institutions not regularly operated on the semester or quarter system, \$400 per full school year prorated on an equal basis as the department shall determine.

d. for veterans pursuing a program of part-time education, the tuition credit shall be in such amounts as the department shall determine. These veterans shall be eligible to receive awards during summer terms, provided that the total award during the period from September 1 to August 31 of any academic year does not exceed the amount of assistance a full-time student at the same institution would receive.

C.38A:3-29 Reimbursement for tuition credit.

9. Reimbursement for tuition credit shall be made by the State Treasurer to the approved educational institution upon certification by the institution that the veteran is enrolled for the current period and upon certification by the department that the veteran is both eligible and entitled to tuition credit hereunder subject to the provisions of section 11 of this act. Reimbursement for tuition credit shall be made out of funds accumulated from the State Lottery.

C.38A:3-30 Benefits not considered income to determine financial need.

10. Any benefits granted to eligible veterans pursuant to this act shall not be considered income or an asset in determining financial need for any financial assistance for higher education provided pursuant to Title 18A of the New Jersey Statutes.

C.38A:3-31 Apportionment of benefits.

11. In the event that the amount appropriated in any fiscal year is insufficient to carry out in full the provisions of sections 4 through 11 of this act, the department shall apportion the amount among the eligible veterans applying for tuition credit in proportion to the amount each veteran would be allocated if the full amount were appropriated.

C.38A:3-32 Definitions applicable to sections 12 through 16.

12. As used in sections 12 through 16 of this act:

"Vietnam veteran" means a resident of this State who:

- a. served in the Armed Forces of the United States in Southeast Asia in the Vietnam conflict and received a Vietnam Service Ribbon or an Armed Forces Expeditionary Medal;
- b. was honorably discharged or generally discharged under honorable conditions; and
- c. has been domiciled in New Jersey on April 9, 1985, for a period of not less than two consecutive years, exclusive of any time spent on active duty.

C.38A:3-33 Tuition assistance for Vietnam veterans.

13. A Vietnam veteran, upon being accepted to pursue a course of study for an initial undergraduate degree in a public institution of higher education of this State as enumerated in N.J.S.18A:62-1, shall be entitled to tuition assistance, while enrolled as a student in good standing at that college, in an amount up to the full tuition cost as determined by the Department of Military and Veterans' Affairs pursuant to section 17 of this act.

C.38A:3-34 Allowable benefit amount for Vietnam veteran.

14. A Vietnam veteran upon being accepted to pursue a course of study for an initial undergraduate degree at an independent college or university located in the State shall be entitled to tuition assistance, while enrolled as a student in good standing at that college or university, in an amount as determined by the Department of Military and Veterans' Affairs pursuant to section 17 of this act, but in an amount not more than the tuition charged at Rutgers, The State University.

C.38A:3-35 Granting of tuition award after other sources paid.

15. A tuition award shall not be granted pursuant to sections 13 and 14 of this act, unless the Vietnam veteran has applied for all other available State or federal student financial aid.

C.38A:3-36 Eligibility for program.

16. Eligibility for this program shall be limited to a period of five years from April 9, 1985. A Vietnam veteran shall be eligible for a tuition award for four academic years, unless he is enrolled in an undergraduate program regularly requiring five academic years for completion, in which case he shall be entitled to a tuition award for a fifth year.

C.38A:3-37 Rules, regulations.

17. The Department of Military and Veterans' Affairs shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt the rules and regulations necessary to effectuate the purposes of sections 3 through 16 of this act.

C.18A:72F-13 Funds budgeted for "Minority Faculty Advancement Program Act."

18. In any fiscal year, the Commission on Higher Education shall include in its proposed budget for that year the amount identified by the authority needed to fund its responsibilities under the "Minority Faculty Advancement Program Act," as well as any amounts needed to fund commission responsibilities under the "Minority Faculty Advancement Program Act." Funding shall be subject to the amount of appropriations available therefor.

19. If the Congress of the United States enacts legislation that exempts educational savings accounts from federal income taxation, N.J.S.18A:71B-42 and N.J.S.18A:71B-43 shall apply with respect to such educational savings accounts as if they were accounts established under this article and the beneficiaries of the accounts were designated beneficiaries subject to the approval of the New Jersey Higher Education Student Assistance Authority.

C.18A:62-23 "Initial Active Duty Training" defined.

20. As used in sections 20-25 of this act, "Initial Active Duty Training" means Basic Military Training, for members of the New Jersey Air National Guard, and Basic Combat Training and Advanced Individual Training, for members of the New Jersey Army National Guard.

C.18A:62-24 Tuition benefits for members of New Jersey National Guard.

21. Any member of the New Jersey National Guard shall be permitted to attend regularly-scheduled courses at any public institution of higher education in this State enumerated in N.J.S.18A:62-1 and receive up to 12 credits per semester tuition-free provided that:

- a. the member has completed Initial Active Duty Training and is in good standing as an active member of the New Jersey National Guard;
- b. the member has been accepted to pursue a course of undergraduate study and is enrolled as an undergraduate student in good standing at that institution;
- c. the member has applied for all available State student grants and scholarships and all available federal student grants and scholarships for which the member is eligible; and
- d. available classroom space permits and tuition-paying students constitute the minimum number required for the course.

C.18A:62-25 Eligibility of child, surviving spouse of certain members of New Jersey National Guard for tuition benefits.

22. Any child or surviving spouse of a member of the New Jersey National Guard who heretofore completed Initial Active Duty Training and was killed in the performance of his duties while on active duty with the New Jersey National Guard, or who hereafter completes Initial Active Duty Training and is killed in the performance of his duties while a member of the New Jersey National Guard, shall be permitted to attend regularly-scheduled courses at any public institution of higher education in this State enumerated in N.J.S.18A:62-1 and receive up to 12 credits per semester tuition-free provided that:

- a. the child or spouse has been accepted to pursue a course of undergraduate study and is enrolled as an undergraduate student in good standing at that institution;
- b. the child or spouse has applied for all available State student grants and scholarships and all available federal student grants and scholarships for which the child or spouse is eligible; and
- c. available classroom space permits and tuition-paying students constitute the minimum number required for the course.

