

TITLE 18A EDUCATION

18A:1-1. Definitions

18A:1-1. As used in this title, unless the context requires another meaning, the following words and phrases shall have the following meaning:

"Academic year" means the period between the time school opens in any school district or under any board of education after the general summer vacation until the next succeeding summer vacation;

"All purpose regional district" shall have the meaning assigned to it in subsection a. of section 18A:13-2;

"Board" means the board of education;

"Commissioner" means the Commissioner of Education;

"County superintendent" means the County Superintendent of Schools;

"Department" means the State Department of Education;

"District" means a school district;

"Employee" includes the holder of any position or employment;

"Employment" includes employment in a position;

"Full membership" of any board or body means the number of members of the board or body when all the members' seats are filled and a "majority of the full membership" of any board or body means a majority of such number;

"Higher education" means that education which is provided by any or all of the public institutions of higher education as herein defined and any or all equivalent private institutions; "Limited purpose regional district" shall have the meaning assigned to it in subsection b. of section 18A:13-2;

"Local school district" means any school district comprising within its territorial boundaries the territory comprised in one or more municipalities, except a regional school district;

"Private school" means a school, under college grade, which does not derive its support entirely or in part from public funds;

"Public institution of higher education" shall have the meaning assigned to it in section 18A:62-1;

"Public school" means a school, under college grade, which derives its support entirely or in part from public funds;

"Public school system" means the system of public schools of the State;

"Residence" means domicile, unless a temporary residence is indicated;

"School nurse" shall mean and include any school nurse, school nurse supervisor, head school nurse, chief school nurse, school nurse coordinator or any other nurse performing school nursing services in the public schools;

"State board" means the State Board of Education;

"Teaching staff member" means a member of the professional staff of any district or regional board of education, or any board of education of a county vocational school, holding office, position or employment of such character that the qualifications, for such office, position or employment, require him to hold a valid and effective standard, provisional or emergency certificate, appropriate to his office, position or employment, issued by the State Board of Examiners and includes a school nurse and a school athletic trainer.

L.1967, c.271; amended 1994, c.48, s.34; 1999, c.87, s.1.

18A:2-1. Power to effectuate action

Whenever under any provision of this title the validity of the action of any person, official, board or body is made dependent upon the approval or disapproval, consent or refusal to consent or determination of, or is to be exercised pursuant to any rule to be made by, any other person, official, board or body, the latter shall have power to approve or disapprove, consent or refuse to consent, to make such determination or promulgate any such rule, notwithstanding that such power is not specifically conferred thereby or by any other provision of this title.

L.1967, c.271.

18A:2-2. Payment and disposition of fines imposed under this title

In every case of conviction or violation of any provision of this title, when a fine is imposed, the defendant may pay the fine, together with the cost to the officer before whom the conviction is had, and such officer shall receive the same and unless otherwise provided by this or any other law he shall remit the amount of the fine within 10 days thereafter to the custodian of school moneys of the district where the offense was committed, for the use of the public schools thereof.

L.1967, c.271.

18A:2-3. Preparation, offering for sale of certain documents; penalty

12. a. No person shall, for any fee, or other remuneration, prepare, offer to prepare, cause to be prepared, sell or offer for sale any term paper, thesis, dissertation, essay, report or other written, recorded, pictorial, artistic or other assignment knowing, or under the circumstances having reason to know, that said assignment is intended for submission either in whole or substantial part under a student's name in fulfillment of the requirements for a degree, diploma, certificate, course or courses of study at any university, college, academy, school or other educational institution.

b. Nothing contained in this section shall prevent any person from providing tutorial assistance, research material, information or other assistance to persons enrolled in a university, college, academy, school or other educational institution, which is not intended for submission directly or in substantial part as an assignment under the student's name to such educational institution in fulfillment of the requirements for a degree, diploma, certificate or course of study. Nor shall any person be prevented by this act from rendering services for a fee which include the typing, research, assembling, transcription, reproduction or editing of a manuscript or other assignment which he has not prepared at the request of or on behalf of the purchaser.

c. Anyone convicted of violating any provision of this act shall be subject to a civil penalty of up to \$1,000.00 which shall be collected in a summary manner pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.) in the Superior Court or any municipal court. The Superior Court may also grant further relief necessary to enforce the provisions of this section, including the issuance of an injunction.

d. Actions for injunction under the provisions of this act may be brought in the name of the people of this State upon their own complaint or upon the complaint of any person, or any public or private college, university, academy, school or other educational institution which is chartered, incorporated, licensed, registered or supervised by this State, acting for the interest of itself, its students, or the general public.

L.1999,c.90, s.12.

18A:3-14.1. Annual report of sources of financial assistance

1. The Office of Student Assistance shall prepare on an annual basis a concise report which lists all sources of financial assistance, including but not limited to scholarships and loans, available to citizens of this State who now attend or who plan to attend any institution of higher education. The report shall supply the name and address of each source, identify the form of the financial assistance, and indicate that the source of funds is public or private.

L.1969,c.178,s.1; amended 1994,c.48,s.35.

18A:3-14.2. Distribution of report

This report shall be distributed to each public and private secondary school in this State, and upon request, to any citizen of this State.

L.1969, c. 178, s. 2, eff. Oct. 14, 1969.

18A:3-15.1. Deceptive diploma practices

A person shall not with the intent to deceive buy, sell, make or alter, give, issue, obtain or attempt to obtain any diploma or other document purporting to confer any academic degree, or which certifies the completion in whole or in part of any course of study in any institution of higher education.

L. 1986, c. 87, s. 1, eff. Aug. 14, 1986.

18A:3-15.2. Use of fraudulent degree

A person or other legal entity shall not use, or attempt to use, in connection with any business, trade, profession or occupation any academic degree or certification of degree or degree credit, including but not limited to a transcript of course work, which has been fraudulently issued, obtained, forged or altered. A person shall not, with intent to deceive, falsely represent himself as having received any such degree or credential.

L. 1986, c. 87, s. 2, eff. Aug. 14, 1986.

18A:3-15.3. Letter designation restricted

3. A person shall not append to his name any letters in the same form designated by the Commission on Higher Education as entitled to the protection accorded to an academic degree unless the person has received from a duly authorized institution of higher

education the degree or certificate for which the letters are registered. For the purposes of this section, a duly authorized institution of higher education means an in-State institution licensed by the Commission on Higher Education or an out-of-State institution licensed by the appropriate state agency and regionally accredited or seeking accreditation by the appropriate accrediting body recognized by the Council on Postsecondary Education or the United States Department of Education.

L.1986,c.87,s.3; amended 1994,c.48,s.36.

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.

L.1986,c.87,s.4; amended 1994, c.48, s.37; 1999, c. 46, s.26.

18A:3-15.5. Civil penalty

Any person who violates any provision of this act is liable to a civil penalty of \$1,000.00 for each offense, which shall be collected pursuant to the provisions of "the penalty enforcement law," N.J.S. 2A:58-1 et seq.

L. 1986, c. 87, s. 5, eff. Aug. 14, 1986.

18A:3-19.1. Definitions

As used in this act:

"Foreign government" means any government other than the government of the United States or of its states, territories or possessions or any political subdivision thereof.

"Foreign legal entity" means a. any legal entity created under the laws of a foreign government or b. any legal entity created under the laws of the United States or any of its political subdivisions if a majority of the ownership of that legal entity is directly or indirectly held legally or beneficially by one or more foreign governments or one or more foreign persons or one or more legal entities created under the laws of a foreign government and includes an agent acting for the legal entity.

"Foreign person" means any individual who is not a citizen of or resident alien of the United States or of its territories or possessions and includes an agent acting for the foreign person.

"Gift" means any endowment, gift, grant, contract, award, present or property of any kind.

L. 1987, c. 53, s. 1.

18A:3-19.2. Disclosure of foreign gifts

2. Every institution of higher education licensed by the Commission on Higher Education to award an academic degree shall disclose the amount, terms, restrictions and requirements attached to or made a part of any gift of value in excess of \$100,000.00 made to the institution by a foreign government, foreign legal entity or foreign person in any one fiscal year. If the foreign government, foreign legal entity or foreign person makes more than one gift to an institution, and the total value of those gifts in any one fiscal year exceeds \$100,000.00, the institution shall report all of the gifts received.

L.1987,c.53,s.2; amended 1994,c.48,s.38.

18A:3-19.3. Information to the Department of the Treasury

3. This information shall be forwarded to the Department of the Treasury no later than 30 days after the last day of the fiscal year. The information shall include:

a. The amount of the gift.

b. The date on which it was received.

c. Full details of any conditions, matching provisions, or designation of the gift for a specific purpose.

d. The name of the foreign government in the case of a gift by a foreign government; the name of the foreign entity in the case of a gift by a foreign entity; and the name of

the foreign country in which a foreign person is located or resides in the case of a gift by a foreign person.

- e. The purpose or purposes for which the gift will be used.

L.1987,c.53,s.3; amended 1994,c.48,s.39.

18A:3-19.4. Public record

This information shall be a matter of public record and shall be made available by the department to the general public for review and copying during normal business hours.

L. 1987, c. 53, s. 4.

18A:3-24. Findings, declarations

1. The Legislature finds and declares that the well-being and safety of college and university students who are members of or are attempting to become members of fraternities and sororities and other similar campus organizations requires a delineation of the responsibilities of those organizations in regard to rush or pledge activities and a declaration of a bill of rights for those students who participate in such activities.

L.1991,c.388,s.1.

18A:3-25. Pledge's Bill of Rights

2. The Attorney General shall develop a "Pledge's Bill of Rights" which outlines acceptable and unacceptable behavior and activities in regard to the pledge or rushing activities of college and university fraternities and sororities and other similar campus organizations. In developing the bill of rights, the Attorney General shall review the existing pledge and anti-hazing policies and procedures of public and independent institutions of higher education within the State and shall, as appropriate, incorporate those policies into the bill of rights. The Attorney General shall make the "Pledge's Bill of Rights" available to each institution of higher education within the State.

L.1991,c.388,s.2; amended 1994,c.48,s.40.

18A:3-26. Information on hazing included

3. The bill of rights developed by the Attorney General pursuant to section 2 of P.L.1991, c.388 (C.18A:3-25) shall include information on the criminal penalties for hazing and aggravated hazing established pursuant to P.L.1980, c.169 (C.2C:40-3 et seq.).

L.1991,c.388,s.3; amended 1994,c.48,s.41.

18A:3-27. Distribution

4. Every public and independent institution of higher education within the State shall ensure that any student who participates in pledging activities at that institution receives a copy of the "Pledge's Bill of Rights."

L.1991,c.388,s.4.

18A:3-28 Display, certain, of students' social security numbers prohibited.

1. No public or independent institution of higher education in the State shall display any student's social security number to identify that student for posting or public listing of grades, on class rosters or other lists provided to teachers, on student identification cards, in student directories or similar listings, unless otherwise required in accordance with applicable State or federal law.

L.2005,c.28,s.1.

18A:3A-1. Short title

This act shall be known and may be cited as the "Conflict Resolution and Peace Studies Act."

L.1984, c. 149, s. 1, eff. Sept. 8, 1984.

18A:3A-2. Legislative findings, determinations and declarations

The Legislature finds, determines and declares:

a. It is a fundamental aspiration of the people of New Jersey to live in a peaceful world, in which the threat of war, with its material destruction and human suffering, is steadily reduced and ultimately eliminated;

b. Accordingly, it is an appropriate act of State government, in furtherance of this aspiration, to promote the development, collection and analysis of the best research on, and most advanced techniques of, conflict resolution and peaceful settlement of disputes; and

c. It is the intent and purpose of the Legislature that the Institute established pursuant to this act shall produce significant aid to the understanding and implementation of methods for prevention of violent conflict arising from disputes on all levels of human interaction; and it is reasonably anticipated that, in addition to its

primary benefits aimed at the avoidance of armed national conflict, the results of the Institute's labors will produce significant benefits of a domestic nature here in New Jersey--as in improving labor-management relations, mediating environmental issue disputes and mitigating landlord-tenant conflicts.

L.1984, c. 149, s. 2, eff. Sept. 8, 1984.

18A:3A-3. Institute on Conflict Resolution and Peace Studies

3. a. There is established in, but not of, the Department of State the New Jersey Institute on Conflict Resolution and Peace Studies, hereinafter referred to as the Institute.

b. The Institute shall be under the direct management and supervision of the Secretary of State, who shall, by rules and regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), provide for its organization and methods of proceeding, so as to fulfill the purposes prescribed in section 4 of this act.

c. The secretary may at any time, and from time to time, enter into agreements with any public or private institution of higher learning in this State, under which such institution shall undertake to carry out any of the functions or projects of the Institute, pursuant to section 4 of P.L.1984, c.149 (C.18A:3A-4); and in consideration of such undertaking the secretary may authorize the payment to such institution of funds appropriated or otherwise made available to the Institute under this act or any other law, or from any other lawful source, and which are determined by him to be necessary or appropriate for the funding of the function or project so undertaken.

L.1984,c.149,s.3; amended 1994,c.48,s.42.

18A:3A-4. Duties

The Institute created by this act shall:

a. Foster wide varieties of approaches to conflict resolution by sponsoring research, seminars, conferences, and other activities which may contribute to the fulfillment of the goals set forth in section 2 of this act;

b. Facilitate the collection of, and access to, the best available research relating to the understanding, analysis and techniques of conflict resolution; and

c. Take steps, through or in cooperation with public and private institutions of higher learning in the State, to develop courses and curricula in conflict resolution and peace studies, including a range of programs and study materials that will offer appropriate choices for use at all academic levels and for pupils of all age groups, so that the most advanced and most useful knowledge in this field shall be widely and effectively disseminated.

L.1984, c. 149, s. 4, eff. Sept. 8, 1984.

18A:3A-5. Findings and recommendations; transmittal

In order to make a concrete and substantial contribution to peace through understanding, the Institute shall annually, and at such other times as it deems appropriate, transmit its findings and recommendations to the presiding officers of the United States Senate and House of Representatives, to each of the members of the Congress of the United States elected from New Jersey, to the appropriate officers of the Department of State and the Department of Defense, to the Executive Office of the President, to the Secretary-General of the United Nations, and to other such institutions which are devoted to the study and advancement of peace.

L.1984, c. 149, s. 5, eff. Sept. 8, 1984.

18A:3A-6. Advisory board

6. To assist him in the organization of the Institute, and in fulfilling his other duties and responsibilities under P.L.1984, c.149 (C.18A:3A-1 et seq.), the secretary shall appoint an advisory board, which shall be broadly representative of those organizations and individuals having active interest in, and academic or practical knowledge and experience in, the methods and techniques of conflict resolution and the peaceful settlement of disputes; including, without limitation, representatives of religious, cultural and academic organizations, and persons actively engaged in the promotion of international and intercultural understanding, the study or conduct of foreign relations, and the advancement of world peace.

L.1984,c.149,s.3; amended 1994,c.48,s.43.

18A:3B-1. Short title

1. This act shall be known and may be cited as the "Higher Education Restructuring Act of 1994."

L.1994,c.48,s.1.

18A:3B-2. Findings, declarations

2. The Legislature finds and declares that:

- a. the institutions of higher education are one of the most valuable and underutilized resources in the State; and
- b. the elimination of unnecessary State oversight and its accompanying bureaucracy will serve to unleash the creativity and innovation of these institutions; and
- c. the restructuring of higher education must ensure that student aid programs are not only preserved but strengthened and that the State continue to foster and encourage programs to promote diversity and accessibility; and
- d. the institutions of higher education in the State shall be responsible for achieving the Statewide goals of affordability and accessibility for all students, institutional excellence, and effectiveness in addressing the societal and economic needs of the State; and
- e. in order to provide institutions with the ability to fulfill their mission and Statewide goals, greater decision making and accountability must be placed at the institutional level and structures must be established to ensure cooperation among institutions and coordination at the State level; and
- f. the State benefits from a coordinated system of higher education that includes public and private institutions which offer a variety of programs with a range of choices and which addresses the needs of the State including its citizens and employers.

L.1994,c.48,s.2.

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.

L.1994,c.48,s.3; amended 1999, c.46, s.27.

18A:3B-4. Department of Higher Education abolished

4. The Department of Higher Education created by P.L.1967, c.271 (C.18A:3-1 et seq.) is abolished as a principal department in the Executive Branch of State Government and all of its functions, powers and duties, except as herein otherwise provided, are terminated.

L.1994,c.48,s.4.