C.18A:62-26 Notice of availability of grants, scholarships.

23. The financial aid office of the public institution shall advise the member, or surviving spouse or child of a member, of any available State and federal student grants and scholarships for which the member, or surviving spouse or child of a member, may be eligible.

C.18A:62-27 Other fees payable.

24. Nothing in sections 20 through 25 of this act shall preclude a public institution of higher education from requiring the payment of other fees, subject to approval by the State Treasurer, for individuals attending courses pursuant to the provisions of sections 20 through 25 of this act.

C.18A:62-28 Rules, regulations.

25. The State Treasurer shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of sections 20 through 25 of this act.

26. Section 4 of P.L.1986, c.87 (C.18A:3-15.4) is amended to read as follows:

C.18A:3-15.4 Out-of-State degrees.

4. An in-State university, college, business, trade or vocational school may not offer, advertise, or by agreement with an out-of-State institution, offer or advertise any academic degree from any out-of-State university, college, business, trade or vocational school when three-quarters or more of the degree requirements are obtained by course work completed at the institution in New Jersey unless the degree program was approved by the Board of Higher Education prior to July, 1994, or has been reviewed by the New Jersey Presidents' Council pursuant to section 8 of P.L.1994, c.48 (C.18A:3B-8) or is a degree program at an institution specifically exempted from the provisions of N.J.S.18A:68-6. No in-State university, college, business, trade or vocational school may deliver such a degree program unless licensed by the Commission on Higher Education, following review by the council.

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

C.18A:3B-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3;

"Commission" means the New Jersey Commission on Higher Education established by this act;

"Council" means the New Jersey Presidents' Council established by this act;

"Programmatic Mission" means all program offerings consistent within those levels of academic degrees or certificates that the institution has been authorized to grant by the State Board of Higher Education prior to the effective date of this act or approved thereafter by the commission;

"Public Research University" means Rutgers, The State University of New Jersey, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology;

"State college" means any of the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes including any State college designated as a teaching university.

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

C.18A:3B-6 Powers, duties of governing boards of institutions of higher education.

6. The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:

a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;

b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;

c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;

d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;

e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;

f. To have final authority to determine controversies and disputes concerning tenure,

personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;

g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;

h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);

i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;

j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;

k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;

l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapters 64, 64A, 64G or 64E of Title 18A of the New Jersey Statutes. If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.

29. Section 8 of P.L.1994, c.48 (C.18A:3B-8) is amended to read as follows:

C.18A:3B-8 Responsibilities of council.

8. The council shall have the responsibility, consistent with State and federal law, to:

a. provide public information and research on higher education issues;

b. review and make recommendations to the commission concerning proposals for new programs that exceed the programmatic mission of an institution or that change the programmatic mission of an institution;

c. review and comment on proposals for new programs that demand significant added resources or raise significant issues of duplication but do not exceed the programmatic mission of the institution or require a change in the programmatic mission. If the council determines that a proposed new program is unduly expensive or unduly duplicative, the council shall refer that proposal to the commission for review; however, unless the commission disapproves of that program within 60 days of its referral, the program shall be deemed approved;

d. encourage the formation of regional or other alliances among institutions including interinstitutional transfers, program articulation, cooperative programs and shared resources and

develop criteria for "full faith and credit" transfer agreements between county colleges and other institutions of higher education. The council shall also keep institutions apprised of the discontinuance of programs at other institutions and each president shall notify the council of any such action;

- e. advise and assist the commission in developing and updating a plan for higher education in the State including, but not limited to, the establishment of new institutions, closure of existing institutions and consolidation of institutions;
- f. provide policy recommendations on Statewide higher education issues;
- g. recommend to the Governor, Legislature and commission on policy and overall levels of funding for student aid programs necessary to ensure accessibility to higher education;
- h. transmit to the Governor, Legislature and commission a general budget policy statement regarding overall State funding levels;
- i. upon referral from the commission pursuant to this act provide recommendations concerning institutional licensure and university status;
- j. appoint subcommittees consisting of the presidents of the institutions of the various higher education sectors to decide matters, within the authority of the council. The presidents of the independent institutions shall develop a unified request for State support under chapter 72B of Title 18A of the New Jersey Statutes. The presidents of the county college sector shall develop a unified request for State support under chapter 64A of Title 18A of the New Jersey Statutes; and
- k. consult with the Higher Education Student Assistance Authority concerning student assistance matters.

30. Section 12 of P.L.1994, c.48 (C.18A:3B-12) is amended to read as follows:

C.18A:3B-12 Executive board.

12. a. There shall be established an executive board which performs such duties as determined by the council. The executive board shall be composed of 14 members as follows:

- The president of Rutgers, The State University;
- The president of the University of Medicine and Dentistry of New Jersey;
- The president of New Jersey Institute of Technology;
- Three presidents of State Colleges who shall be selected by the presidents of this sector;
- Five presidents of county colleges who shall be selected by the presidents of this sector;
- Three presidents of independent institutions who shall be selected by the presidents of this sector.

b. The chair of the executive board shall be rotated among the following: one of the presidents of Rutgers, The State University of New Jersey, the president of the University of Medicine and Dentistry of New Jersey, and the president of New Jersey Institute of Technology; a president selected by the presidents of the State Colleges; a president selected by the presidents of the county colleges; and a president selected by the presidents of the independent institutions. The chair of the executive board shall serve for a two-year period. Biennially, the executive board shall select the chair in the manner provided above, but not necessarily in the order provided above.

c. The chair of the executive board shall also serve as the chair of the council.

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

C.18A:3B-13 New Jersey Commission on Higher Education.