18A:3B-5. Termination of offices, terms

5. The offices and terms of the Chancellor of Higher Education, vice-chancellor, the assistant chancellors and the directors of the various divisions and offices of the Department of Higher Education, except as herein otherwise provided, shall terminate upon the effective date of this act.

L.1994,c.48,s.5.

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.

L.1994,c.48,s.6; amended 1999, c.46, s.28.

18A:3B-7. "New Jersey Presidents' Council" established

7. There is established a body corporate and politic, with corporate succession, to be known as the "New Jersey Presidents' Council." Each president of a public institution of higher education in the State and of an independent institution which receives direct State aid shall be a member of the council and shall serve ex officio. The presidents of the proprietary schools which have been authorized to offer licensed degree programs prior to the effective date of P.L.2003, c.99 shall also serve as members of the council, ex officio, to represent the interests of all such schools. The presidents of the two institutions primarily involved in the preparation of professional persons in the field of religion which enroll the largest number of pupils in State licensed degree programs shall also serve as members of the council, ex officio, to represent the interests of all such schools.

L.1994,c.48,s.7; amended 1995, c.268, s.1; 2003,c.99,s.1.

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.

L.1994,c.48,s.8; amended 1995, c.268, s.2; 1999, c.46, s.29.

18A:3B-9. Powers of council

9. The council shall have perpetual succession and shall have the following powers:
- a. To make, amend, and repeal rules and bylaws for its own governance and guidance not inconsistent with State or federal law;
 - b. To adopt an official seal and alter the same at pleasure;
 - c. To maintain an office at such place or places within the State as it may designate; and
 - d. To sue and be sued in its own name and to retain legal counsel of its choosing.

L.1994,c.48,s.9.

18A:3B-10. Funding necessary expenses of council

10. For the purposes of funding the necessary expenses of the council, the various institutions shall pay the expenses incurred by their respective presidents, and shall appropriate annually such sums for dues as may be assessed by a two-thirds vote of the council. The dues may be made upon a graduated scale based upon a two thirds vote of the council.

L.1994,c.48,s.10.

18A:3B-11. Organization of council, selection of officers

11. a. The council shall organize within 60 days of the effective date of this act. Thereafter the council shall organize annually during the month of February and meet at other times as may be necessary, but not less than twice during the course of the year. Although the council is a purely advisory body, it shall be subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.);

b. The council may select such officers as may be necessary for the transaction of business.

L.1994,c.48,s.11.

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 15 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;

One president of the proprietary schools which have been authorized to offer licensed degree programs prior to the effective date of P.L.2003, c.99 who shall be selected by the presidents of these proprietary schools.

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.

L.1994,c.48,s.12; amended 1999, c.46, s.30; 2003,c.99,s.2.

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 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 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.

L.1994,c.48,s.13; amended 1999, c.46, s.31; 1999. c.316.

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.

L.1994,c.48,s.14; amended 1999, c.46, s.32.

18A:3B-15. Rules, regulations

15. The commission shall 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 act. Regulations adopted by the State Board of Higher Education pertaining to:

a. licensing of institutions and university status;

b. outside employment for employees of public institutions and State agencies and Code of Ethics;

c. residency requirements for tuition purposes;

d. personnel policies which affect the terms and conditions of employment including classification and compensation plans adopted pursuant thereto;

e. tenure and multi-year contracts;

f. rights and procedures in a reduction in force;

g. student trustee policies; and

h. regulations concerning early retirement programs and length of the academic year shall continue with full force and effect under the authority of the commission for a period of one year from the effective date of this act or until amended, continued or repealed by the commission pursuant to law.

L.1994,c.48,s.15.

18A:3B-16. Report to Legislature, Governor

16. a. The commission shall report to the Legislature and Governor within six months of the effective date of this act on recommendations concerning the collective bargaining process and the civil service classification of certain institutional employees.

b. The commission shall make recommendations to the Legislature and Governor regarding the following within one year of the effective date of this act:

(1) articulation between higher education and elementary and secondary education;

(2) the manner in which the administration of student assistance programs may be modernized and made more efficient including the privatization of student loan administration and the merger of the Student Assistance Board and the New Jersey Higher Education Assistance Authority;

(3) the manner in which higher education is funded including mission-based funding, multi-year funding and tuition establishment.

c. The commission may request assistance from any agency of State government or may seek assistance from outside consultants, foundations or other organizations in order to conduct any study that may be required under this section subject to available appropriations.

L.1994,c.48,s.16.

18A:3B-19. Educational Opportunity Fund transferred

19. a. All functions, powers and duties now vested in the Educational Opportunity Fund or the board of directors thereof in the Department of Higher Education are transferred to and assumed by the Educational Opportunity Fund and the board of directors thereof under the Commission on Higher Education 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 Educational Opportunity Fund or the board of directors thereof in the Department of Higher Education, the same shall mean and refer to the Educational Opportunity Fund or the board of directors thereof in the Commission on Higher Education in but not of the Department of State.

c. Nothing in this act shall be construed to limit the authority of the Educational Opportunity Fund, or the board of directors thereof, or to alter the terms and conditions of grants made to students by the fund.

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.).

e. The present members of the board of directors, other than the Chancellor of Higher Education, shall hold their office for the duration of their respective terms.

L.1994,c.48,s.19.

18A:3B-21. Educational Facilities Authority transferred.

21. a. All functions, powers and duties now vested in the Educational Facilities Authority or the officers thereof in the Department of Higher Education are transferred to and assumed by the Educational Facilities Authority and the officers thereof in but not of the Department of the Treasury.

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

c. Nothing in this act shall be construed to limit the power of the Educational Facilities Authority or to alter the terms and conditions of loans made 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.).

e. The Department of the Treasury shall render administrative assistance, including but not limited to personnel and fiscal assistance, to the authority upon the request of the authority. The cost and expense of any services rendered shall be paid by the authority.

f. The present members of the authority shall hold their office for the duration of their respective terms.

L.1994,c.48,s.21.

18A:3B-22. State Board of Higher Education project approval transferred

22. The functions, powers and duties of the State Board of Higher Education, including the approval of projects, under the "Jobs, Education and Competitiveness Bond Act of 1988," P.L.1988, c.78 shall, following July 1, 1994, be exercised by the New Jersey Commission on Higher Education.

Any final action taken by the State Board of Higher Education prior to July 1, 1994 including the approval of any project under this bond act shall be unaffected by the

provisions of P.L.1994, c.48 (C.18A:3B-1 et al.) and such final action is hereby ratified and confirmed.

L.1994,c.48,s.22.

18A:3B-23. State Board of Higher Education equipment purchase, allocation of funds transferred

23. The functions, powers and duties of the State Board of Higher Education, including the approval of the equipment purchase and allocation of funds, under the "Higher Education Equipment Leasing Fund Act," P.L.1993, c.136 (C.18A:72A-40 et seq.) shall, following July 1, 1994, be exercised by the New Jersey Commission on Higher Education.

Any final action taken by the State Board of Higher Education prior to July 1, 1994, including the approval of an equipment purchase or allocation of funds, under this bond act shall be unaffected by the provisions of P.L.1994, c.48 (C.18A:3B-1 et al.) and such final action is hereby ratified and confirmed.

L.1994,c.48,s.23.

18A:3B-24 Equipment purchase, allocation of funds under C.18A:72A-49 et seq. transferred

24. The functions, powers and duties of the State Board of Higher Education, including the approval of the equipment purchase and allocation of funds, under the "Higher Education Facilities Trust Fund Act," P.L.1993, c.375 (C.18A:72A-49 et seq.) shall, following July 1, 1994, be exercised by the New Jersey Commission on Higher Education.

Any final action taken by the State Board of Higher Education prior to July 1, 1994, including the approval of grants or allocation of funds, under this bond act shall be unaffected by the provisions of P.L.1994, c.48 (C.18A:3B-1 et al.) and is hereby ratified and confirmed. The membership of the "Higher Education Facilities Trust Fund Board" shall include the chair and vice-chair of the New Jersey Commission on Higher Education in the place of the members of the State Board of Higher Education and the Chancellor of Higher Education.

L.1994,c.48,s.24.

18A:3B-25. Functions, powers, duties under P.L.1984, c.99 transferred

25. The functions, powers and duties of the State Board of Higher Education under the "Jobs, Science and Technology Bond Act," P.L.1984, c.99 shall, following July 1, 1994, be exercised by the New Jersey Commission on Higher Education.

Any final action taken by the State Board of Higher Education prior to July 1, 1994 under this bond act shall be unaffected by the provisions of P.L.1994, c.48 (C.18A:3B-1 et al.) and is hereby ratified and confirmed.

Regulations of the State Board of Higher Education concerning this bond act shall be continued under authority of the commission until amended or repealed by the commission.

L.1994,c.48,s.25.

18A:3B-26. Construction of act in regard to Rutgers, The State University

26. This act shall not be construed to impair any vested rights, grants, charter rights, privileges, exemptions, immunities, powers, prerogatives, franchises or advantages continued, granted or obtained by Rutgers, The State University under the "Rutgers, The State University Law," N.J.S.18A:65-1 et seq., nor shall this act be construed to impose additional powers, duties or responsibilities upon Rutgers, The State University not contained within N.J.S.18A:65-1 et seq.

L.1994,c.48,s.26.

18A:3B-27. Allocation of institutions to Department of State

27. For the purposes of complying with the provisions of Article V, Section IV, Paragraph 1 of the New Jersey Constitution, any State institution of higher education which was allocated to the Department of Higher Education or other department of State government shall be allocated to the Department of State upon the effective date of this act. Notwithstanding this allocation, any such institution shall be independent of any supervision or control of the Department of State or any board, commission or officer thereof and the allocation shall not in any way affect the principles of institutional autonomy established in this act.

L.1994,c.48,s.27.

18A:3B-28. Construction of act

28. This act is a revision law and the provisions hereof not inconsistent with prior laws shall be construed as a continuation of such prior laws and its enactment shall not:

a. affect the tenure, compensation and pension rights, if any, of the lawful holder thereof, in any position not specifically abolished herein, upon the effective date of this act;

b. alter the term of any member of any board, commission or public body, not specifically abolished herein, lawfully in office as of the effective date of this act, or require the reappointment thereof;

c. require the resubmission to the voters of any proposal adopted by such voters prior to the effective date of this act.

L.1994,c.48,s.28.

18A:3B-29. Disposition of petitions, controversies, disputes

29. All petitions, controversies and disputes pending before the State Board of Higher Education or the Chancellor of Higher Education and not disposed of as of the effective date of this act shall be decided by the commission under the law under which the action arose as though this act had not been enacted. The commission shall have all necessary powers to render a final administrative decision in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in regard to these controversies and disputes. This section shall not be construed to grant to the commission general authority to render final administrative decisions on matters arising under the laws governing higher education except as otherwise specifically provided herein.

L.1994,c.48,s.29.

18A:3B-30. Responsibility for action to implement act

30. The Department of the Treasury in consultation with the Department of Personnel shall be responsible for any administrative, fiscal and personnel actions necessary to implement the provisions of this act.

L.1994,c.48,s.30.

18A:3B-31. Interim, comprehensive reports to Governor, Legislature

31. a. The council and commission established under this act shall submit an interim report to the Governor and Legislature on or before July 1, 1996 with an assessment of the restructuring of higher education embodied in this act and recommendations concerning the modification of this structure.

b. On or before July 1, 1999, the council and the commission shall submit a comprehensive report to the Governor and the Legislature, including, for each public institution of higher education: a profile of the student body including graduation rates, SAT or other test scores, the percentage of New Jersey residents in the student body, the number of scholarship students and the number of Education Opportunity Fund students in attendance; a profile of the faculty including the ratio of full to part-time faculty members, and major research and public service activities; a profile of the trustees or governors as applicable; and, a profile of each institution, including degree and certificate programs, status of accreditation, major capital projects and any other information which the commission and the council deem appropriate. The report shall include an assessment of the restructuring of higher education and may include recommendations as to the modification or alteration of this structure.

L.1994,c.48,s.31.

18A:3B-32. Exercise of powers conferred in act

32. The powers conferred in this act upon the commission 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.

L.1994,c.48,s.32.

18A:3B-33. Participation in alternate benefits program continued

33. Notwithstanding the provisions of any law to the contrary, any former employee of the Department of Higher Education who was a participant in the alternate benefits 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 benefits program on the same terms as other eligible employees.

L.1994,c.48,s.33.

18A:3B-34. Powers of Chairman of Commission on Higher Education

301. a. The Chairman of the Commission on Higher Education at the request of the Governor shall have authority to visit public institutions of higher education to examine their manner of conducting their affairs and to enforce an observance of the laws of the State.

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

c. The chairman, at the request of the Governor may issue subpoenas pursuant to this section compelling the attendance of witnesses and the production of books and papers in any part of the State. Any person who shall neglect or refuse to obey the command of the subpoena or who, after appearing, shall refuse to be sworn and testify, unless such refusal is on grounds recognized by law, shall in either event be subject to a penalty of \$1,000.00 for each offense to be recovered in a civil action. Such penalty when recovered shall be paid into the State Treasury.

L.1994,c.48,s.301.

18A:3B-35. Annual report by institution of higher education

305. Each public institution of higher education shall prepare and make available to the public an annual report on the condition of the institution which shall include, but need not be limited to a profile of the student body including graduation rates, SAT or other test scores, the percentage of New Jersey residents in the student body, the number of scholarship students and the number of Educational Opportunity Fund students in attendance; a profile of the faculty including the ratio of full to part-time faculty members, and major research and public service activities; a profile of the trustees or governors as applicable; and, a profile of the institution, including degree and certificate programs, status of accreditation, major capital projects and any other information which the commission and the institution deem appropriate. The form and general content of the report shall be established by the Commission on Higher Education.

L.1994,c.48,s.305.

18A:3B-36. Specific enabling legislation required for reorganization transfer

306. For the purposes of any reorganization or transfer after the effective date of this act, any commission, council, board or other body created pursuant to this act, and any public entity transferred or otherwise reorganized herein shall not be subject to the provisions of the "Executive Reorganization Act of 1969," P.L.1969, c.203 (C.52:14C-1 et seq.), but shall require specific enabling legislation.

L.1994,c.48,s.306.

18A:3B-37 Alternate opportunity to take test, examination for student due to religious observance.

1. An institution of higher education shall provide any student who, for reason of a religious observance, cannot attend a test or examination at its regular administration with an alternative opportunity to take an equivalent test or examination. The alternative opportunity shall be offered as soon after or before the regular administration of the test as is possible, and at comparable times, places, and costs. The institution may request that the student provide a written explanation of the religious conflict signed by a clergyman of the student's place of worship.

L.2008, c.10, s.1.

18A:3B-38 "Standardized test" defined; alternate administration of tests offered.

2. a. As used in this section:

"Standardized test" means any test that is given in the State at the expense of the test subject and designed for use and used in the process of selection for postsecondary or professional school admissions. The tests shall include, but are not limited to, the Preliminary Scholastic Aptitude Test, Scholastic Aptitude Test, ACT Assessment, Graduate Record Examination, Medical College Admission Test, Law School Admission Test, Dental Admission Test, Graduate Management Admission Test, Miller Analogies Test, and the Test of Standard Written English.

b. When regular administrations of standardized tests are given on days of religious observance which prevent attendance by test subjects at the regular administrations, alternative administrations shall be offered with the same frequency as regular administrations as soon after or before as is possible, at comparable times, places, and costs. The test agency may request that the test subject provide a written explanation of the religious conflict signed by a clergyman of the test subject's place of worship.

L.2008, c.10, s.2.

18A:4-1. State department of education continued; composition

The state department of education is hereby continued as a principal department in the executive branch of the state government, and it shall consist of a state board of education, which shall be the head of the department, a commissioner of education, and such divisions, bureaus, branches, committees, officers and employees as are specifically referred to in this title and as may be constituted or employed by virtue of the authority conferred by this title and by any other law.

L.1967, c.271.

18A:4-2. Offices

Suitable quarters to be known as the "state department of education" shall be provided.

L.1967, c.271.

18A:4-3. Membership qualifications

18A:4-3. The State Board of Education shall consist of 13 members who shall be citizens of the State who have resided therein for not less than five years immediately preceding their appointment, not less than three of whom shall be women and not more than one of whom shall be appointed from the residents of any one county.

L.1967, c.271; Amended 1973,c.93; 1994,c.48,s.44.