13. a. There is established the New Jersey Commission on Higher Education which shall consist of 11 members: six public members, to be appointed by the Governor with the advice and consent of the Senate without regard for political affiliation; two public members to be appointed by the Governor, one upon the recommendation of the President of the Senate and one upon the recommendation of the Speaker of the General Assembly; the chairperson of the New Jersey Presidents' Council, ex officio; one faculty member from an institution of higher education to be appointed by the Governor with the advice and consent of the Senate; and the chairperson of the

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

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

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

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

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

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

e. The commission shall appoint an executive director and such other personnel as may be deemed necessary. The executive director and professional staff shall serve at the commission's pleasure and shall receive such compensation as provided by law.

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

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

C.18A:3B-14 Responsibilities of commission.

14. The commission shall be responsible for:
 - a. Statewide planning for higher education including research on higher education issues and the development of a comprehensive master plan, including, but not limited to, the establishment of new institutions, closure of existing institutions, and consolidation of institutions, which plan shall be long-range in nature and regularly revised and updated. The council may request the commission to conduct a study of a particular issue. The commission may require from institutions of higher education such reports or other information as may be necessary to enable the commission to perform its duties;
 - b. advocacy on behalf of higher education including informing the public of the needs and accomplishments of higher education in New Jersey;
 - c. making recommendations to the Governor and Legislature on higher education initiatives and incentive programs of Statewide significance;
 - d. final administrative decisions over institutional licensure and university status giving due consideration to the accreditation status of the institution. The commission shall furnish the Presidents' Council with any pertinent information compiled on behalf of the subject institution and the council shall then make recommendations to the commission concerning the licensure of the institution or university status within sixty days of receipt of the information;
 - e. adopting a code of ethics applicable to institutions of higher education;
 - f. final administrative decisions over new academic programs that go beyond the programmatic mission of the institution and final administrative decisions over a change in the programmatic mission of an institution. In addition, within 60 days of referral of a proposed new program determined to be unduly expensive or duplicative by the council, the commission may deny approval of programs which do not exceed the programmatic mission of the institution, but which are determined by the New Jersey Presidents' Council to be unduly duplicative or expensive;
 - g. reviewing requests for State support from the institutions in relation to the mission of the institution and Statewide goals and proposing a coordinated budget policy statement to the Governor and Legislature;
 - h. communicating with the State Board of Education and Commissioner of Education to advance public education at all levels including articulation between the public schools and higher education community;
 - i. applying for and accepting grants from the federal government, or any agency thereof, or grants, gifts or other contributions from any foundation, corporation, association or individual, and complying with the terms, conditions and limitations thereof, for the purpose of advancing higher education. Any money so received may be expended by the commission upon warrant of the director of the Office of Management and Budget in the Department of the Treasury on vouchers certified by the executive director of the commission;
 - j. acting as the lead agency of communication with the federal government concerning higher education issues, except that the Higher Education Student Assistance Authority shall act, in cooperation with the commission, as the lead agency on issues of student assistance;
 - k. exercising all of the powers and duties previously exercised by the Board of Higher Education, the Department of Higher Education, and the Chancellor of Higher Education, under the "New Jersey Higher Education Building Construction Bond Act of 1971," P.L.1971, c.164, the "New Jersey Medical Education Facilities Bond Act of 1977," P.L.1977, c.235, the "Jobs, Science and Technology Bond Act of 1984," P.L.1984, c.99 and the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78, the "Higher Education Equipment Leasing Fund Act," P.L.1993, c.136, and the "Higher Education Facilities Trust Fund Act," P.L.1993, c.375;
 - l. exercising any other power or responsibility necessary in order to carry out the provisions of this act; and
 - m. consulting with the Higher Education Student Assistance Authority on student assistance matters.

33. N.J.S.18A:60-1 is amended to read as follows:

Requirements for tenure.

18A:60-1. The services of all professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, and other persons employed in a teaching capacity, who are or shall hereafter be employed by the commissioner in the Marie H. Katzenbach School for the Deaf or in any other educational institution, or employed in any State college or in any county college, and teachers and other certified persons employed in State institutions within the Department of Corrections or the Department of Human Services, with the exception of the Director of Educational Services, shall be under tenure during good behavior and efficiency:

- a. after the expiration of a period of employment of three consecutive calendar years in any such institution or institutions; or
- b. after employment for three consecutive academic years together with employment at the beginning of the next succeeding academic year in any such institution or institutions; or
- c. after employment in any such institution or institutions, within a period of any four consecutive academic years, for the equivalent of more than three academic years.

An academic year, for the purpose of this section, means the period between the time school opens in the institution after the general summer vacation until the next succeeding summer vacation.

The provisions of this section shall not apply to any faculty member employed by a State or county college who begins employment after the 1973-74 school year.

34. Section 6 of P.L.1992, c.49 (C.18A:62-21) is amended to read as follows:

C.18A:62-21 Review of guidelines, procedures.

6. The Commission on Higher Education shall review the guidelines and procedures developed by the institutions, in conjunction with the agencies or organizations sponsoring literacy tutoring programs, to provide assistance in making the guidelines and procedures the same for all participating institutions.

35. Section 1 of P.L.1985, c.161 (C.18A:64-45) is amended to read as follows:

C.18A:64-45 New Jersey Association of State Colleges and Universities.

1. There is established a body corporate and politic, with corporate succession, to be known as the New Jersey Association of State Colleges and Universities. New Jersey City University, Kean University, Montclair State University, Ramapo College of New Jersey, Richard Stockton College of New Jersey, Rowan University, Thomas Edison State College, The College of New Jersey and The William Paterson University of New Jersey shall constitute the membership of the association.

36. Section 2 of P.L.1985, c.161 (C.18A:64-46) is amended to read as follows:

C.18A:64-46 Membership of association.

2. The association shall consist of nine voting members to be appointed as follows: one member from each member institution's boards of trustees, appointed by the members thereof. In addition the presidents of the member institutions shall serve as ex officio, nonvoting members.

Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

37. Section 4 of P.L.1985, c.161 (C.18A:64-48) is amended to read as follows:

C.18A:64-48 Powers, responsibilities of association.