18A:4-4. Appointment of members; terms; vacancies

The members of the state board shall be appointed by the governor, by and with the advice and consent of the senate, for terms of six years commencing on July 1, except as otherwise provided by section 18A:4-5. Each member shall continue in office after the expiration of his term until his successor is appointed and has qualified, and in any such case and in case of any vacancy the successor shall be appointed in like manner for the unexpired term only.

L.1967, c.271.

18A:4-5. Continuation of present state board; appointment of successors

The members of the state board in office on the effective date of this title shall continue in office until the expiration of the respective terms for which they were appointed and all future appointments, except to fill vacancies occurring otherwise than by expiration of terms, shall be made for full six-year terms, to expire on June 30 of the sixth year, in such manner as to continue the present rotation of terms.

L.1967, c.271.

18A:4-6. Expenses of members; no compensation

The members of the state board shall receive no compensation for their services, but shall be paid their necessary expenses in performing their duties.

L.1967, c.271.

18A:4-7. Meetings

The state board shall hold public meetings at least once in each month at such times as its rules may prescribe and at such other times and such places within the state as in its judgment may be necessary, but no meeting shall commence later than eight P.M.

L.1967, c.271.

18A:4-8. Organization of board; officers; vacancies

The state board shall organize at its first regular meeting following June 30 of each year by the election of a president and a vice president from its own number who shall serve for one year and until their respective successors are elected and qualified. Vacancies in such offices shall be filled in like manner for the unexpired terms only.

L.1967, c.271.

18A:4-9. Secretary of state board

The commissioner shall be the secretary of the state board, but with the approval of the state board he may designate one of the clerks in the department to perform such of the duties of the secretary and such other services for the state board as the state board shall designate.

L.1967, c.271.

18A:4-10. General supervision of public education except higher education vested in state board

The general supervision and control of public education in this state, except higher education, and of the state department of education shall be vested in the state board, which shall formulate plans and make recommendations for the unified, continuous and efficient development of public education, other than higher education, of people of all ages within the state.

L.1967, c.271.

18A:4-11. Acquisition of land and other property by condemnation

The state board shall, if necessary, take and condemn land and other property in the manner provided by chapter 1 of Title 20, Eminent Domain, of the Revised Statutes, whenever authorized by law to purchase land or other property.

L.1967, c.271.

18A:4-12. Use of lands controlled by state board for recreation purposes

The state board may permit a municipality in which lands under the control and management of the state board are situate, to use such lands, when not required for school or state purposes, as playgrounds or recreation centers for the children of the

municipality, but the municipality shall be liable for any damage done to property so used.

L.1967, c.271.

18A:4-13. Building operations

The state board shall conduct all building operations coming within its direct supervision, including all construction or repair work allied thereto, within the appropriation specifically provided in each case for said work. It may, with the approval of the state house commission, employ such technical assistants, including registered architects and engineers, for the preparation of plans, specifications and drawings and for supervision and inspection of such work, as in its judgment each building operation necessitates, and such technical assistants shall be paid from the specific appropriation for such building operation.

L.1967, c.271.

18A:4-14. Uniform system of bookkeeping for school districts

18A:4-14. The State Board shall prescribe a uniform system of double entry bookkeeping which is consistent with the generally accepted accounting principles established by the Governmental Accounting Standards Board and which is consistent with the financial accounting terminology and classifications established by the National Center for Education Statistics for use in all school districts and compel the maintenance and use of the same.

L.1967, c.271; Amended 1987,c.165,s.1; 1989,c.266,s.1.

18A:4-14.1. Conformity to uniform system

By July 1 of the sixth year following enactment of this act, all school districts shall conform to the uniform system of double entry bookkeeping prescribed by N.J.S.18A:4-14.

L.1987, c.165, s.4; amended 1989,c.266,s.2.

18A:4-15. General rule-making power

The state board shall make and enforce, and may alter and repeal, rules for its own government and for implementing and carrying out the school laws of this state under which it has jurisdiction.

L.1967, c.271.

18A:4-16. Incidental powers conferred

The state board shall have all powers, in addition to those specifically provided by law, requisite to the performance of its duties.

L.1967, c.271.

18A:4-17. Right to administer oaths and examine witnesses; false swearing

The state board by its presiding officer and each of its committees by its chairman, may administer oaths and examine witnesses under oath in any part of the state in regard to any matter pertaining to the schools, under its jurisdiction, supervision or control, and may cause the examination to be reduced to writing. Any person willfully giving false testimony upon being sworn or affirmed to tell the truth by the presiding officer of the state board or by the chairman of any of its committees, shall be guilty of a misdemeanor.

L.1967, c.271.

18A:4-18. Compelling attendance of school personnel

The state board may by order compel the production at such time and place within the state as it may designate of any and all books, papers, and vouchers in any way relating to schools or to the receipt or disbursement of school moneys, under its jurisdiction, supervision or control, compel the attendance before it or before any of its committees or before the commissioner or one of his assistants at such time and place as it may designate of any member of a board of education or of any person in the employ of a board of education, and suspend from office any person refusing to attend or to submit such books, papers, and vouchers as he may have been directed to produce.

L.1967, c.271.

18A:4-19. Subpoenas; penalty

The state board may issue subpoenas signed by its president and secretary compelling the attendance of witnesses and the production of books and papers in any part of the state before it or before any of its committees or before the commissioner or one of his assistants. Any person who shall neglect or refuse to obey the command of the subpoena or who, after appearing, shall refuse to be sworn and testify, except such refusal be on grounds recognized by law, shall in either event be liable to a penalty of \$100.00 for each offense to be recovered by the state board of education in a civil action. Such penalty when recovered shall be paid into the treasury of the state.

L.1967, c.271.

18A:4-20. Annual report to legislature

The state board shall report annually to the legislature in regard to all matters committed to its care.

L.1967, c.271.

18A:4-21. Appointment; term; qualifications; salary

18A:4-21. The Commissioner of Education shall be appointed by the Governor, without regard to residence within or without the State, with the advice and consent of the Senate, and shall serve at the pleasure of the Governor during the Governor's term of office and until his successor is appointed and qualified. He shall receive such annual salary as shall from time to time be fixed by law, which shall be payable as other state salaries are paid.

L.1967, c.271; Amended 1990,c.13,s.1.

18A:4-22. Chief officer of the department

The commissioner shall be:

(a) The chief executive and administrative officer of the department having general charge and supervision of the work of the department;

(b) The official agent of the state board for all purposes;

(c) The budget request officer and the approval officer of the department, with power to delegate the duties of such officers as in this chapter provided;

(d) Authorized, subject to law, to designate one of the assistant commissioners to act in his place and stead, during his absence, and to assign duties to the assistant commissioners, to the directors of the special services, to the secretary of the state board of examiners and to the inspectors, assistants and employees of the department.

L.1967, c.271.

18A:4-23. Supervision of schools; enforcement of rules

The commissioner shall have supervision of all schools of the state receiving support or aid from state appropriations, except institutions of higher education, and he shall enforce all rules prescribed by the state board.

L.1967, c.271.

18A:4-24. Determining efficiency of schools; report to state board

The commissioner shall pursuant to rules and regulations of the State board, inquire into and ascertain the thoroughness and efficiency of operation of any of the schools of the public school system of the State and of any grades therein by such means as to him seem proper, and he shall report to the State board the results of such inquiries and such other information with regard thereto as the State board may require or as he shall deem proper, but nothing in this section shall affect the right of each district to prescribe its own rules for promotion.

L.1967, c.271; amended by L.1975, c. 212, s. 44, eff. July 1, 1975.

18A:4-25. Prescribing minimum courses of study for public schools; approval of courses of study

The commissioner may, with the approval of the state board, prescribe minimum courses of study for the public schools and require boards of education to submit to him for approval or disapproval courses of study adopted by them, whenever he deems it advisable so to do.

L.1967, c.271.

18A:4-26. Acceptance of grants and donations

Subject to approval by the governor and the state board, the commissioner may accept on behalf of the state and administer for the state any grant, conveyance, devise, bequest, or donation to be applied, principal or income, or both, for the purposes specified in such grant, conveyance, devise, bequest, or donation to the maintenance and use of any service in, or activity of, any division or bureau established in the department, or of any school or institution of learning under the jurisdiction, supervision or control of the commissioner or of the state board.

L.1967, c.271.

18A:4-27. Notice and hearing

Prior to the acceptance of any grant, conveyance, devise, bequest, or donation mentioned in section 18A:4-26, due notice and hearing, if requested, shall be granted by the commissioner and the state board to any municipality or municipalities which may be affected thereby.

L.1967, c.271.

18A:4-28. Materials for guidance of teachers

The commissioner may prepare, publish and distribute from time to time handbooks, materials or circulars for the guidance of teachers in the public schools.

L.1967, c.271.

18A:4-29. Instruction of county superintendents and superintendents of schools; meetings

The commissioner shall from time to time instruct the county superintendents and superintendents of schools as to the performance of their duties, the conduct of the schools and the construction and furnishing of schoolhouses, and he shall, with the approval of the state board, hold meetings of the county superintendents and superintendents of schools at least once in each year for the discussion of school affairs and of ways and means for promoting a thorough and efficient system of education.

L.1967, c.271.

18A:4-30. Annual report of comparative financial statistics of school districts

The commissioner shall compile and cause to be published for general distribution, and may make a reasonable charge therefor to cover the cost of printing thereof, and annual report of comparative financial statistics of all school districts showing the capital and current costs, the cost of principal services, the amount of debt and other pertinent data, for each school district.

L.1967, c.271.

18A:4-31. Right to administer oaths, take affidavits and examine witnesses; false swearing

The commissioner and each of his assistants may administer oaths, take affidavits without charge, and examine witnesses under oath in any part of the state and upon any matter pertaining to the schools under his jurisdiction, supervision or control or under that of the state board and may cause the examinations to be reduced to writing. Any person willfully giving false testimony upon being sworn to tell the truth by the commissioner or any assistant commissioner, shall be guilty of a misdemeanor.

L.1967, c.271.

18A:4-32. Assistant commissioners; appointment; compensation

The commissioner, subject to the approval of the State board, shall appoint not more than seven assistant commissioners of education, and fix their compensation, and he shall from time to time designate one of them to act in his place and stead during his absence.

L.1967, c.271; amended by L.1977, c. 322, s. 1, eff. Jan. 10, 1978.

18A:4-33. Deputy commissioner

The commissioner shall designate an assistant commissioner as deputy commissioner with full power to act in his place and stead during any absence or inability of the commissioner and at such other times as the commissioner may designate. The commissioner may designate one or more assistant commissioners to act as approval officers of the department.

L.1967, c.271.

18A:4-34 Duties of assistant commissioner.

18A:4-34. Each assistant commissioner shall perform such duties in the public school system of the State as may from time to time be assigned to him by the commissioner, which shall include, but need not be limited to, any one or more of the following:

- a. The supervision of curriculum and instruction;
- b. The supervision of vocational education;
- c. The hearing and determination of controversies and disputes which may arise under the school laws, or the rules of the State board, or of the commissioner; and
- d. The supervision of business and financial matters.

L.1967, c.271; amended 1977, c.322, s.2; 2001, c.137, s.2.

18A:4-35. Directors, inspectors and assistants

The commissioner may assign an assistant commissioner or, subject to approval of the state board, may appoint and fix the compensation of directors, inspectors and assistants to act as secretary of the state board of examiners and to act in connection with the issuance of qualifying academic certificates and, so far as they relate to the public school system of the state, to perform one or more of the following services:

- a. Inspection of buildings;
- b. Inspection of accounts;

- c. Research;
- d. Supervision of health education;
- e. Supervision of adult education;
- f. Supervision of special classes for subnormal, blind, deaf, and physically handicapped children; and
- g. Such other special services as the state board may deem necessary.

L.1967, c.271.

18A:4-36. Helping teachers, salaries and expense allowance

A helping teacher to aid and direct the teachers in the schools of two or more districts may be appointed by the commissioner whenever he deems it advisable so to do, at a salary, and with an allowance for necessary expenses incurred in the performance of his duties not exceeding \$750.00 a year, which the commissioner shall fix, but such appointment and the amount of the salary and of the expense allowance shall first be approved by the state board.

L.1967, c.271.

18A:4-37. Payment of salaries and expenses

The salary of each helping teacher shall be paid as other state salaries are paid. The director of the division of budget and accounting shall, on order of the commissioner, draw his warrant for such salary on the state treasurer and all claims for the expenses of helping teachers shall be paid, in 10 equal monthly installments, after being audited by the county superintendent, on orders issued by the county superintendent and drawn on the county treasurer from moneys apportioned for that purpose. No such payment shall be made for expenses until a duly certified monthly expense account, with vouchers whenever possible, shall be submitted to the county superintendent, which shall be kept on file in his office.

L.1967, c.271.

18A:4-38. Employment of clerks and other employees; compensation

The commissioner may appoint such clerks and other employees for the department as he may deem necessary and fix their compensation subject to the provisions of Title 11, Civil Service, of the Revised Statutes, except where otherwise provided by law, which compensation shall be payable as other state salaries are paid, on the certificate of the commissioner and shall not exceed in the aggregate the sum annually appropriated therefor.

L.1967, c.271.

18A:4-39. Record of official acts; seal; copies of papers

The commissioner shall keep a record and preserve copies of all his official acts, orders and decisions. He shall adopt an official seal, and copies of any of his acts, orders and decisions, and of any papers deposited or filed in the department, when authenticated therewith and certified by him, shall be evidence in all courts and places equally with and in like manner as the originals.

L.1967, c.271.

18A:4-40. Monthly, annual and other reports to state board

The commissioner shall report to the state board such information as it may prescribe once each month and at such other times as the state board may designate, and he shall report to the state board annually at its December meeting as to the operation and condition of the schools of the public school system and all educational institutions other than institutions of higher education, receiving support or aid from state appropriations, during the previous year, with appropriate statistical tables and such suggestions and recommendations for the improvement of the schools and the advancement of public education within the state as he shall deem expedient and of interest to the people of the state and especially to those concerned with the operation of the public schools.

L.1967, c.271.

18A:4-41. Waiving of certain requirements

9. The commissioner or the Director of the Division of Local Government Services, in the Department of Community Affairs, as appropriate, is authorized, for those school districts issuing bonds pursuant to this 1993 amendatory and supplementary act, to waive the requirement imposed pursuant to N.J.S.18A:24-46 or N.J.S.40A:2-29, as the case may be, that school districts issue those bonds at not less than par value.

L.1993,c.102,s.9.

18A:4-42 Findings, declarations relative to Italian heritage and cultural and educational programs.

1. The Legislature finds and declares that:

a. For the past several decades Hollywood and the communications media have continuously portrayed Italians and Americans of Italian heritage as mobsters, buffoons and other nefarious characters to such an extent that it appears to be an orchestrated program of cultural dismemberment and disdain which can and will promote ethnic bigotry and loss of cultural identity.

b. The exposure of our children and others to this unrelenting barrage of negative images has led to the erosion and denigration of Italian-American culture, history and heritage. It has, furthermore, encouraged children to emulate negative role models and promoted the social acceptability of disrespect for and bigotry towards Italians and Americans of Italian heritage and their culture, history and heritage--a culture, history and heritage shared by over 22 percent of New Jersey's population.

c. The histories of our nation and our State have been significantly enriched by the heritage of Italians and Americans of Italian heritage. The cultural heritage of Italy includes the classical civilization of Rome, the fine arts of the Renaissance, the scientific and artistic genius of Da Vinci, the literary works of Dante and Petrarch, the operas of Verdi and Puccini and many other contributions that have ennobled civilization.

d. More than 5.4 million Italians emigrated to the United States between the years 1820 and 1991; today more than 2 million citizens of this State are of Italian descent. Our nation and our State have benefitted substantially from the influences and contributions of these men, women and children and their distinctive culture, history and heritage.

e. It is desirable to educate our citizens about the positive aspects of the culture, music, art, language, history and heritage of Italians and Americans of Italian heritage.

f. It is the policy of the State of New Jersey that the culture, history and heritage of Italians and Americans of Italian heritage are a proper concern for all people, particularly students enrolled in the schools of this State.

g. It is appropriate and desirable that programs, workshops, institutes, seminars and other teacher-training activities for the study of the culture, history and heritage of Italians and Americans of Italian heritage be conducted at the various high schools and institutions of higher education in this State.

h. It is fitting and proper to establish a permanent State-level commission to survey, design, encourage and promote the implementation of Italian and Americans of Italian heritage cultural and educational programs in this State, with responsibility for the coordination of events that will provide appropriate awareness and memorialization of the culture, history, heritage and language of Italians and Americans of Italian heritage on a regular basis throughout the State.