4. The association shall have perpetual succession and shall have the following powers and responsibilities:

- a. To make, amend and repeal rules, regulations and bylaws for its own governance and guidance, not inconsistent with the purposes of the association;

- b. To adopt an official seal and alter the same at pleasure;
- c. To maintain an office at such place or places in the State as it may designate;
- d. To sue and be sued in its own name;
- e. To borrow money, to issue bonds or notes therefor, and to secure the same by pledge or mortgage of its real and personal property, but it shall not in any manner, directly or indirectly, pledge the credit of the State; and
- f. To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this article. All this property shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes.

38. Section 5 of P.L.1985, c.161 (C.18A:64-49) is amended to read as follows:

C.18A:64-49 Executive director; duties, compensation.

5. The association shall employ an executive director, who shall be responsible for the administration of all the activities of the association including staff services. The executive director shall serve at the pleasure of the association. The salary of the executive director and all other personnel shall be determined by the association.

39. Section 6 of P.L.1985, c.161 (C.18A:64-50) is amended to read as follows:

C.18A:64-50 Purpose of association.

6. The association shall encourage and aid all movements for the improvement of education at the member institutions and shall make recommendations to the Governor, Legislature, Commission on Higher Education and Presidents' Council regarding the coordination of the member institutions on matters of mutual interest and concern.

40. Section 7 of P.L.1985, c.161 (C.18A:64-51) is amended to read as follows:

C.18A:64-51 Dues from member institutions.

7. For purposes of defraying the expenses of the association, the member institutions shall pay the necessary expenses incurred by the members and shall appropriate annually such sums for dues as may be assessed by the association. The assessment shall be made only upon a two-thirds vote of the membership present at the meeting, after notice of the taking of that vote shall have been given to each member institution in writing at least 60 days before the meeting of the association. Dues shall be assessed upon a graduated scale according to the size of each member institution.

41. N.J.S.18A:64A-12 is amended to read as follows:

General powers of board.

18A:64A-12. For the effectuation of the purposes of this chapter, the board of trustees of a county college in addition to such other powers expressly granted to it by law, is hereby granted the following powers:

- a. To adopt or change the name of the county college;
- b. To adopt and use a corporate seal;
- c. To sue and be sued;
- d. To determine the educational curriculum and program of the college consistent with the programmatic mission of the institution or approved by the Commission on Higher Education;
- e. To appoint and fix the compensation and term of office of a president of the college who shall be the executive officer of the college and an ex officio member of the board of trustees;
- f. To appoint, upon nomination of the president, members of the administrative and teaching staffs and fix their compensation and terms of employment subject to the provisions of N.J.S.18A:64A-13;
- g. To appoint or employ, upon nomination of the president, such other officers, agents and employees as may be required to carry out the provisions of this chapter and to fix and determine

their qualifications, duties, compensation, terms of office and all other conditions and terms of employment and retention;

- h. To fix and determine tuition rates and other fees to be paid by students;
- i. To grant diplomas, certificates or degrees;
- j. To 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 or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this chapter;
- k. To 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;
- l. To acquire (by gift, purchase, condemnation or otherwise), own, lease, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for college purposes;
- m. To determine that any property owned by the county college is no longer necessary for college purposes and to sell the same at such price and in such manner and upon such terms and conditions as shall be established by the board;
- n. To exercise the right of eminent domain, pursuant to the provisions of Title 20, Eminent Domain, of the Revised Statutes, to acquire any property or interest therein;
- o. To make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter or with the rules and regulations promulgated hereunder that are necessary and proper for the administration and operation of a county college and to implement the provisions of this chapter;
- p. To exercise all other powers, not inconsistent with the provisions of this chapter or with the rules and regulations promulgated hereunder which may be reasonably necessary or incidental to the establishment, maintenance and operation of a county college; and
- q. To establish and maintain a dedicated reserve fund for minor capital needs which in any given year shall not exceed 3% of the replacement value of the college's physical plant.

42. N.J.S.18A:64A-29 is amended to read as follows:

Purpose of council.

18A:64A-29. The council will seek to ensure acceptable and effective lines of development in admissions policy, academic standards, programs, financing, including recommending to the State Treasurer a formula for the allocation of annual appropriations among the county colleges and making recommendations for capital funding, and community relations in the several county colleges.

The council will serve as a means of communication between the county colleges, and act as a resource center to aid them in planning, act as a clearing house of information, and provide continuing field services.

The council will act as an advisory body to the Governor, Legislature, Commission on Higher Education and Presidents' Council in the carrying out of their respective duties and responsibilities deriving from this chapter.

43. Section 6 of P.L.1970, c.102 (C.18A:64G-6) is amended to read as follows:

C.18A:64G-6 Powers and duties of board.

6. The board of trustees of the university shall have the general supervision over and be vested with the conduct of the university, including its health care facilities regardless of the source of funding. It shall have the power and duty to:

- (a) Adopt and use a corporate seal;
- (b) Determine the educational curriculum and program of the university;
- (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;

(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) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, remove, promote and transfer such other officers, agents, or employees as may be required to carry out the provisions of this act and assign their duties, determine their salaries, and prescribe qualifications for all positions and in accordance with the salary schedules of the Civil Service Commission wherever possible;

(j) Fix and determine tuition rates, and other fees to be paid by students;

(k) Grant diplomas, certificates or degrees;

(l) 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 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;

(m) 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;

(n) (1) 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;

(2) 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 doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds \$12,500.00 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) 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 January 1, 1985 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. T h i s

subsection shall not prevent the university from having any work done 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;

(3) 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;

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

(5) 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 not for profit corporations or for profit corporations organized and operated pursuant to the provisions of subsection (v) 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 not for profit corporations may also utilize income from the operation of faculty practice plans of the university and 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 (v) of this section.