L.2001,c.343,s.1.

18A:4-43 New Jersey Commission on Italian and Americans of Italian Heritage Cultural and Educational Programs.

2. a. The New Jersey Commission on Italian and Americans of Italian Heritage Cultural and Educational Programs is created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Education, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or any board or officer thereof.

The commission shall consist of 21 members, including the Commissioner of Education and the chair of the executive board of the Presidents' Council, serving ex officio, and 19 public members.

Public members shall be appointed as follows: five public members shall be appointed by the President of the Senate, at least one of whom shall have a Masters' degree in an area of Italian studies or language; five public members shall be appointed by the Speaker of the General Assembly, at least one of whom shall have a Masters' degree in an area of Italian studies or language; and nine public members shall be appointed by the Governor, no less than four of whom shall at the time of their appointment have at least a Masters' degree in an area of Italian studies or language. The public members shall be residents of the State who have served prominently as spokespersons for, or as leaders of, organizations in the Italian and Americans of Italian heritage community which serve members of religious, ethnic, national heritage or social groups or who are experienced in the field of Italian and Americans of Italian heritage education. To the greatest extent practicable, they shall be chosen with due regard to afford the commission with broad regional representation and ethnic diversity. At least one-half of the public members shall be of Italian descent.

b. Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly and two

members appointed by the Governor shall serve for terms of one year; two members appointed by the President of the Senate, two members appointed by the Speaker of the General Assembly and three members appointed by the Governor shall serve for terms of two years; and two members appointed by the President of the Senate, two members appointed by the Speaker of the General Assembly and four members appointed by the Governor shall serve for terms of three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

c. The members of the commission shall serve without compensation, but they shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

d. The commission annually shall elect a chairman from among its members. It shall meet upon the call of the chairman or of a majority of the commission members. The presence of a majority of the authorized membership of the commission shall be required for the conduct of official business.

e. The commission shall appoint an executive director, who shall serve at its pleasure and shall be a person qualified by training and experience to perform the duties of the office.

L.2001,c.343,s.2.

18A:4-44 Responsibilities, duties of commission.

3. The commission shall have the following responsibilities and duties:

a. To provide, based upon the collective knowledge and experience of its members, assistance and advice to the public and nonpublic schools of this State with respect to the implementation of Italian and Americans of Italian heritage cultural and educational programs;

b. To meet with county and local school officials and other interested public and private organizations, for the purpose of assisting with the planning, coordination or modification of courses of study dealing with issues, matters and subjects concerning or relating to the culture, history and heritage of Italians and Americans of Italian heritage;

c. To survey and catalog the extent and breadth of Italian and Americans of Italian heritage cultural awareness and educational programs presently being incorporated into the curricula and taught in the school systems of this State; to inventory those Italian and Americans of Italian heritage exhibits and resources which may be incorporated into courses of study at various locations throughout the State and, upon request, to assist the State Department of Education and other educational agencies in the development and implementation of Italian and Americans of Italian heritage cultural awareness and educational programs. In furtherance of this responsibility, the commission shall be authorized to contact and cooperate with existing Italian and Americans of Italian heritage public or private nonprofit resource organizations and may act as a liaison concerning issues and topics involving and relating to the culture, history and heritage of Italians and Americans of Italian heritage to members of the United States Senate and House of Representatives and the New Jersey Senate and General Assembly;

d. To compile a roster of individual volunteers who are willing to share their knowledge and experience in classrooms, seminars and workshops on subjects concerning and relating to the culture, history and heritage of Italians and Americans of Italian heritage. These volunteers may be scholars, clergymen, community relations professionals and other persons who, by virtue of their experience, training or interest, have acquired personal or academic knowledge of the culture, history and heritage of Italians and Americans of Italian heritage and who are willing to share that knowledge with students and teachers;

e. To coordinate events observing the culture, history and heritage of Italians and Americans of Italian heritage and to seek volunteers who are willing and able to participate in commemorative events that will enhance student awareness of the significance of the culture, history and heritage of Italians and Americans of Italian heritage;

f. To prepare reports for the Governor and the Legislature regarding its findings and recommendations to facilitate the inclusion of Italian and Americans of Italian heritage studies and special programs memorializing the culture, history and heritage of Italians and Americans of Italian heritage in the educational system of this State; and

g. To develop, in consultation with the State Department of Education, curriculum guidelines for the teaching of subjects and topics concerning and relating to the culture, history and heritage of Italians and Americans of Italian heritage. To the greatest extent practicable, each board of education shall incorporate those guidelines as part of the curriculum for its district's elementary and secondary school students.

L.2001,c.343,s.3.

18A:4-45 Assistance to commission.

4. a. The commission is authorized to call upon any department, office, division or agency of the State, or of any county, municipality or school district of the State, to supply such data, program reports and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this act.

b. These departments, offices, divisions and agencies shall, to the extent possible, and not inconsistent with any other law of this State, cooperate with the commission and shall furnish it with such information, personnel and assistance as may be necessary or helpful to accomplish the purposes of this act.

L.2001,c.343,s.4.

18A:4-46 Duties of commission relative to Institute of Italian and Italian American Heritage Studies.

5. a. The commission shall create, establish and oversee the Institute of Italian and Italian American Heritage Studies as an entity whose purpose is to assist the commission in implementation of its responsibilities as identified in section 3 of this act, P.L.2001, c.343 (C.18A:4-44). The commission shall function as the board of governors for the institute. The commission shall appoint an executive director of the institute who shall serve at its pleasure.

b. The commission shall survey the New Jersey four-year universities and colleges that have an advanced degree program in the fields of Italian and/or Italian American studies and select one to serve as host to the institute. The institute shall not be administered by the college or university selected as the host site. The institute will collaborate with and otherwise engage, share and exchange resources with the higher education community of New Jersey and work to establish mutually beneficial public service programs and activities consistent with the mission of the commission.

c. The institute shall have the authority to raise private funds and obtain public funds to be used toward scholarships, grants and studies in the field of Italian and/or Italian American studies.

d. The commission shall appoint an Advisory Council to the commission and institute. The advisory council shall consist of individuals who have served prominently as spokespersons for, or as leaders of, organizations in the Italian and Americans of Italian heritage community which serve members of religious, ethnic, national heritage or social groups or who are experienced in the field of Italian and Americans of Italian heritage education.

L.2001,c.343,s.5.

18A:4A-1. Findings, declarations

1. The Legislature finds and declares that:

a. During the period from 1933 to 1945, six million Jews and millions of other Europeans were murdered in Nazi concentration camps as part of a carefully orchestrated program of cultural, social and political genocide known as the Holocaust;

b. All people should remember the horrible atrocities committed at that time and other times in human history as the result of bigotry and tyranny and, therefore, should continually rededicate themselves to the principles of human rights and equal protection under the laws of a democratic society;

c. It is desirable to educate our citizens about the events leading up to the Holocaust and about the organizations and facilities that were created and used purposefully for the systematic destruction of human beings;

d. It is the policy of the State of New Jersey that Holocaust history is the proper concern of all people, particularly students enrolled in the schools of the State of New Jersey;

e. The New Jersey Department of Education, in conjunction with the Anti-Defamation League of B'nai B'rith, the New Jersey Education Association, and the New Jersey Council for Social Studies, has developed a curriculum, entitled "The Holocaust and Genocide: A Search for Conscience," which has been implemented in courses of study on a trial basis in Vineland and Teaneck and, subsequently, in other communities;

f. Programs, workshops, institutes, seminars, and other teacher-training activities for the study of the Holocaust have taken place during recent years at various high schools and colleges in the State of New Jersey; and

g. It is desirable to create a State-level commission, which as an organized body, on a continuous basis, will survey, design, encourage, and promote implementation of Holocaust education and awareness programs in New Jersey and shall be responsible for the

coordination of events that will provide appropriate memorialization of the Holocaust, on a regular basis, throughout the State.

L.1991,c.193,s.1.

18A:4A-2 New Jersey Commission on Holocaust Education.

2. a. The New Jersey Commission on Holocaust Education is created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated within the Department of Education, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or any board or officer thereof.

The commission shall consist of 25 members, including the Commissioner of Education and the chair of the executive board of the Presidents' Council, serving ex officio, and 23 public members. Public members shall be appointed as follows: three public members shall be appointed by the President of the Senate; three public members shall be appointed by the Speaker of the General Assembly; and 17 public members shall be appointed by the Governor, no less than six of whom shall at the time of their appointment be members of the New Jersey Advisory Council on Holocaust Education, created pursuant to Executive Order No. 17 of 1982 and continued pursuant to Executive Order No. 87 of 1984, Executive Order No. 168 of 1987 and Executive Order No. 225 of 1990, and further continued pursuant to Executive Order No. 14 of 1990. The public members shall be residents of this State, chosen with due regard to broad geographic representation and ethnic diversity, who have served prominently as spokespersons for, or as leaders of organizations which serve members of religious, ethnic, national heritage or social groups which were subjected to genocide, torture, wrongful deprivation of liberty or property, officially imposed or sanctioned violence, and other forms of human rights violations and persecution at the hands of the Nazis and their collaborators during the Nazi era, or they shall be residents who are experienced in the field of Holocaust education.

b. Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and four members appointed by the Governor shall serve for terms of one year; one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and four members appointed by the Governor shall serve for terms of two years; and one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and five members appointed by the Governor shall serve for terms of three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The members of the commission shall serve without compensation, but they shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties. d. The commission shall annually elect a chairman from among its members. It shall meet upon the call of the chairman or of a majority of the commission members. The presence of a majority of the authorized membership of the commission shall be required for the conduct of official business.

e. The commission shall appoint an executive director, who shall serve at its pleasure and shall be a person qualified by training and experience to perform the duties of the office.

L.1991,c.193,s.2; amended 1994, c.48, s.45; 2003, c.288.

18A:4A-3. Responsibilities, duties of commission

3. The commission shall have the following responsibilities and duties:

a. To provide, based upon the collective knowledge and experience of its members, assistance and advice to the public and private schools with respect to the implementation of Holocaust education and awareness programs;

b. To meet with county and local school officials and other interested public and private organizations, including service organizations, for the purpose of assisting with the planning, coordination or modification of courses of study dealing with the subject of the Holocaust;

c. To survey and catalog the extent and breadth of Holocaust and genocide education presently being incorporated into the curricula and taught in the school systems of the State, to inventory those Holocaust memorials, exhibits and resources which could be incorporated in courses of study at various locations throughout the State, and, upon request, to assist the State Department of Education and other educational agencies in the development and implementation of Holocaust and genocide education programs. In furtherance of this responsibility, the commission shall be authorized to contact and cooperate with existing Holocaust and genocide public or private nonprofit resource organizations and may act as a liaison concerning Holocaust

and genocide education to members of the United States Senate and House of Representatives and the New Jersey Senate and General Assembly;

d. To compile a roster of individual volunteers who are willing to share their knowledge and experience in classrooms, seminars and workshops on the subject of the Holocaust. These volunteers may be survivors of the Holocaust, liberators of concentration camps, scholars, clergymen, community relations professionals and other persons who, by virtue of their experience or interest, have acquired personal or academic knowledge of the Holocaust and who are willing to share that knowledge with students and teachers;

e. To coordinate events memorializing the Holocaust and to seek volunteers who are willing and able to participate in commemorative events that will enhance student awareness of the significance of the Holocaust;

f. To prepare reports for the Governor and the Legislature regarding its findings and recommendations to facilitate the inclusion of Holocaust studies and special programs memorializing the Holocaust in educational systems in the State; and

g. To advise and assist the State Capitol Joint Management Commission, established pursuant to P.L.1992, c.67 (C.52:31-34 et seq.), for the purpose of increasing public awareness of the annual observance of Kristallnacht Memorial Night in New Jersey.

L.1991,c.193,s.3; amended 1995,c.258,s.3.

18A:4A-4. Commission assistance, cooperation

4. a. The commission is authorized to call upon any department, office, division or agency of the State, or of any county, municipality or school district of the State, to supply such data, program reports and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this act.

b. These departments, offices, divisions and agencies shall, to the extent possible and not inconsistent with any other law of this State, cooperate with the commission and shall furnish it with such information, personnel and assistance as may be necessary or helpful to accomplish the purposes of this act.

L.1991,c.193,s.4.

18A:6-1. Corporal punishment of pupils

No person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution; but any such person may, within the scope of his employment, use and apply such amounts of force as is reasonable and necessary:

(1) to quell a disturbance, threatening physical injury to others;

(2) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;

(3) for the purpose of self-defense; and

(4) for the protection of persons or property;

and such acts, or any of them, shall not be construed to constitute corporal punishment within the meaning and intent of this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

L.1967, c.271.

18A:6-1.1. Experimental or stimulation of learning process drugs or medications; administration to pupils; written consent of parent or guardian and physician

The written consent of a parent or guardian of a pupil and of a physician of the parent's or guardian's choice shall be required prior to the administration to a pupil by school authorities of any drug of medication for experimental purposes or for stimulating the learning process.

L.1973, c. 115, s. 1, eff. May 7, 1973.

18A:6-2. Instruction in accident and fire prevention

Regular courses of instruction in accident prevention and fire prevention shall be given in every public and private school in this state, which instruction shall be adapted to the understanding of the several grades and classes in said schools.

L.1967, c.271.

18A:6-3. Courses in Constitution of United States

18A:6-3. Regular courses of instruction in the Constitution of the United States shall be given in all public schools and in all private schools, attendance at which is a sufficient compliance with the compulsory educational requirements of this title in this

State, which instruction shall begin not later than the opening of the seventh grade in public schools and of the equivalent grade in private schools and shall continue in the high school course and in courses of State colleges and universities and the educational departments of the State and municipal institutions.

L.1967, c.271; amended 1994,c.48,s.46.

18A:6-4. Annual report of institutions receiving State aid and private schools

18A:6-4. The board, body or person in charge of each educational institution, except an institution of higher education, receiving support or aid from the State and of each private school shall report, annually on or before August 1, to the commissioner, in the manner and form required by him, and the board, body or person in charge of each educational institution of higher learning receiving support or aid from the State shall report in like manner to the Commission on Higher Education, such statistics relating to the conduct of such institution or school as he may require but no private school shall be required to report concerning its expenses or finances nor shall any such report made by it be published or made public.

L.1967, c.271; amended 1994,c.48,s.47.

18A:6-4.1. Security officers of public and nonprofit educational institutions; training courses

Upon application to, and approval by, the Superintendent of State Police security officers of public and nonprofit educational institutions of this State may be admitted to training courses conducted by the Division of State Police for State, county and municipal law enforcement officers, provided that the costs of such training as determined by the superintendent shall be paid to the State Treasurer by the private nonprofit institutions sending security officers to such training courses.

L.1968, c. 197, s. 1, eff. July 19, 1968.

18A:6-4.2. Policemen; appointment by governing body of institution of learning

The governing body of any institution of higher education, academy, school or other institution of learning may appoint such persons as the governing body may designate to act as policemen for the institution.

L.1970, c. 211, s. 1, eff. Oct. 8, 1970.

18A:6-4.3. Application by policeman; approval; issuance of commission

All applications shall, in the first instance, be made to the chief of police of the municipality in which the institution is located, except that where the municipality does not have an organized full time police department or where the institution is located within more than one municipality, application shall be made to the Superintendent of State Police. The chief of police or the superintendent, as the case may be, shall investigate and determine the character, competency, integrity and fitness of the person or persons designated in the application. If the application is approved by the chief of police or the superintendent, the approved application shall be returned to the institution which shall issue a commission to the person appointed, a copy of which shall be filed in the office of the superintendent and with the chief of police of the municipality or municipalities in which such institution is located.

L.1970, c. 211, s. 2, eff. Oct. 8, 1970.

18A:6-4.3a Background investigations of university police officer candidates.

1. Notwithstanding the provisions of section 2 of P.L.1970, c.211 (C.18A:6-4.3) to the contrary, a college or university with an established police agency may conduct the complete investigation of an applicant's criminal history, character, competency, integrity and fitness required by that section.

L.2005,c.322,s.1.

18A:6-4.4. Police training course

Every person so appointed and commissioned shall, within 1 year of the date of his commission, successfully complete a police training course at a school approved and authorized by the Police Training Commission; provided, however, that the Police Training Commission may, in its discretion, except from the requirements of this section any person who demonstrates to the commission's satisfaction that he has successfully completed a police training course conducted by any Federal, State or other public or private agency, the requirements of which are substantially equivalent to the requirements of that at a school approved by the commission.