(o) 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;

(p) 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;

(q) Adopt 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 to implement the provisions of this act;

(r) Authorize any new program, educational department or school not inconsistent with the programmatic mission of the institution or approved by the Commission on Higher Education which will require, at the time of establishment or thereafter, an additional expenditure of money, if provision is made therefor by law;

(s) Function as a public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and conduct all labor negotiations, and with the participation of the Governor's Office of Employee Relations act as the chief spokesperson with respect to all matters under negotiation;

(t) Sue and be sued in its own name;

(u) 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);

(v) (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 engaged in the development, manufacture, or marketing of products, technology, scientific information or health care services and create or form for profit or not for profit corporations to engage in such activities; provided that any such participation shall be consistent with the mission of the university and the board shall have determined that such participation is prudent. Nothing herein shall be construed to authorize any change in the legal status of University Hospital;

(2) The decision to participate in any activity described in paragraph (1) of subsection (v) of section 6 of P.L.1970, c.102 (C.18A:64G-6), including the creation or formation of for profit or not for profit corporations, shall be articulated in the minutes of the Board of Trustees meeting in which the action was approved. A true copy of the minutes shall be delivered to the Governor. No such action shall have affect until 30 days, Saturdays, Sundays and public holidays excepted, after the copy of the minutes shall have been delivered to the Governor. If, within the 30-day period, the Governor returns the minutes of the meeting with a veto of the action taken by the board, the action taken by the board shall be null and void and of no effect;

(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 or derived from payment for coverage provided by the self insurance fund for claims accruing prior to the effective date of this act shall not be utilized by the profit or not for profit 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 entered into or owned wholly or in part by the university shall not 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 as a result of participation in the development, manufacture or marketing of products, technology, or scientific information may be invested or reinvested pursuant to paragraph (5) of subsection (n) of section 6 of P.L.1970, c.102 (C.18A:64G-6) or any other provision of this act or State or federal law or retained by the board 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;

(w) (1) Procure and enter into contracts for any type of insurance and indemnify 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 (t) of section 6 of P.L.1970, c.102 (C.18A:64G-6). 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 paragraphs (1) and (2) of subsection (v) of section 6 of P.L.1970, c.102 (C.18A:64G-6); and

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

44. N.J.S.18A:68-3 is amended to read as follows:

Filing copy of certificate of incorporation and obtaining license payments to consultants.

18A:68-3. a. No corporation shall furnish instruction or learning in the arts, sciences, or professions for the purposes of admitting any person to the grade of a degree, or shall confer or participate in conferring a degree, giving to any person a diploma of graduation or of proficiency in a course of study, in learning, or in scientific arts or methods, within this State, until it shall have filed a certified copy of its certificate of incorporation with the Commission on Higher Education and obtained from the commission a license to carry on the business under such rules as the commission may prescribe.

b. The cost for consultants utilized by the Commission on Higher Education and other out-of-pocket expenses incurred by the commission for licensure and related reviews shall be paid by the institution seeking a license or license renewal.

45. Section 4 of P.L.1968, c.142 (C.18A:71-31) is amended to read as follows:

C.18A:71-31 "New Jersey Education Opportunity Fund."

4. (a) There is hereby created and established under the Commission on Higher Education, which is in but not of the Department of State, an educational opportunity fund which shall be known as the "New Jersey Educational Opportunity Fund." Notwithstanding this allocation, the fund shall be independent of any supervision or control by the department or by any officer thereof. The fund shall identify, recruit and provide financial assistance to needy students who are residents of this State in order that they may be able to attend institutions of higher education.

(b) The business and operations of the fund shall be administered by the board of directors created pursuant to section 5 of P.L.1968, c.142 (C.18A:71-32) subject to the general supervision of the Commission on Higher Education.

(c) The commission in consultation with the board shall designate an individual to serve as the chief executive officer of the fund, who shall organize the work of the fund in such manner as he deems necessary to carry out the provisions of this act. The commission may employ such persons, contract for such services, make such expenditures and adopt such rules and regulations as may be necessary or appropriate to carry out the provisions of this act.

46. Section 5 of P.L.1968, c.142 (C.18A:71-32) is amended to read as follows:

C.18A:71-32 Membership.

5. (a) The board of directors of the fund shall consist of the chairman of the Commission on Higher Education and the chairperson of the Board of the Higher Education Student Assistance Authority or their designees from among the public members and eight citizens of this State appointed by the Governor. Citizen members of the board shall be selected without regard to political affiliation and, as far as may be practicable, on the basis of their knowledge of, or interest in, the problems of needy students and higher education. The board shall organize annually as established by rule of the board to elect a chairman, vice chairman and other officers as the board shall determine from among its members. The officers shall serve for a one-year term and until their successors are elected and qualified. Vacancies in the offices shall be filled in the same manner for the unexpired term only.

(b) Each citizen member of the board shall serve for a term of four years and until his successor shall have been appointed and qualified; provided, that in the case of the first appointments to the board, two members shall be appointed for terms expiring June 30, 1969; two members shall be appointed for terms expiring June 30, 1970; two members shall be appointed for terms expiring June 30, 1971; and two members shall be appointed for terms expiring June 30, 1972. Any vacancy in the membership of the board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(c) The board shall develop and maintain a Statewide system for the identification of potential college students from needy families; devise methods for recruiting such students; advise the commission on the organization, coordination and support, in cooperation with public and private institutions of higher education of the State, of programs of remedial education for such students; and provide financial assistance as required by such students.

(d) Members of the board shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties.

47. Section 7 of P.L.1968, c.142 (C.18A:71-34) is amended to read as follows:

C.18A:71-34 Awarding of "opportunity grants."

7. (a) The board is hereby authorized to award "opportunity grants" from the fund to needy students for undergraduate study leading to a baccalaureate degree, associate degree, or other approved certificate and for graduate and professional study leading to approved master's and doctor's degrees at institutions of higher education, public and private, located in New Jersey; provided, that the board shall allow not more than 10% of the needy students to be awarded opportunity grants in any year to use their opportunity grants at institutions of higher education located outside this State; and, provided further, that no more than 10% of the funds appropriated and available for the purposes of this act shall be awarded to students for use in graduate study.

(b) Opportunity grants may be awarded annually, upon proper application to the fund, to any needy student who qualifies under the standards to be developed and promulgated by the board and who is or will be attending an institution of collegiate grade located in New Jersey and approved for this purpose by the Commission on Higher Education, except that in cases where the student will be or is attending an institution in another State, the accreditation procedures of that State shall be accepted, subject to the approval of the board.

(c) The board may utilize the services of the Higher Education Student Assistance Authority to administer the provisions of this section. The cost of these services shall be paid by the Equal Opportunity Fund.

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

"New Jersey educational facilities authority."

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

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

successor unless and until his successor shall have been appointed and qualified. Any vacancy among the members appointed by the Governor shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

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

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

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

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

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

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

(i) A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof, to the Governor. No action taken at such meeting by the authority shall have force or effect until 10 days after such copy of the minutes shall have been so delivered. If, in said 10-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and of no effect. If the Governor shall not return the minutes within said 10-day period, any action therein recited shall have force and effect according to the wording thereof. At any time prior to the expiration of the said 10-day period, the Governor may sign a statement of approval of any such action of the authority, in which case the action so approved shall not thereafter be disapproved. Notwithstanding the foregoing provisions of this subsection (i), with regard to the authorization or sale of bonds of the authority, the authority shall furnish to the Governor a certified copy of the minutes of the meeting at which the bonds are authorized or sold and the Governor shall indicate approval or disapproval of the action upon receipt of the certified copy of the minutes.

The powers conferred in this subsection (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds of the authority at any time outstanding, and nothing in, or done pursuant to, this subsection (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and

perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

49. Section 2 of P.L.1988, c.159 (C.18A:72A-27.3) is amended to read as follows:

C.18A:72A-27.3 Submission of proposed projects to Legislature.

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

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

Lands, assets titled in name of State.

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

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

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

51. Section 5 of P.L.1979, c.132 (C.18A:72B-19) is amended to read as follows:

C.18A:72B-19 Maintenance of funds; audit of records.

5. Funds received by an institution pursuant to this act shall be maintained in a separate ledger account. Each institution shall cause an audit of such account and of enrollment figures to be made annually by a certified public accountant and forwarded to the treasurer. The treasurer shall have the right to audit institutional records pertaining to this act. Each institution also shall furnish to the treasurer a copy of its audited annual financial statement.

52. Section 1 of P.L.1984, c.189 (C.18A:72F-1) is amended to read as follows:

C.18A:72F-1 Short title.

1. This act shall be known and may be cited as the "Minority Faculty Advancement Program Act."

53. Section 2 of P.L.1984, c.189 (C.18A:72F-2) is amended to read as follows:

C.18A:72F-2 Findings, declarations.

2. The Legislature finds and declares that:

a. Within New Jersey colleges and universities minority faculty members with doctoral degrees in certain academic disciplines, notably the physical and life sciences, engineering, mathematics, management, computer science, environmental sciences, and statistics, are underrepresented in comparison to nonminority faculty members with doctorates.

b. There is in the United States a serious shortage of minority doctoral degree graduates in the academic disciplines cited above from which New Jersey colleges and universities can recruit faculty members.

c. The colleges and universities in New Jersey currently face difficult problems in recruiting and retaining minority faculty members with doctoral degrees in the academic disciplines cited above.

d. Rutgers, The State University and the State colleges have cooperated in implementing a pilot program, the Minority Advancement Program in Teaching and Research, whereby eligible State college minority faculty members or other minorities admitted to the State university in a doctoral degree program in certain academic disciplines are provided grant, loan and other support opportunities to assist them in completing the academic degree requirements and to increase the pool of potential minority faculty members holding doctoral degrees.

54. Section 3 of P.L.1984, c.189 (C.18A:72F-3) is amended to read as follows:

C.18A:72F-3 Definitions relative to minority faculty advancement.

3. As used in this act:

a. "Eligible discipline" means an academic discipline in which minority individuals are underrepresented as determined by the Commission on Higher Education in consultation with the Board of Directors of the Educational Opportunity Fund and the New Jersey Presidents' Council.

b. "Faculty member" means any person employed full-time by a New Jersey college or university to perform primarily teaching, research, or administrative duties for 10 or more months per academic year.

c. "Minority" means any person who is a member of a racial-ethnic group that has been historically disadvantaged in obtaining access to equal educational opportunities.

d. "Program" means the Minority Faculty Advancement Program created pursuant to this act.

e. (Deleted by amendment, P.L.1999, c.46.)

f. "Eligible student participant" means a minority student enrolled in a doctoral degree program in an eligible discipline, as defined in this section, at any New Jersey college or university that qualifies for and agrees to participate in the program.

g. "New Jersey college or university" means any public or independent institution of higher education in the State licensed by the New Jersey Commission on Higher Education.

55. Section 4 of P.L.1984, c.189 (C.18A:72F-4) is amended to read as follows:

C.18A:72F-4 Minority Faculty Advancement Program.

4. a. There is established within the New Jersey Commission on Higher Education a Minority Faculty Advancement Program.

To increase the representation of doctorally trained minority faculty and administrators at New Jersey colleges and universities, the loan and loan redemption features of the Minority Faculty Advancement Loan and Loan Redemption Program, established pursuant to P.L.1984, c.189, shall be phased out and replaced by incentive hiring grants. Support, other than loans, for students participating in the program shall continue through campus assistance grants. The commission may enter into an agreement with another agency or entity to administer or provide services for this program.

b. To be eligible for a campus assistance grant, a New Jersey college or university shall enter into an agreement with the commission to provide support opportunities to eligible student

participants. Support opportunities may include, but are not limited to: advising; mentoring; workshops and colloquia.

c. To be eligible for an incentive hiring grant, a New Jersey college or university shall enter into an agreement with the commission to provide loan redemption up to \$40,000 per individual as a benefit to newly hired minority faculty or administrators with doctoral degrees, regardless of whether the doctorate was earned at an institution of higher education within or outside of the State. No more than \$10,000 shall be redeemed for an individual for each year of service as a faculty member or administrator.

d. No student loans shall be originated or guaranteed under this program after the effective date of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.), to any person not already the recipient of a student loan made or guaranteed under the Minority Faculty Advancement Loan and Loan Redemption Program, established pursuant to P.L.1984, c.189. The Higher Education Student Assistance Authority shall administer the loan and loan redemption components for persons participating prior to the effective date of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.) until they have exhausted eligibility for such assistance.