L.1970, c. 211, s. 3, eff. Oct. 8, 1970.

18A:6-4.5. Police powers

4. Every person so appointed and commissioned shall possess all the powers of policemen and constables in criminal cases and offenses against the law anywhere in the State of New Jersey, pursuant to any limitations as may be imposed by the governing body of the institution which appointed and commissioned the person.

L.1970,c.211, 4; amended 1985,c.376,s.2; 1991,c.327,s.1.

18A:6-4.6. Name plate and shield

Each policeman, when on duty, except when employed as a detective, shall wear in plain view a name plate and a metallic shield or device with the word "police" and the name or style of the institution for which he is appointed inscribed thereon.

L.1970, c. 211, s. 5, eff. Oct. 8, 1970.

18A:6-4.7. Traffic and parking violations; authority; procedure on issuance of tickets

In connection with traffic and parking violations, and policemen appointed pursuant to this act shall, while on duty and within the territorial limits of the municipalities in which the respective institutions are located, and with the concurrence of the chiefs of police of such municipalities have the power to enforce the laws regulating traffic and the operation of motor vehicles. Such policemen shall have authority to issue and use traffic tickets and summonses of the type now used by the New Jersey State Police with such changes as are necessitated by reason of this act. Upon the issuance of any traffic or parking ticket or summons, the same procedure shall be followed as now prevails in connection with the use of traffic and parking violation tickets by the municipalities of this State.

L.1970, c. 211, s. 6, eff. Oct. 8, 1970.

18A:6-4.8. Application of concealed weapons law

The provisions of N.J.S. 2A:151-41 shall not apply to any policemen appointed pursuant to the provisions of this act.

L.1970, c. 211, s. 7, eff. Oct. 7, 1970.

18A:6-4.9. Repeal

Sections 15:11-16 through 15:11-20, inclusive, of the Revised Statutes are hereby repealed; provided, however, that such repeal shall not affect the continuance in office, position or employment of any person heretofore appointed pursuant to such sections.

L.1970, c. 211, s. 8, eff. Oct. 8, 1970.

18A:6-4.10. Construction of act

Nothing in this act shall be construed to limit or impair the rights of any State, county or municipal law enforcement officer in the performance of his duties.

L.1970, c. 211, s. 9, eff. Oct. 8, 1970.

18A:6-4.11. Severability

If any provision of this act shall be adjudged by any court of competent jurisdiction to be ineffective, such determination shall not affect or impair the remaining provisions thereof but shall be confined in its operation to the provisions directly involved in a controversy in which said determination shall have been rendered.

L.1970, c. 211, s. 10, eff. Oct. 8, 1970.

18A:6-4.12 Educational institution reimbursement.

2. a. If a person who was appointed as a police officer of an educational institution pursuant to P.L.1970, c.211 (C.18A:6-4.2 et seq.) resigns and is subsequently appointed as a police officer for another educational institution or for a county or municipal law enforcement agency, a State law enforcement agency or the New Jersey Transit Police Department pursuant to section 2 of P.L.1989, c.291 (C.27:25-15.1) within 120 days of resignation, and if that person held a probationary appointment at the time of resignation or held a permanent appointment for 30 days or less prior to resignation, the educational institution, county or municipal law enforcement agency, or State law enforcement agency appointing the person, or the New Jersey Transit Corporation, shall be liable to the former educational institution for the total certified costs incurred by that former educational institution in the examination, hiring, and training of the person.

b. If a person who was appointed as a police officer of an educational institution pursuant to P.L.1970, c.211 (C.18A:6-4.2 et seq.) resigns and is subsequently appointed as a police officer for another educational institution or for a county or municipal law enforcement agency, State law enforcement agency or the New Jersey Transit Police Department pursuant to section 2 of P.L.1989, c.291 (C.27:25-15.1) within 120 days of resignation, and if that person held a permanent appointment for more than 30 days but less than two years at the time of resignation, the educational institution, county or municipal law enforcement agency or State law enforcement agency appointing the person, or the New Jersey Transit Corporation, shall be liable to the former educational institution for one-half of the total certified costs incurred by that former institution in the examination, hiring, and training of the person.

c. Upon the appointment of a former police officer of an educational institution, the appointing educational institution, county or municipal law enforcement agency, State law enforcement agency or the New Jersey Transit Corporation shall notify the former educational institution immediately upon the appointment of a police officer formerly with that institution and shall reimburse the institution within 120 days of the receipt of the certified costs.

d. As used in this section:

"County or municipal law enforcement agency" means and includes, but is not limited to, a county or municipal police department or force, a county corrections department and a county sheriff's office;

"Examination costs" means and includes, but is not limited to, the costs of all qualifying examinations and public advertisements for these examinations.

"State law enforcement agency" means and includes, but is not limited to, the police department of a State agency and the State Department of Corrections, but does not include the State Police.

"Training costs" means the police training course fees and the base salary received while attending the police training course as required by section 3 of P.L.1970, c.211 (C.18A:6-4.4).

L.1989,c.40,s.2; amended 2000, c.106, s.2.

18A:6-4.13 Nonpublic school employment candidates to demonstrate no criminal history.

1. Any nonpublic school may require all final candidates for employment or service under contract with the school as a teacher, substitute teacher, teacher aide, a school physician, school nurse, custodian, maintenance worker, bus driver, security guard, secretary or clerical worker or for any other position which involves regular contact with pupils, to demonstrate that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from employment in the public schools of this State pursuant to the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.). Application of this requirement by a nonpublic school shall be consistent and nondiscriminatory among candidates.

As used in this act, "nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education in grades K-12 or any combination thereof, wherein a child may legally fulfill compulsory school attendance requirements.

L.1989,c.229,s.1; amended 1998, c.31, s.1.

18A:6-4.14 Criminal history record check for applicant for nonpublic school employment

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The commissioner is hereby authorized to exchange fingerprint data with and to receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

L.1989,c.229,s.2; amended 1998, c.31, s.2; 2002, c.119, s.1.

18A:6-4.15. Determination, reporting of qualification; written notice, notice of pending charge

3. The commissioner shall apply the same requirements, procedures and standards and shall proceed in the same manner as is prescribed in P.L.1986, c.116 (C.18A:6-7.1 et seq.) for determining whether the applicant would be qualified or disqualified for employment in the public schools and shall inform the applicant of his determination in writing. The commissioner shall also provide written notification to the chief administrator of the nonpublic school, which requires the criminal history record check as a condition of employment, of his determination as to whether the candidate would be qualified or disqualified for employment in the public schools.

Following qualification for employment pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against an employee of the nonpublic school which requires a criminal history record check as a condition of employment. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the chief administrator of the nonpublic school.

L.1989,c.229,s.3; amended 1998, c.31, s.3; 2002, c.119, s.2.

18A:6-4.16 Records to be kept no longer than three years; exceptions.

4. The commissioner may maintain the criminal record and application documents on a candidate for no longer than three years from the date of a determination as to the candidate's qualification or disqualification for employment with an employer. The three-year retention limitation shall not apply to statistical data on crimes and any other offenses or an ongoing list of candidates who are qualified or disqualified. All

documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

L.1989,c.229,s.4; amended 1998, c.31, s.4.

18A:6-4.17. Initial criminal history record check for substitute employees

An individual employed in any substitute capacity or position by a nonpublic school which requires a criminal history record check, and who is rehired annually by that school, shall only be required to undergo a criminal history record check as authorized pursuant to this act upon initial employment.

L.1989, c.229, s.5.

18A:6-5. Inquiry as to religion and religious tests prohibited

No religious test shall be required as a qualification for employment in any capacity in the public school system of the state or any school or educational institution supported wholly or in part with state funds and no inquiry in regard to his religion shall be made of a person proposed for or seeking such employment and any person violating the provisions of this section shall be guilty of a misdemeanor.

L.1967, c.271.

18A:6-6. No sex discrimination

No discrimination based on sex shall be made in the formulation of the scale of wages, compensation, appointment, assignment, promotion, transfer, resignation, dismissal, or other matter pertaining to the employment of teachers in any school, state college, college, university, or other educational institution, in this state, supported in whole or in part by public funds unless it is open to members of one sex only, in which case teachers of that sex may be employed exclusively.

L.1967, c.271.

18A:6-7. Oaths of persons employed in teaching capacities

Every person who is a citizen of the United States, and who is employed as a professor, instructor, teacher or in any teaching capacity by or in any school, college, state college, university or other educational institution in this state which is supported in whole or in part by public funds, directly or through contract or otherwise with or on behalf of the state shall, before entering into the discharge of his duties, take and subscribe to the oath of allegiance and office prescribed in section 41:1-3 of the Revised Statutes, and any person who is a citizen or subject of any other country and who is so employed, shall, likewise, take and subscribe to an oath to support the constitution of the United States while so employed, a copy of which oath shall be filed with his said employer.

L.1967, c.271.

18A:6-7a Alleged child abuse, neglect by school employee; no use if unfounded.

1. When a complaint made against a school employee alleging child abuse or neglect is investigated by the Department of Children and Families, the department shall notify the school district and the employee of its findings. Upon receipt of a finding by the department that such a complaint is unfounded, the school district shall remove any references to the complaint and investigation by the department from the employee's personnel records. A complaint made against a school employee that has been classified as unfounded by the department shall not be used against the employee for any purpose relating to employment, including but not limited to, discipline, salary, promotion, transfer, demotion, retention or continuance of employment, termination of employment or any right or privilege relating to employment.

L.1995, c.34, s.1; amended 2004, c.130, s.38; 2006, c.47, s.79.

18A:6-7.1 Criminal record check in public school employment, volunteer service.

1. A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 shall not employ for pay or contract for the paid services of any teaching staff member or substitute teacher, teacher aide, child study team member, school physician, school nurse, custodian, school maintenance worker, cafeteria worker, school law enforcement officer, school secretary or clerical worker or any other person serving in a position which involves regular contact with pupils unless the employer has first determined consistent with the requirements and standards of this act, that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or the State Bureau of Identification which would disqualify that individual from being employed or utilized in such capacity or position. An individual employed by a board of education or a school bus contractor holding a contract with a board of education, in the capacity of a school bus driver, shall be required to meet the criminal history record requirements pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center, school, or school system under the supervision of the Department of Education and board of education which cares for, or is involved in the education of children under the age of 18 may require criminal history record checks for individuals who, on an unpaid voluntary basis, provide services that involve regular contact with pupils. In the case of school districts involved in a

sending-receiving relationship, the decision to require criminal history record checks for volunteers shall be made jointly by the boards of education of the sending and receiving districts.

An individual, except as provided in subsection g. of this section, shall be permanently disqualified from employment or service under this act if the individual's criminal history record check reveals a record of conviction for any crime of the first or second degree; or

a. An offense as set forth in chapter 14 of Title 2C of the New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

b. An offense involving the manufacture, transportation, sale, possession, distribution or habitual use of a "controlled dangerous substance" as defined in the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to N.J.S.2C:36-1 et seq.; or

c. (1) A crime involving the use of force or the threat of force to or upon a person or property including, but not limited to, robbery, aggravated assault, stalking, kidnapping, arson, manslaughter and murder; or

(2) A crime as set forth in chapter 39 of Title 2C of the New Jersey Statutes, a third degree crime as set forth in chapter 20 of Title 2C of the New Jersey Statutes, or a crime as listed below:

Recklessly endangering another person	N.J.S.2C:12-2
Terroristic threats	N.J.S.2C:12-3
Criminal restraint	N.J.S.2C:13-2
Luring, enticing child into motor vehicle, structure or isolated area	P.L.1993, c.291 (C.2C:13-6)
Causing or risking widespread injury or damage	N.J.S.2C:17-2
Criminal mischief	N.J.S.2C:17-3
Burglary	N.J.S.2C:18-2
Usury	N.J.S.2C:21-19
Threats and other improper influence	N.J.S.2C:27-3
Perjury and false swearing	N.J.S.2C:28-3
Resisting arrest	N.J.S.2C:29-2
Escape	N.J.S.2C:29-5;

or

(3) Conspiracy to commit or an attempt to commit any of the crimes described in this act.

d. For the purposes of this section, a conviction exists if the individual has at any time been convicted under the laws of this State or under any similar statutes of the United States or any other state for a substantially equivalent crime or other offense.

e. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal record check performed pursuant to this act without an opportunity to challenge the accuracy of the disqualifying criminal history record.

f. When charges are pending for a crime or any other offense enumerated in this section, the employing board of education shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

g. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of an individual employed by a board of education or a contracted service provider who is required to undergo a check upon employment with another board of education or contracted service provider, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

L.1986,c.116,s.1; amended 1989, c.104, s.4; 1989, c.156; 1998, c.31, s.5; 2002, c.119, s.3; 2007, c.82, s.1.

18A:6-7.1b Initial criminal history check for substitutes

2. An individual employed by a board of education in any substitute capacity or position, who is rehired annually by that board, shall only be required to undergo a criminal history record check as required pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) upon initial employment, provided the substitute continues in the employ of at least one of the districts at which the substitute was employed within one year of the approval of the criminal history record check.

L.1987,c.164,s.2; amended 1998, c.31, s.6.

18A:6-7.1c Employment of applicant on emergent basis, conditions.

12. A board of education or contracted service provider may employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal history records check and, with respect to a bus driver applicant, a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), if the board or service provider demonstrates to the Commissioner of Education that special circumstances exist which justify the emergent employment. The board's or service provider's request to the commissioner shall include: (1) a description of the vacant position that needs to be filled; (2) a statement describing the board's or contract provider's good faith efforts to fill the position on a timely basis or a statement describing the unanticipated need for the applicant's employment; and (3) a sworn statement submitted by the applicant attesting that the applicant has not been convicted or does not have a charge pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1) or a record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

In the event that the background check is not completed within three months, the board or contracted service provider may petition the commissioner for an extension of time, not to exceed two months, in order to retain the employee.

L.1998,c.31,s.12; amended 2003, c.66, s.1.

18A:6-7.2 Fingerprinting; reimbursement of unpaid volunteers.

2. An applicant for employment or service in any of the positions covered by this act shall submit to the Commissioner of Education his or her name, address and fingerprints taken in accordance with procedures established by the commissioner. The Commissioner of Education is hereby authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by this act. No criminal history record check shall be performed pursuant to this act unless the applicant shall have furnished his or her written consent to such a check. The applicant shall bear the cost for the criminal history record check, including all costs for administering and processing the check.

If a facility, center, school, or school system under the supervision of the Department of Education or board of education requires a criminal history record check for an unpaid volunteer, the facility, center, school, or school system under the supervision of the Department of Education or school board shall reimburse the applicant for the cost of the check. A facility, center, school, or school system under the supervision of the Department of Education or board of education may reimburse an applicant serving in a paid position for the cost of the check.

L.1986,c.116,s.2; amended 1998, c.31, s.7; 2002, c.119, s.4; 2007, c.82, s.2.

18A:6-7.2a. Authority of commissioner

13. The Commissioner of Education is authorized to:

a. receive all criminal history data necessary to complete the criminal history records check as required pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104 (C.18A:39-19.1), or as permitted pursuant to P.L.1989, c.229 (C.18A:6-4.13 et seq.);

b. receive all data in accordance with section 3 of P.L.1986, c.116 (C.18A:6-7.3), section 6 of P.L.1989, c.104 (C.18A:39-19.1) and section 3 of P.L.1989, c. 229 (C.18A:6-4.15) on charges pending against an employee or school bus driver who has previously undergone a criminal history records check; and

c. adjust the fees set by the Department of Education for the criminal history records checks.

L.1998, c.31, s.13; amended 2002, c.119, s.5.

18A:6-7.3. Notice to applicant; notice of pending charges

3. Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification for employment or service under this act. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. The applicant shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information. If no challenge is filed or if the determination of the accuracy of the criminal history record information upholds the disqualification, the commissioner shall notify the employing board of education that the applicant has been disqualified from employment, and a copy of the written notice of disqualification for applicants who hold a certificate issued by the State Board of Examiners shall be forwarded to that board.

The commissioner is authorized to share all criminal history record information regarding teaching staff members with the State Board of Examiners. In addition, the commissioner is authorized to share criminal history record information of an applicant from the Federal Bureau of Investigation or the State Bureau of Identification with the appropriate court in order to obtain copies of the judgment of conviction and such other documents as the commissioner deems necessary to confirm the completeness and accuracy of the record.

Following qualification for employment pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against an employee. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the employee shall not be eligible for continued employment.

L.1986,c.116,s.3; amended 1998, c.31, s.8; 2002, c.119, s.6.

18A:6-7.4 Three-year limitation; exceptions.

4. The Commissioner of Education may maintain the criminal record and application documents on a candidate for no longer than three years from the date of determination as to the candidate's qualification or disqualification for employment with an employer. The three-year retention limitation shall not apply to statistical data on crimes and any other offenses or an ongoing list of candidates who are qualified or disqualified. All documents submitted by a candidate and all criminal history record information shall be maintained by the commissioner in a confidential manner.

L.1986,c.116,s.4; amended 1987, c.164, s.3; 1998, c.31, s.9.

18A:6-7.5. Fine for noncompliance

Any employer who fails to comply with the provisions of this act shall be subject to a fine of not more than \$500.00.

L. 1986, c. 116, s. 5, eff. Oct. 8, 1986.

18A:6-8. Interest of school officers, etc., in sale of textbooks or supplies; royalties

No person officially connected with, or employed in, the public school system of this state or in any state educational institution shall be an agent for, or be in any way pecuniarily or beneficially interested in, or receive any compensation or reward of any kind for, the sale of any textbooks, school apparatus or supplies of any kind, for use in the school district or in the state educational institution with which he is connected or by which he is employed or within the state or part thereof over which his jurisdiction extends, upon penalty of removal from office or of revocation of his certificate to teach or to administer, direct or supervise the teaching, instruction or educational guidance of pupils in the public schools, but the prohibition of this section shall not prevent any person from receiving royalties upon the sale of any textbook of which he is the author.

L.1967, c.271.

18A:6-8.1. Leave of certain employees to serve in legislature

Any person employed by a public educational system or institution in a position which requires a certificate issued by the state board of examiners, or employed in a professional educational capacity by a school, college, or university which is either tax-supported or operated under contract with the state or on behalf of the state, who is a member of the senate or general assembly of the state of New Jersey, shall be entitled to time off from his duties as such employee, without loss of pay, during the periods of his attendance at regular or special sessions of the legislature and hearings or meetings of any legislative committee or commission.

L.1967, c.271.

18A:6-8.2. Leave of certain employees to serve on board of chosen freeholders

Any person employed by a public educational system or institution in a position which requires a certificate issued by the state board of examiners or employed in a

professional educational capacity by a school, college, or university which is either tax-supported or operated under contract with the state or on behalf of the state, who is a member of the board of chosen freeholders of any county of this state shall be entitled to time off from his duties as such employee, without pay, during the periods of his attendance at regular or special meetings of the board and of any committee thereof and at such other times as he shall be engaged in performing the necessary functions and duties of his office as a member of the board.

L.1967, c.271.

18A:6-8.3. Suspended employee or officer of board of education; compensation; exceptions

Any employee or officer of a board of education in this State who is suspended from his employment, office or position, other than by reason of indictment, pending any investigation, hearing or trial or any appeal therefrom, shall receive his full pay or salary during such period of suspension, except that in the event of charges against such employee or officer brought before the board of education or the Commissioner of Education pursuant to law, such suspension may be with or without pay or salary as provided in chapter 6 of which this section is a supplement.

L.1971, c. 435, s. 1, eff. Feb. 10, 1972.

18A:6-8.4. Right to hold elective or appointive state, county or municipal office

No person employed by a public educational system or institution in a position which requires a certificate issued by the State Board of Examiners, or employed in a professional educational capacity by a school, college, or university which is either tax-supported or operated under contract with the State or on behalf of the State shall be disqualified by reason of such employment from holding any elective or appointive State, county or municipal office excepting as member of the board or body by which he is employed.

L.1972, c. 151, s. 1, eff. Sept. 7, 1972.

18A:6-9. Controversies, disputes arising under school laws; jurisdiction

18A:6-9. The commissioner shall have jurisdiction to hear and determine, without cost to the parties, all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the state board or of the commissioner. For the purposes of this Title, controversies and disputes concerning the conduct of school elections shall not be deemed to arise under the school laws.

L.1967, c.271; amended 1995,c.278,s.24.

18A:6-9.1 Commissioner's determinations considered final agency action; appeals; request for relief.

1. a. Notwithstanding the provisions of any law or regulation to the contrary, on and after the effective date of this act determinations made by the Commissioner of Education in all controversies and disputes arising under the school laws shall be considered to be final agency action under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of that action shall be directly to the Appellate Division of the Superior Court.

b. For all cases pending before the State Board of Education on the effective date of this act for which the State board has not rendered a decision, the decision of the commissioner shall be deemed to be the final agency action under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Any appeal of the commissioner's decision to the Appellate Division of the Superior Court shall be filed within 45 days of the effective date of this act.

c. Any request for relief arising out of a State Board of Education decision rendered prior to the effective date of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall be considered and determined by the commissioner.

L.2008, c.36, s.1.

18A:6-9.2 Authority of State BOE to consider appeal terminated.

4. Notwithstanding the provisions of any law or regulation to the contrary, on and after the effective date of this act the State Board of Education shall have no authority to consider an appeal from any commissioner determination.

L.2008, c.36, s.4.

18A:6-10. Dismissal and reduction in compensation of persons under tenure in public school system

No person shall be dismissed or reduced in compensation,

(a) if he is or shall be under tenure of office, position or employment during good behavior and efficiency in the public school system of the state, or

(b) if he is or shall be under tenure of office, position or employment during good behavior and efficiency as a supervisor, teacher or in any other teaching capacity in the Marie H. Katzenbach school for the deaf, or in any other educational institution conducted under the supervision of the commissioner;

except for inefficiency, incapacity, unbecoming conduct, or other just cause, and then only after a hearing held pursuant to this subarticle, by the commissioner, or a person appointed by him to act in his behalf, after a written charge or charges, of the cause or causes of complaint, shall have been preferred against such person, signed by the person or persons making the same, who may or may not be a member or members of a board of education, and filed and proceeded upon as in this subarticle provided.

Nothing in this section shall prevent the reduction of the number of any such persons holding such offices, positions or employments under the conditions and with the effect provided by law.

L.1967, c.271.

18A:6-11. Written charges; written statement of evidence; filing; statement of position by employee; certification of determination; notice

Any charge made against any employee of a board of education under tenure during good behavior and efficiency shall be filed with the secretary of the board in writing, and a written statement of evidence under oath to support such charge shall be presented to the board. The board of education shall forthwith provide such employee with a copy of the charge, a copy of the statement of the evidence and an opportunity to submit a written statement of position and a written statement of evidence under oath with respect thereto. After consideration of the charge, statement of position and statements of evidence presented to it, the board shall determine by majority vote of its full membership whether there is probable cause to credit the evidence in support of the charge and whether such charge, if credited, is sufficient to warrant a dismissal or reduction of salary. The board of education shall forthwith notify the employee against whom the charge has been made of its determination, personally or by certified mail directed to his last known address. In the event the board finds that such probable cause exists and that the charge, if credited, is sufficient to warrant a dismissal or reduction of salary, then it shall forward such written charge to the commissioner for a hearing pursuant to N.J.S. 18A:6-16, together with a certificate of such determination. Provided, however, that if the charge is inefficiency, prior to making its determination as to certification, the board shall provide the employee with written notice of the alleged inefficiency, specifying the nature thereto, and allow at least 90 days in which to correct and overcome the inefficiency. The consideration and actions of the board as to any charge shall not take place at a public meeting.

L.1967, c.271; amended by L.1975, c. 304, s. 1, eff. Feb. 7, 1976.

18A:6-13. Dismissal of charge for failure of determination by board

If the board does not make such a determination within 45 days after receipt of the written charge, or within 45 days after the expiration of the time for correction of the inefficiency, if the charge is of inefficiency, the charge shall be deemed to be dismissed and no further proceeding or action shall be taken thereon.

L.1967, c.271.

18A:6-14. Suspension upon certification of charge; compensation; reinstatement

Upon certification of any charge to the commissioner, the board may suspend the person against whom such charge is made, with or without pay, but, if the determination of the charge by the Commissioner of Education is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary (except for said 120 days) of such person shall be paid beginning on the one hundred twenty-first day until such determination is made. Should the charge be dismissed, the person shall be reinstated immediately with full pay from the first day of such suspension. Should the charge be dismissed and the suspension be continued during an appeal therefrom, then the full pay or salary of such person shall continue until the determination of the appeal. However, the board of education shall deduct from said full pay or salary any sums received by such employee or officers by way of pay or salary from any substituted employment assumed during such period of suspension. Should the charge be sustained on the original hearing or an appeal therefrom, and should such person appeal from the same, then the suspension may be continued unless and until such determination is reversed, in which event he shall be reinstated immediately with full pay as of the time of such suspension.

L.1967, c.271; amended by L.1971, c. 435, s. 2, eff. Feb. 10, 1972.

18A:6-16 Proceedings before commissioner; written response; determination.

18A:6-16. Upon receipt of such a charge and certification, or of a charge lawfully made to the commissioner, the commissioner or the person appointed to act in the commissioner's behalf in the proceedings shall examine the charges and certification. The individual against whom the charges are certified shall have 15 days to submit a written response to the charges to the commissioner. Upon a showing of good cause, the commissioner may grant an extension of time. The commissioner shall render a determination on the sufficiency of charges as set forth below within 15 days immediately following the period provided for a written response to the charges.

If, following receipt of the written response to the charges, the commissioner is of the opinion that they are not sufficient to warrant dismissal or reduction in salary of the person charged, he shall dismiss the same and notify said person accordingly. If, however, he shall determine that such charge is sufficient to warrant dismissal or reduction in salary of the person charged, he shall within 10 days of making that determination refer the case to the Office of Administrative Law for further proceedings, except that when a motion for summary decision has been made prior to that time, the commissioner may retain the matter for purposes of deciding the motion.

L.1967, c.271; amended 1998, c.42, s.2.

18A:6-17. Board of education a party; conduct of hearing

In such hearing the board of education shall be a party and the hearing shall be conducted in accordance with the rules and regulations, adopted by the commissioner and approved by the state board.

L.1967, c.271.

18A:6-18. Dismissal, reduction and compensation of persons under tenure in schools and institutions of higher education

18A:6-18. No professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher or other persons employed in a teaching capacity, in any State college, county college or industrial school who is under tenure during good behavior and efficiency shall be dismissed or subject to reduction of salary, except for inefficiency, incapacity, conduct unbecoming a teacher or other just cause. Written charge of the cause or causes preferred against an individual shall be signed by the person or persons making the same and filed with the board of trustees of said college or school. Upon determination that the matter is a contested case, the board shall assign the matter for hearing and initial decision to the Office of Administrative Law. A final decision shall be rendered by the full board of trustees. The person charged may be represented by counsel at all times and have compulsory process to compel the attendance of witnesses to testify therein, as provided by law. Contested case hearings shall be conducted under rules and regulations established pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and P.L.1978, c.67 (C.52:14F-1 et seq.).

L.1967, c.271; amended 1981, c.181, s.1; 1994, c.48, s.48.

18A:6-18.1. Charge against suspended person not determined within 180 days; payment of salary

If any tenured professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher or other person employed in a teaching capacity or any other tenured officer or employee in any State college, county college or industrial school or any other officer or employee of the college or school who is subject to dismissal only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes, is suspended pending the determination of any charge against him, other than for an indictment under the laws of the United States or the State of New Jersey, and should the determination of the charge not be made within 180 days after it is filed with the board of trustees of said college or school, excluding all delays which are granted at the request of such person, the full salary (except for said 180 days) of such person shall be paid beginning on the 181st day until a determination by the board of trustees is made. If the charge is dismissed, the person shall be reinstated immediately with full pay from the first day of the suspension. If the charge is dismissed and the suspension is continued during an appeal therefrom, then the person's full pay or salary shall continue until the determination of the appeal. However, the board of trustees shall deduct from the full pay or salary any sums received by way of pay or salary from any substituted employment assumed during the period of suspension. If the charge is sustained on the original hearing or an appeal therefrom, and the determination is appealed, then the salary suspension may be continued reinstituted or instituted unless and until the determination is reversed, in which event the suspended person shall be reinstated immediately with full pay as of the time of suspension. If the charges are sustained, the employer may recover any salary which was paid to the employee during the period of suspension.

L.1983, c. 347, s. 1, eff. Sept. 22, 1983.

18A:6-19. Administering of oaths

18A:6-19. Any member of any board of education, governing board or of any other board or any person, lawfully authorized to hold a hearing, may administer oaths to witnesses in such hearing, in any dispute or controversy under the school laws or the rules of the commissioner or of the State board, of which they or he have jurisdiction.

Any person who has been so sworn and who shall testify falsely at such hearing shall be guilty of a misdemeanor.

L.1967, c.271; amended 1994, c.48, s.49.

18A:6-20. Right to testify; counsel; witnesses; compulsory process

18A:6-20. Any party to any dispute or controversy or charged therein, may be represented by counsel at any hearing held in or concerning the same and shall have the right to testify, and produce witnesses to testify on his behalf and to cross-examine

witnesses produced against him, and to have compulsory process by subpoena to compel the attendance of witnesses to testify and to produce books and documents in such hearing when issued by (a) the president of the board of education, if the hearing is to be held before such board, or (b) the commissioner, if the hearing is to be held before him or on his behalf, or (c) the president and secretary of the State board, if the hearing is to be held before such board or before one of its committees, or (d) the chairman of the board of trustees of the State or county college or industrial school, if the hearing is to be held before such board.

The subpoena shall be served in the same manner as subpoenas issued out of the Superior Court are served.

L.1967, c.271; amended 1994,c.48,s.50.

18A:6-21. Proceedings against recalcitrant witnesses

18A:6-21. If a person subpoenaed to attend at any such hearing fails to obey the command of the subpoena, without reasonable cause, or if a person in attendance at any such hearing refuses without lawful cause to be examined or to answer a legal or pertinent question, or to exhibit any book, or other document, when ordered to do so by the officer holding such hearing, they or he may apply to any judge of the Superior Court, upon proof by affidavit of the facts, for an order returnable in such time as such judge shall fix, directing such person to show cause before such judge why he should not comply with such subpoena.

L.1967, c.271; amended 1991,c.91,s.233.

18A:6-22. Order to testify, etc.

Upon return of the order, the judge shall examine the person under oath and if he shall determine, after giving such person an opportunity to be heard, that he refused without legal cause to comply with such subpoena, he may order such person to comply therewith forthwith, and any failure to obey such order may be punished as a contempt of the court.

L.1967, c.271.

18A:6-23. Witness fees and privileges

Every witness shall be entitled to be paid for attendance, or attendance and travel, at any hearing, by the party on whose behalf he is subpoenaed, at the rates prescribed by law for attendance in the courts of this state in a civil action, before being required to testify and shall be entitled to all the privileges of a witness so subpoenaed.

L.1967, c.271.

18A:6-24. Hearings before commissioner; presentation of facts

Testimony as to the facts involved in any controversy or dispute in which the commissioner has jurisdiction shall, if so required by the commissioner, be presented by the parties in the form of written statements verified by oath and accompanied by certified copies of all official documents, and the original or verified copies of all other documents, necessary to a full understanding of the questions involved.

L.1967, c.271.

18A:6-25. Decisions in controversies and disputes

The determination of any controversy or dispute shall be made within 60 days after the close of the hearing and shall be in the form of a written decision which shall contain findings of facts upon which the determination is based, which shall be filed in the office of the commissioner and a copy of the decision shall be served upon the parties to the dispute, pursuant to rules made by the state board, and any such decision shall be binding unless and until reversed upon appeal.

L.1967, c.271.

18A:6-30. Compensation for persons illegally dismissed or suspended

Any person holding office, position or employment in the public school system of the state, who shall be illegally dismissed or suspended therefrom, shall be entitled to compensation for the period covered by the illegal dismissal or suspension, if such dismissal or suspension shall be finally determined to have been without good cause, upon making written application therefor with the board or body by whom he was employed, within 30 days after such determination.

L.1967, c.271.

18A:6-30.1. Teacher wrongfully dismissed; payment for services

When the dismissal of any teaching staff member before the expiration of his contract with the board of education shall be decided, upon appeal, to have been without good cause, he shall be entitled to compensation for the full term of the contract, but it shall be optional with the board whether or not he shall continue to perform his duties for the unexpired term of the contract.