56. Section 5 of P.L.1984, c.189 (C.18A:72F-5) is amended to read as follows:

C.18A:72F-5 Application procedure.

5. Eligible program participants who entered the program prior to the effective date of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.), and who seek loans to finance their education shall apply for loans under the Federal Family Education Loan Program. In the event that these participants have borrowed the maximum permitted under the terms of this program but would otherwise be eligible borrowers under this program, they may apply for nonfederal direct loans in amounts not exceeding \$10,000.00 per student annually which loans may be renewed for up to a maximum of four academic years for a total loan indebtedness not exceeding \$40,000.00 per student. However, the amount of a nonfederal direct loan shall not exceed, in combination with other financial aid, the total educational costs of a participant attending a college or university participating in this program. Nonfederal direct loans will be evidenced by promissory notes and may be secured pursuant to forms established by the Higher Education Student Assistance Authority.

Nonfederal direct loans shall not bear interest or finance charges during the time a student is enrolled as a full-time student in the program or is engaged in approved redemption service pursuant to this act. Nonfederal direct loans shall become due and payable pursuant to section 8 of this act six months after graduation if no redemption contract is in effect, or six months after change to part-time student status, withdrawal from the program, or termination from full-time employment either as a faculty member at a New Jersey college or university or other qualified employment.

57. Section 6 of P.L.1984, c.189 (C.18A:72F-6) is amended to read as follows:

C.18A:72F-6 Loan redemption.

6. Nonfederal direct loans obtained pursuant to section 5 of this act and Federal Family Education Loans together with interest thereon secured after admission to the Minority Advancement Program may be redeemed by program participants who entered the program prior to the effective date of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.), upon execution of a contract between the participant and the Higher Education Student Assistance Authority. The maximum loan redemption for program participants shall amount to cancellation of repayment for one-quarter of the eligible loan indebtedness in return for each full academic year of service as a faculty member in a New Jersey college or university for total cancellation of loan indebtedness for up to, but not to exceed, a maximum of \$40,000.00 per student. In no event shall faculty service for less than the full academic year of each period of service entitle the participant to any benefits under the loan redemption conditions of the program. Prior to the annual redemption of loan indebtedness, participants in the program shall submit proof of faculty service to the Higher Education Student Assistance Authority.

58. Section 7 of P.L.1984, c.189 (C.18A:72F-7) is amended to read as follows:

C.18A:72F-7 Faculty service requirements.

7. Faculty service requirements for loan redemption purposes pursuant to section 6 of P.L.1984, c.189 (C.18A:72F-6) shall be satisfied at any New Jersey college or university.

59. Section 8 of P.L.1984, c.189 (C.18A:72F-8) is amended to read as follows:

C.18A:72F-8 Nullification of contract.

8. Program participants who entered the program prior to the effective date of P.L.1999, c.46 (N.J.S.18A:71A-1 et al.), and who have entered into redemption contracts with the Higher Education Student Assistance Authority may nullify their contracts by submitting written notification to the executive director of the authority and assuming full responsibility for repayment of principal and interest on the full amount of their nonfederal direct loans or that portion of the loans which has not been redeemed by the State in return for partial fulfillment of the contracts. The interest on the loans shall be at the prevailing rate established for the Federal Family Education Loan Program at the time the loans were made. The participant seeking to nullify the contract shall be required to repay the loan or the unredeemed portion thereof in not more than 10 years following the termination of the contract minus the years of service already performed under the contract. Repayments of nonfederal direct loans by participants who do not perform faculty service for redemption purposes may be used to provide future loans under the program, as determined by the executive director of the authority.

60. Section 9 of P.L.1984, c.189 (C.18A:72F-9) is amended to read as follows:

C.18A:72F-9 Nullification of service obligation.

9. In case of a program participant's death or total or permanent disability, the executive director of the Higher Education Student Assistance Authority shall nullify the service obligation of the student, thereby terminating the student's obligation to repay the unpaid balance of the redeemable portion of the loan and the accrued interest thereon, or where continued enforcement of the contract may result in extreme hardship, the executive director of the authority may nullify or suspend the service obligation of the student.

61. Section 10 of P.L.1984, c.189 (C.18A:72F-10) is amended to read as follows:

C.18A:72F-10 Periodic evaluation.

10. The impact of the program on the representation of New Jersey college and university minority faculty members with doctoral degrees in the designated disciplines shall be evaluated periodically by the Commission on Higher Education in consultation with the Board of Directors of the New Jersey Educational Opportunity Fund and the New Jersey Presidents' Council.

62. Section 11 of P.L.1984, c.189 (C.18A:72F-11) is amended to read as follows:

C.18A:72F-11 Rules, regulations.

11. The Commission on Higher Education shall promulgate such rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to carry out the purposes of this act. Rules pertaining to loans and loan redemption pursuant to sections 5 through 9 of P.L.1984, c.189 (C.18A:72F-5 through 18A:72F-9) shall be promulgated by the Higher Education Student Assistance Authority.

63. Section 1 of P.L.1991, c.485 (C.18A:72M-1) is amended to read as follows:

C.18A:72M-1 Definitions.

1. As used in this act:

"Eligible discipline" means an academic discipline in which minority individuals are underrepresented as determined by the Commission on Higher Education in consultation with the Board of Directors of the Educational Opportunity Fund and the New Jersey Presidents' Council.

"Minority" means any person who is a member of a racial-ethnic group that has been historically disadvantaged in obtaining access to equal educational opportunities.

"Program" means the Minority Undergraduate Fellowship Program established pursuant to this act.

64. Section 2 of P.L.1991, c.485 (C.18A:72M-2) is amended to read as follows:

C.18A:72M-2 Minority Undergraduate Fellowship Program.