L.1967, c.271.

18A:6-31. Tenure and civil service rights saved

Nothing contained in this title shall be construed to affect the tenure or civil service rights of any person presently existing, or hereafter obtained, under this or any other law.

L.1967, c.271.

18A:6-31.1. Tenure to continue

Whenever any district is divided into two or more districts those persons having tenure, in office, position or employment in such district, shall continue to have tenure in the district which comprises the territory in which they were serving at the time of the division; the persons having tenure in office, position or employment in such district whose services were not exclusively confined to the territory comprising any one of the districts as so divided, at the time of the division, shall be employed, if their services are so required, in the district having the highest number of pupils in average daily attendance during the second academic year preceding the academic year in which the new district is created as certified by the department and those persons having tenure in office, position or employment in the original district who are not employed by the board of education of either district shall retain the seniority and tenure rights acquired in the original district and shall be employed in accordance therewith as vacancies occur in either the original district or the new district before any other persons are so employed in similar offices, positions or employments.

L.1967, c.271.

18A:6-31.2. Tenure, seniority and pension rights continued

The tenure, seniority and pension rights of all persons, who had office, position or employment in the original district at the time of said division and who are employed in either district after such division shall continue with the same force and effect as though such division had not occurred and any future continuation of service in either district shall be deemed to be a continuation of the service rendered prior to said division and any period of service rendered in the original district shall be credited toward the acquisition of tenure, seniority and pension rights in the original or new district, as the case may be.

L.1967, c.271.

18A:6-31.3. "New school district" defined

1. As used in this act, "new school district" means a local school district, regional school district, a county vocational school district, a jointure commission, a county special services school district, or an educational services commission. A new school district shall not include a State-operated school district established by the State Board of Education pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

In the event that the school district of a municipality or districts in a group of municipalities are abolished and a subsequent district formed, the district subsequently formed shall constitute a new school district under this act and the previously existing school district or districts shall be considered the affected or constituent districts under this act.

L.1995,c.294,s.1.

18A:6-31.4. Terms, conditions of employment

2. Whenever a new school district is created, the terms and conditions of employment, whether established through a collective bargaining agreement or past practice, of the largest constituent school district which is affected, replaced or displaced by, or forms part of the new school district, shall apply until a successor agreement is negotiated with the majority representative of the new school district. As used in this section, the term largest constituent school district means that school district which employs the largest number of teaching staff members.

In the event that there is an employee bargaining unit in a constituent school district with the next largest number of employees and with a majority representative of the unit, which is not so represented in the largest school district, the terms and conditions of employment for all employees holding positions in that unit in the new school district shall apply provided that the terms and conditions of employment shall only apply to the new school district's employees in that bargaining unit.

L.1995,c.294,s.2.

18A:6-31.5. Tenure, seniority rights

3. Whenever a new school district is created, the tenure and seniority rights of all employees from the affected, constituent, replaced or displaced districts which form or are a part of, or are affected, replaced or displaced by the new school district, except for employees who are superintendents, shall be recognized and preserved by the new school district and all periods of employment in any of the school districts shall count toward acquisition of tenure and seniority in the new school district. All statutory and contractual rights to tenure, seniority, accumulated sick leave, leave of absence, and pension of an employee, other than an employee who is a superintendent, which have been acquired through employment in any of the districts shall be recognized by the new school district.

L.1995,c.294,s.3.

18A:6-31.6. Filling vacancies, available positions

4. Following consideration of the tenure and seniority rights of employees provided pursuant to section 3 of this act or pursuant to any other section of law, a new school district shall fill all vacancies and available positions from a pool of qualified employees prior to interviewing applicants or hiring new employees. The pool of qualified employees shall consist of all employees of the constituent, affected, displaced or replaced school districts who would otherwise be entitled to continued employment in that district in the following school year but are not entitled to continued employment in the new school district because of tenure or seniority status. During the school year in which the new district is established, a new school district shall not hire an employee for a particular position until all employees in the labor pool qualified to fill the position have been offered employment by the new school district.

L.1995,c.294,s.4.

18A:6-31.7. Employee rights, benefits preserved

5. Nothing in this act shall be construed to limit, restrict, or reduce the rights or benefits of any employee provided under any other section of law or regulation.

L.1995,c.294,s.5.

18A:6-32. Pension and tenure rights in American Red Cross service saved

L.1943, c. 187, p. 519, entitled "An act concerning persons holding certain offices, positions or employments under the government of any public school district or county vocational school system of this state or in any public educational institution under the control of the commissioner of education or the state board of education who, after July 1, 1940, have entered or hereafter, in time of war or emergency, shall enter the full-time service of the American Red Cross, and to provide for and protect their rights to employment and tenure in such offices, positions and employments and the rights, privileges and benefits of certain of them in any pension, retirement or annuity fund of which they were or are members in good standing at the time of entering such service," filed April 13, 1943, is saved from repeal. [This act saves pension and tenure rights to certain persons entering full-time service of the American Red Cross in time of war or an emergency.]

L.1967, c.271.

18A:6-33. Tenure, pension and other employment rights in military and naval service saved

L.1944, c. 226, p. 765, entitled, "An act concerning persons holding certain offices, positions and employments in the public school system of this state who, after July 1, 1940, have entered or hereafter shall enter the active military or naval service of the United States or of this state, in time of war or emergency, or for or during any period of training or pursuant to or in connection with the operation of any system of selective service or who, after July 1, 1940, have entered or hereafter, in time of war or emergency, shall enter the active service of the women's army corps, the women's reserve of the naval reserve or any similar organization authorized by the United States to serve with the army or navy, and to provide for and protect their rights to employment, reemployment and tenure in such offices, positions and employments and the rights, privileges and benefits of certain of them in any pension, retirement or annuity fund of which they were or are members in good standing at the time of entering such service, and repealing "An act concerning the holders of offices, positions and employments, in the public schools of this state, concerning reemployment, acquisition of tenure and protecting pension rights when the holders of such offices, positions or employments enter the military or naval services of the United States, and supplementing Title 18 of the Revised Statutes," approved May 19, 1941 (P.L.1941, c. 134), as said title was amended by chapter 119 of the Laws of 1942 (P.L.1942, c. 119)," approved April 21, 1944 (P.L.1944, c. 226), as said title was amended by chapter 91 of the Laws of 1951, and L.1951, c. 91, is saved from repeal. [This act provides for leave of absence to join military or naval service of the United States after July 1, 1940 and saves their tenure, pension and other employment rights.]

L.1967, c.271.

18A:6-33.1. Grant program; innovative educational ideas and techniques

That the Commissioner of Education and the State Board of Education shall have the authority and responsibility under the provisions of this act to establish a grant program which would make funds available to preschool, elementary and secondary teachers interested in designing and implementing innovative educational ideas and techniques.

L.1968, c. 93, s. 1, eff. June 21, 1968.

18A:6-33.2. Aim and purpose of act

The aim and purpose of this act is to give State encouragement, support and incentive to creative and innovative classroom teachers in order to better meet the educational needs of the students in this State. The aim of this act is also to attract and hold high-quality and qualified teaching personnel to the profession in New Jersey by demonstrating the State's recognition of the importance of rewarding individual initiative and creativity.

L.1968, c. 93, s. 2, eff. June 21, 1968.

18A:6-33.3. Certification of proposals for grant funds

It is recommended that local boards of education certify proposals for grant funds emanating from teachers within their educational jurisdiction.

L.1968, c. 93, s. 3, eff. June 21, 1968.

18A:6-33.4. Advisory committee; review of grant applications; recommendations

An advisory committee consisting of teachers, administrators, professional educators, and State Department of Education personnel shall be established to review grant applications and make recommendations to the Commissioner of Education and the State Board of Education.

L.1968, c. 93, s. 4, eff. June 21, 1968.

18A:6-33.5. Rules and regulations

The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, and take all other steps necessary to insure the effective implementation of the provisions of this act.

L.1968, c. 93, s. 5, eff. June 21, 1968.

18A:6-33.6. Maximum amount of individual grants

No individual grant under the terms of this act shall exceed \$1,000.00.

L.1968, c. 93, s. 6, eff. June 21, 1968.

18A:6-33.7. Short title

This act shall be known and may be cited as the "Effective Schools Program Act."

L. 1985, c. 372, s. 1, eff. Nov. 26, 1985.

18A:6-33.8. Findings, declarations

The Legislature finds and declares that:

a. It is the policy of the State of New Jersey to provide a thorough and efficient education to all students. Other factors notwithstanding, the quality of schools makes a difference in student achievement and all our schools can improve.

b. A growing body of research suggests means by which we can make our schools and classrooms more effective. While specific tactics may vary from school to school, the general strategy rests on collaborative planning and collegial efforts to affect the quantity and quality of academic work, expectations and standards established for students, the monitoring of academic progress and the recognition of superior achievement and performance by staff and students.

c. Efforts to improve the effectiveness of schools and classrooms require the commitment of the teachers, administrators, support staff, and school board members. The State can and should provide financial and technical support, but success depends on that commitment.

L. 1985, c. 372, s. 2, eff. Nov. 26, 1985.

18A:6-33.9. Definitions

As used in this act:

a. "Commissioner" means the Commissioner of Education;

b. "Effective school plan" means the three-year plan designed to improve the performance of students in a school. Among the objectives which might be addressed in a typical plan are improvement of classroom and school environments, maximization and effective use of learning time, strengthening the sense of school community, increasing the rate of attendance, and the establishment of high expectations for student achievement;

c. "Effective schools research" means that professionally recognized body of educational research which seeks to identify explicitly the characteristics of schools and classrooms which positively affect student performance.

L. 1985, c. 372, s. 3, eff. Nov. 26, 1985.

18A:6-33.10. Eligible proposals

The commissioner shall establish a grant program to encourage and facilitate the development and implementation of effective school plans by the administrative and teaching staffs of individual schools. The administrative and teaching staff of a school, with the approval of the board of education, may submit a proposal for funding under the program to the commissioner. Eligible proposals shall include each of the following to be approved:

a. An intention to use effective schools research in the development of an effective school plan;

b. A mechanism through which teachers and other educational personnel shall participate directly in the formulation, implementation and revision of the effective school plan;

c. Commitments by the board of education and the building principal to support the development and implementation of the effective school plan, as evidenced by the allocation of fiscal and other resources including a provision for inservice training as needed, a recognition that staff stability is necessary during the planning and implementation period, and a willingness to permit full participation by teachers and other educational personnel in the planning process;

d. Commitments by teachers and other educational personnel to support the development and implementation of the effective school plan, as evidenced by a willingness to participate in the planning process with or without additional remuneration.

L. 1985, c. 372, s. 4, eff. Nov. 26, 1985.

18A:6-33.11. Community participation

An effective school plan developed pursuant to this act shall provide mechanisms to encourage participation of parents and community members in the educational process.

L. 1985, c. 372, s. 5, eff. Nov. 26, 1985.

18A:6-33.12. Selection criteria

The commissioner shall select grant proposals from those submitted for funding for a period not to exceed three years. When selecting proposals for funding, the commissioner shall consider the quality of the proposal, the commitment of the board of education, building principal, teachers and other educational personnel, and the relative need of the school for the program.

L. 1985, c. 372, s. 6, eff. Nov. 26, 1985.

18A:6-33.14. Rules, regulations

The commissioner shall promulgate 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 this act.

L. 1985, c. 372, s. 9, eff. Nov. 26, 1985.

18A:6-34. Board of Examiners

18A:6-34. There shall be a State Board of Examiners, consisting of the commissioner ex officio and one assistant commissioner of education, two presidents of State colleges, one county superintendent, one superintendent of schools of a Type I district, one superintendent of a Type II district, one high school principal, one elementary school principal, one school business administrator, one librarian employed by the State or by one of its political subdivisions and four teaching staff members other than a superintendent, principal, school business administrator or librarian, all of whom shall be appointed by the commissioner with the approval of the State board.

L.1967, c.271; amended 1970, c.312; 1988,c.124.

18A:6-35. Terms of members; vacancies

The appointed members of the board of examiners shall hold office for two years from September 15 of the year in which they are appointed and the members in office, on the effective date of this title, shall continue in office until the expiration of their respective terms. Vacancies in the board shall be filled for the unexpired term only.

L.1967, c.271.

18A:6-36. Chairman; organization

The commissioner or an assistant commissioner designated by him, shall be the chairman of the board of examiners and such board shall organize prior to October 1 of each year.

L.1967, c.271.

18A:6-37. Service without payment; reimbursement for expenses

All members of the board shall serve without compensation but all such members other than the commissioner and the assistant commissioner of education shall be reimbursed for necessary expenses for attendance at its meetings.

L.1967, c.271.

18A:6-38 Powers, duties of board, issuance of certificates, credentials, fees.

18A:6-38. The board shall issue appropriate certificates to teach or to administer, direct or supervise the teaching, instruction or educational guidance of, or to render or administer, direct or supervise the rendering of nursing service to,

pupils in public schools operated by boards of education and such other certificates as it shall be authorized to issue by law based upon certified scholastic records or upon examinations, or both, and such credentials as may be required to serve as a substitute teacher or a substitute school nurse, and may revoke the same under rules and regulations prescribed by the State board. A fee of not less than \$20.00 shall be charged for the issuance of every certificate and credential as prescribed by such rules and regulations.

L.1967, c.271; amended 1971, c.266, s.1; 2005, c.110.

18A:6-38.1 Revocation of certificate on commissioner's recommendation; rules.

10. a. If the Commissioner of Education believes, based on information provided by the school district in which the certificate holder was employed, that the conduct of a superintendent, assistant superintendent or school business administrator warrants the revocation of the certificate held, the commissioner shall recommend such revocation to the Board of Examiners.

b. The Commissioner of Education shall adopt regulations in accordance with section 6 of P.L.2008, c.37 (C.18A:11-13) under which the Board of Examiners may revoke a certificate pursuant to this section.

L.2007, c.53, s.10; amended 2008, c.37, s.3.

18A:6-38.2 Certification review under certain conditions.

11. If any condition exists within a school district that would authorize the appointment of a State monitor pursuant to the provisions of section 2 of P.L.2006, c.15 (C.18A:7A-55), the State Board of Examiners shall review the certification of the superintendent and school business administrator of the district.

L.2007, c.53, s.11.

18A:6-38.3 Noncompliance with GAAP, review of certification of administrator.

12. In the event that any school district is not in compliance with the GAAP system of double entry bookkeeping as required pursuant to the provisions of P.L.1989, c.266 (N.J.S.18A:4-14 et al.) within one year of the effective date of P.L.2007, c.53 (C.18A:55-3 et al.), the Commissioner of Education shall recommend to the Board of Examiners that the board review the certification of the district's school business administrator.

L.2007, c.53, s.12.

18A:6-38.4 Appeal of determination of State Board of Examiners.

2. Notwithstanding the provisions of any law or regulation to the contrary, any appeal of a determination of the State Board of Examiners shall be to the Commissioner of Education whose determination shall be a final agency action under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of that action shall be directly to the Appellate Division of the Superior Court.

L.2008, c.36, s.2.

18A:6-39. Issuance of certificates to noncitizens

The board may, with the approval of the commissioner, issue a teacher's certificate to any citizen of any other country, who has declared his intention of becoming a United States citizen and who is otherwise qualified but any such certificate shall be void, and shall be canceled by the board, if the holder thereof shall not become a United States citizen within five years of the date of its issuance, and it may be revoked within said period by the board, if the board is satisfied that the holder thereof has abandoned his efforts to become a United States citizen or has become disqualified for such citizenship but no teacher certified, pursuant to this section, shall acquire tenure unless and until United States citizenship shall have been granted to him.

L.1967, c.271

18A:6-40 "Qualifying academic certificate" defined.

18A:6-40. For the purposes of this article, the term "qualifying academic certificate" shall be deemed to be any certificate issued by the commissioner certifying that the person to whom the same is issued has had the preliminary academic education required by the rules of the supreme court or by any law of this State at the time the certificate is issued for admission to an examination for license to practice law, medicine, dentistry, podiatric medicine, pharmacy, or for license as a certified public accountant, and for any other profession or vocation for which a certificate of academic education, issued by the commissioner, is now or may hereafter be required by law or by the rules of the supreme court or certifying that the person to whom the same is issued has had the education required for high school graduation in this state, as the case may be.

L.1967, c.271; amended 2005, c.259, s.29.