2. There is established a Minority Undergraduate Fellowship Program within the Commission on Higher Education. The purpose of the program is to identify academically talented minority undergraduate students who may be interested in pursuing an academic career in an eligible discipline at a public or independent institution of higher education within the State, and to provide such students with the institutional and faculty support necessary to assist them in reaching that goal. The commission may enter into an agreement with another agency or entity to administer or provide services for this program.

65. Section 3 of P.L.1991, c.485 (C.18A:72M-3) is amended to read as follows:

C.18A:72M-3 Procedures to select fellows in the program, advisor duties.

3. The Commission on Higher Education shall establish policies and procedures for the nomination and selection as program fellows of academically talented minority undergraduate students who are in their junior year of study at a public or independent college or university within the State. Upon the selection of program fellows, the institution in which each student who is selected is enrolled shall assign to the student a faculty advisor who shall do the following:

- a. Supervise a research project conducted by the fellow during the junior year or actively involve the student in a project which the advisor is conducting;
- b. Supervise the fellow as an undergraduate teaching assistant in the fellow's senior year of study;
- c. Accompany the fellow to the annual meeting of the professional association of the fellow's academic discipline; and
- d. Assist the fellow in the selection of a graduate or professional school.

66. Section 4 of P.L.1991, c.485 (C.18A:72M-4) is amended to read as follows:

C.18A:72M-4 Stipends.

4. Each fellow shall receive a stipend in the amount of \$1,000 per semester during the senior year of study and an amount not to exceed \$500.00 for travel expenses. Each faculty advisor shall receive a stipend in the amount of \$500.00 per semester for two semesters.

67. Section 5 of P.L.1991, c.485 (C.18A:72M-5) is amended to read as follows:

C.18A:72M-5 Evaluation of program.

5. The Commission on Higher Education in consultation with the Board of Directors of the New Jersey Educational Opportunity Fund and the New Jersey Presidents' Council shall periodically evaluate the impact of the program.

68. Section 6 of P.L.1991, c.485 (C.18A:72M-6) is amended to read as follows:

C.18A:72M-6 Rules, regulations.

6. The Commission on Higher Education shall adopt rules and regulations pursuant to the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

69. Section 7 of P.L.1991, c.485 (C.18A:72M-7) is amended to read as follows:

C.18A:72M-7 Use of Minority Faculty Advancement Program funding.

7. The commission may utilize funding received under the "Minority Faculty Advancement Program Act," P.L.1984, c.189 (C.18A:72F-1 et seq.) in making payments under this act.

70. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to read as follows:

C.54A:6-25 NJBEST distribution excluded from gross income.

13. a. Gross income shall not include the earnings on or distribution from an individual trust account or savings account established pursuant to the "New Jersey Better Educational Savings Trust Program" established pursuant to N.J.S.18A:71B-38.

b. "Distribution" means a withdrawal which pays the designated beneficiary's qualified higher education expenses described in section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529 or which represents contributions net of earnings thereon.

Repealer.

71. The following acts and parts of acts are hereby repealed:

Sections 17, 18, and 20 of P.L.1994, c.48 (C.18A:3B-17, 18A:3B-18 and 18A:3B-20);

P.L.1971, c.191 (C.18A:63A-1 et seq.);

Chapter 64F of Title 18A of the New Jersey Statutes;

Chapter 71 of Title 18A of the New Jersey Statutes;

Sections 1 and 2 of P.L.1969, c.117 (C.18A:71-7.2 and 18A:71-7.3);

Sections 1 through 4 of P.L.1977, c.330 (C.18A:71-15.1 through 18A:71-15.4);

Section 1 of P.L.1991, c.38 (C.18A:71-15.5);

Sections 1 through 11 of P.L.1977, c.345 (C.18A:71-26.1 through 18A:71-26.11);

Section 2 and 3 of P.L.1984, c.94 (C.18A:71-26.12 and 18A:71-26.13);

P.L.1989, c.288 (C.18A:71-26.14 et seq.);

P.L.1968, c.429 (C.18A:71-41 et seq.);

Section 8 of P.L.1977, c.344 (C.18A:71-47.1);

P.L.1979, c.229 (C.18A:71-77 et seq.);

P.L.1991, c.272 (C.18A:71-87 et seq.);

P.L.1997, c.118 (C.18A:71-102 et seq.);

P.L.1997, c.220 (C.18A:71-106 et seq.);

Chapter 72 of Title 18A of the New Jersey Statutes;

P.L.1974, c.157 (C.18A:72-9.1 et seq.);

Sections 6 through 17 and 22 of P.L.1969, c.135 (C.18A:72-10.1 through 18A:72-10.13);

Section 23 of P.L.1969, c.135 (C.18A:72-17.1);

Section 24 of P.L.1969, c.135 (C.18A:72-22);

P.L.1982, c.117 (C.18A:72-23 et seq.);

P.L.1986, c.12 (C.18A:72-25.1 et seq.);

P.L.1988, c.33 (C.18A:72-25.4 et seq.);

Sections 1 through 8 of P.L.1982, c.135 (C.18A:72-26 through 18A:72-33);

Sections 1 through 9 of P.L.1991, c.268 (C.18A:72-34 through 18A:72-42);

Sections 1 through 12 and section 14 of P.L.1997, c.237 (C.18A:72-43 through C.18A:72-54);

Sections 60 through 76 of P.L.1991, c.187 (C.18A:72D-12 through 18A:72D-28); and

Section 12 of P.L.1984, c.189 (C.18A:72F-12).

Repealer.

72. The following acts and parts of acts are hereby repealed:

P.L.1975, c.331 (C.18A:71-61 et seq.);

P.L.1975, c.356 (C.18A:71-64 et seq.);

P.L.1985, c.114 (C.18A:71-76.1 et seq.); and
P.L.1991, c.296 (C.18A:71-96 et seq.).

73. This act shall take effect immediately, except that sections 1, 18, 19, 27, 29, 31, 32, 46, 47, 52 through 62, and 71 shall take effect on the 45th day after enactment.

Approved March 12, 1999.