18A:6-41. Application for certificate; fee; refund

Every person desiring a "qualifying academic certificate" shall make application therefor in the manner and form prescribed by the commissioner and shall, before the certificate is issued, pay to the commissioner the sum of \$30.00. If the credentials and evidence submitted by an applicant are not sufficient to entitle him to such certificate, a refund of \$20.00 shall be made to the applicant.

L.1967, c.271; amended by L.1971, c. 266, s. 2, eff. July 9, 1971; L.1984, c. 80, s. 1, eff. July 13, 1984.

18A:6-42. Accounting; deposit of moneys

The commissioner shall keep a true and correct account of all moneys received by him under the provisions of this article, and between the first and fifth days of each month deposit with the state treasurer all such moneys received by him during the then preceding calendar month.

L.1967, c.271.

18A:6-43. Rules and regulations

The commissioner shall make and prescribe rules and regulations necessary to carry into effect the provisions of this article.

L.1967, c.271

18A:6-44. Right of disabled veterans to certificate

When by law or by the rules and regulations of the state board of public accountants, the state board of architects, the board of bar examiners, the supreme court or the board of nurses, applicants are required to possess preliminary qualifications according to standards prescribed by any of such statutes, rules and regulations or by the commissioner, a citizen of this state who has served in the military or naval forces of the United States in a war, has been wounded or disabled in line of duty, and has completed any of the vocational institutional courses in a college or school authorized and prescribed by the federal government, shall, upon filing with the commissioner a certificate certifying that such citizen has completed any of such courses, obtain from the commissioner a certificate certifying that such person is qualified for the study of any of the professions named in this section. Such certificate of the commissioner shall be the equivalent of the preliminary certificates or the requisite academic counts prescribed by the statutes, rules and regulations or by the commissioner.

L.1967, c.271.

18A:6-45. New Jersey School Boards Association established

There is established a body corporate and politic, with corporate succession, to be known as the "New Jersey School Boards Association." All boards of education of the various school districts in this State shall be members of the association.

L.1967, c.271; amended by L.1970, c. 104, s. 1, eff. June 19, 1970.

18A:6-46. Delegates to state association

Each of the district boards of education shall select annually one of its members as a delegate to the association.

L.1967, c.271; amended by L.1970, c. 104, s. 2, eff. June 19, 1970.

18A:6-47. Powers and duties

The association may investigate such subjects relating to education in its various branches as it may think proper, and it shall encourage and aid all movements for the improvement of the educational affairs of this State.

L.1967, c.271; amended by L.1970, c. 104, s. 3, eff. June 19, 1970.

18A:6-48. Officers

The association may select such officers as may be necessary for the transaction of its business.

L.1967, c.271; amended by L.1970, c. 104, s. 4, eff. June 19, 1970.

18A:6-49. Perpetual succession; powers

It shall have perpetual succession and shall have the following powers:

a. To make, amend and repeal rules, regulations and bylaws for its own government and guidance not inconsistent with this title;

b. To adopt an official seal and alter the same at pleasure;

c. To maintain an office at such place or places within 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;

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 such property shall be exempt from taxation under chapter 4 of Title 54, Taxation, of the Revised Statutes.

L.1967, c.271.

18A:6-50. Expenses of delegates; dues

For the purpose of defraying the necessary expenses of the association, the various district boards shall pay the necessary expenses incurred by its delegates, and shall appropriate annually such sums for dues as may be assessed by the association at any delegates meeting. The assessment of dues shall be made upon a graduated scale and shall be made only upon two-thirds vote of the delegates present at such delegates meeting, after notice of the taking of such vote shall have been given to each district board in writing at least 60 days before such delegates meeting. However, the dues assessed any board of education shall not be increased for any year by more than 33 1/3% of the dues assessed that board during the preceding year. Dues shall be payable by the custodian of school moneys of the school district to the treasurer of the association.

L.1967, c.271; amended by L.1969,c.89,s.1, eff. June 17, 1969; L.1970,c.104,s.5, eff. June 19, 1970; L.1973,c.120,s.1, eff. May 9, 1973.

18A:6-51. Definitions

Definitions:

(a) "Educational Services Commission" means an agency established or to be established in one or more counties for the purpose of carrying on programs of educational research and development and providing to public school districts such educational and administrative services as may be authorized pursuant to rules of the State Board of Education.

(b) "Commission" means educational services commission.

(c) "State board" means the State Board of Education.

(d) "Commissioner" means the Commissioner of Education.

(e) "Commission expenses" means those funds devoted to or required for the regular or ordinary operating expenses of the commission, including administrative, maintenance and salary expenses, and purchase or rental of real and personal property necessary for the operation of the commission, but excluding program or service expenses.

(f) (Deleted by amendment, P.L.1989, c.254.)

(g) "Member district" means a public school district which by local board resolution joins the original petition to the State Board of Education for approval to establish an educational services commission, or subsequently becomes a member district by local board resolution and upon approval of the Board of Directors of the commission.

(h) "School administrator" means the superintendent or chief school administrator.

(i) "Board of Directors" means those members elected by the representative assembly to act on commission business on behalf of the assembly.

(j) "Program or service expenses" means those funds devoted to or required for the provision of a program or service by the commission, including but not limited to the administrative, maintenance and salary expenses and the purchase or rental of real or personal property necessary for the provision of the program or service.

(k) "Representative assembly" means a governing body of the educational services commission composed of an elected representative from each member district.

L.1968, c.243, s.1; amended 1979, c.356, s.1; 1989,c.254,s.1.

18A:6-52. Establishment of commission; petition

Whenever five or more boards of education in any county or in any two or more counties and the commissioner after study and investigation shall deem it advisable to establish a county educational services commission, such boards of education may petition the State Board of Education for permission to establish such a commission. A report shall be attached to such petition setting forth the kind or kinds of educational and administrative services and programs which are deemed to be needed and proposed to be provided, an estimate of the cost of providing such services and programs, a method of financing the expenditures of such commission, including a detailed budget which projects anticipated costs and identifies anticipated sources of revenue until such can be financed under its first regularly adopted budget, and any other data or information deemed pertinent.

The State board, after studying the petition and report, shall determine whether there is a need for such a commission and whether its operation is feasible. If the State board finds that the need exists and further finds that the operation of a commission will be feasible, it shall approve the petition and so notify the petitioning boards of education and the county superintendent or county superintendents of the county or counties, as the case may be, in which such boards of education are located.

b. Commissions of less than five member districts established prior to the effective date of this amendatory act may continue to provide services and programs pursuant to this act.

L.1968, c.243, s.2; amended 1989,c.254,s.2.

18A:6-53. Approval of establishment; commissioners, first meeting

Whenever the boards of education and the county superintendent or superintendents, as the case may be, receive notification that the State board approves the establishment of a commission, the county superintendent, or the county superintendents by agreement if more than one county is included, shall instruct each board of education to elect one of its members or the superintendent or chief school administrator, to represent the district on the commission, and shall fix a date and place for the first meeting of the representative assembly.

L.1968, c.243, s.3; amended 1989,c.254,s.3.

18A:6-54. Representative assembly, organization; election of board of directors.

The first representative assembly shall organize upon the call of the county superintendent or county superintendents, as the case may be. Thereafter the representative assembly shall organize annually during the first week of June and meet at other times as necessary. The representative assembly shall elect, by a majority vote, from among its members a board of directors to serve until the next annual organization meeting. Upon election, the board of directors shall elect a president and vice president who shall also serve until the next organization meeting.

L.1968, c.243, s.4; amended 1989,c.254,s.4.

18A:6-55. Membership of board

The board of directors shall consist of 15 or more members of the representative assembly. The board of directors of a commission which has 15 or fewer member districts shall be comprised of all members of the representative assembly. Each member of the board of directors shall have one vote. Members shall serve without compensation but shall be entitled to reimbursement for all reasonable and necessary expenses.

L.1968, c.243, s.5; amended 1979, c.356, s.2; 1989,c.254,s.5.

18A:6-56. Election; terms

Members of the representative assembly shall be elected by their respective boards of education at the annual organization meeting. An individual so elected shall be a member of the district's board of education or the district's superintendent or chief school administrator. Should the representative cease to be a member or employee of the board of education which elected the representative, that position shall become vacant and a replacement shall be selected by that member district in a like manner to fill the vacancy for the remainder of the term for which the vacating member had been elected.

L.1968, c.243, s.6; amended 1979, c.356, s.3; 1989,c.254,s.6.

18A:6-57. Meetings; transaction of business

The board of directors shall meet for the transaction of business at least once every two months throughout the year. A written record of all action taken by the board of directors shall be forwarded to the members of the representative assembly after each meeting.

The board shall not enter into a contract until the same has been presented and passed upon at a regularly called meeting of the board. The board may pay a bill or a demand for money against it by action of the board or as provided in section 4 of P.L.1982, c.196 (C.18A:19-4.1).

The board may designate its president, its vice-president and one other member of the board as an executive committee to administer the affairs of the board of directors between regularly convened meetings of the board.

A quorum shall consist of a majority of the members of the board of directors.

L.1968, c.243, s.7; amended 1989,c.254,s.7.

18A:6-58. Secretary; compensation; term; bond

The board shall appoint a suitable person to be its secretary and shall fix his compensation and term of employment. The secretary shall before entering upon the duties of his office execute and deliver to the board a bond in a sum to be fixed by it, with surety to be approved by the board, conditioned for the faithful performance of the duties of his office. The board may accept the bond of a company authorized to execute surety bonds, and may pay the annual premium or fee for the bond as a commission expense.

L.1968, c.243, s.8; amended 1989,c.254,s.8.

18A:6-59. Powers and duties

The powers and duties of the secretary of the board of directors shall be prescribed by the board, including but not limited to the following:

(a) Record in a suitable book all proceedings of the board.

(b) Pay out on warrants signed by the president and another member of the board.

(c) Report to the board at each regular meeting:

(1) The amount of the total appropriations and the cash receipts for each account;

(2) The amount for which warrants have been drawn and the amount of orders for all contractual obligations since the date of his last report;

(3) The accounts against which the warrants have been drawn and the accounts against which the contractual obligations are chargeable; and

(4) The cash balance and free balance to the credit of each account;

(d) Notify all members of the board of all regular meetings of the board.

(e) Notify all members of the board of special meetings of the board when ordered by the president to do so, or when requested to do so by a petition in writing signed by at least 1/3 of the members of the board.

(f) During the month of November in each year, report to the board a detailed audit report of its financial transactions during the preceding fiscal year, and file a copy thereof with the county superintendent of schools, or county superintendents, as the case may be, of the county or counties in which the commission is located. The report shall itemize all expenses, indicating which are commission expenses and which are expenses of each program or service offered. Where appropriate, the report shall indicate which commission expenses can be reasonably charged to specific programs or services. The report shall also indicate the amount and disposition of revenues derived from membership charges, if any, and from each program or service.

(g) Notify all members of the representative assembly of meetings of the board of directors and record all transactions.

L.1968, c.243, s.9; amended 1989,c.254,s.9.

18A:6-60. Superintendent or chief school administrator

The board of directors shall appoint a suitable person to be the superintendent or chief school administrator of the commission. Such person shall possess a certificate appropriate to the position of superintendent or chief school administrator as prescribed under rules of the State Board of Examiners. The superintendent or chief school administrator shall have a seat on the board of directors, but no vote. He shall have the same powers as are conferred upon superintendents of schools by Title 18A of the New Jersey Statutes.

L.1968, c.243, s.10; amended 1989,c.254,s.10.

18A:6-61. Body corporate

The board of directors shall be a body corporate, and shall be known as "the board of directors of " (here shall be inserted a suitable name to be adopted by the board of directors with the approval of the State Board of Education, but such name shall contain at least the words "Educational Services Commission)".

The board of directors may purchase, lease-purchase or lease personal or real property in accordance with rules and regulations to be adopted by the State board of education.

L.1968, c.243, s.11; amended 1989,c.254,s.11.

18A:6-62. Annual budget; preparation, adoption, funding

12. The representative assembly shall annually, on or before March 8, adopt a budget for the ensuing fiscal year, which shall contain the estimated cost of providing each service or program, and submit such budget within three days of adoption to the county superintendent for approval.

By January 15 prior to the adoption of the budget the board shall notify each member board of education of the fees to be charged for each service and program for the ensuing school year and of the method by which the commission expenses shall be funded.

The commission expenses may be paid from one or more of the following sources:

- a. unappropriated balances from the prebudget year;
- b. anticipated surpluses to be generated by fees for programs or services;
- c. payments by member districts;
- d. anticipated miscellaneous revenues.

If payments shall be made by member districts to pay for all or part of the commission expenses, each member district's share shall be determined as the proportion which the total public school enrollment in the school district on the last school day prior to October 16 of the year in which the budget is made bears to the total public school enrollment for all member districts on the last school day prior to October 16 or in any other manner agreed to by two-thirds of the members of the representative assembly. Payment of the member district's share of the commission expense, when so determined, shall be an obligation of a member school district, and payments shall be made during the school year for which such budget shall have been made in a manner determined by the representative assembly.

L.1968,c.243,s.12; amended 1989,c.254,s.12; 1990,c.52,s.29; 1992,c.159,s.4.

18A:6-63. Services; contracts

a. The representative assembly shall from time to time determine what services and programs shall be provided by the commission, subject to approval of and pursuant to rules of the State Board of Education. It shall determine the fee to be charged for providing each service and program, and enter into contracts with school districts, whether member districts of the commission or not, to provide any or all such services and programs. The commission may enter into contracts to provide these services and programs to nonpublic schools. Such contracts for member districts may be for terms not exceeding 10 years, and a member school district, having so contracted, may not withdraw from membership in the commission during the term of such a contract.

b. Commissions may enter into contracts with other public and private agencies for the provision of approved services and programs to participating public school districts and nonpublic schools. These contractual arrangements shall conform to rules and regulations of the State Board of Education and be approved by the county superintendent or superintendents, as the case may be.

L.1968, c.243, s.13; amended 1989,c.254,s.13.

18A:6-64. Withdrawal of membership

Except as provided in section 13 of this act, a school district which is a member of a commission may withdraw from membership by adopting a resolution setting forth its intention to withdraw and the reason or reasons for the withdrawal, and filing with the county superintendent or superintendents, as the case may be, and secretary of the board of directors a certified copy of such resolution. The withdrawal shall be effective at the conclusion of the third full school year after the filing of such resolution with the secretary of the board of directors.

L.1968, c.243, s.14; amended 1989,c.254,s.14.

18A:6-65. Employment of personnel

The board may employ teachers, principals and other employees, subject to the provisions of Title 18A for the employment of personnel for public school districts, and subject to the rules of the State Board of Examiners for the employment of persons whose office, position or employment requires them to hold an appropriate certificate issued by the State Board of Examiners.

L.1968, c. 243, s. 15, eff. July 1, 1968.

18A:6-66. Rights and benefits of personnel

Persons holding office, position or employment under a board of directors of a commission shall enjoy the same rights and benefits as are enjoyed by persons holding office, position, or employment under a public school district board of education.

L.1968, c. 243, s. 16, eff. July 1, 1968.

18A:6-67. Funds and grants; contracting for, receiving and administration

The board of directors may enter into a contract with and receive and administer funds and grants from any individual or agency, including but not limited to, agencies of the federal government of the United States, provided that the funds or grants are for programs or services for which the commission has received approval from the State board pursuant to sections 2 and 19 of P.L.1968, c.243 (C.18A:6-52 and 18A:6-69).

L.1968, c.243, s.17; amended 1989,c.254,s.15.

18A:6-68. Bookkeeping and accounting system

The board of directors shall adopt and employ such a system of bookkeeping and accounting as may be prescribed by the State Board of Education. The board of directors shall comply with the requirements for audit prescribed in chapter 23 of Title 18A for public school districts.

L.1968, c. 243, s. 18, eff. July 1, 1968.

18A:6-69. Enlargement, alteration of purposes

The representative assembly may enlarge or alter the purposes for which the formation of the commission was approved, upon application to and approval by the State Board of Education.

L.1968, c.243, s.19; amended 1989,c.254,s.16.

18A:6-70. Application for admission; representative

A board of education not a member of a commission at the time such commission was established shall be admitted to such commission upon application to the representative assembly not less than three months prior to the annual organization meeting of the representative assembly.

L.1968, c.243, s.20; amended 1989,c.254,s.17.

18A:6-71. Establishment and operation of centers

That the Commissioner of Education and the State Board of Education shall have the authority and responsibility under this act to plan for, establish, and operate a State-wide system of educational centers for research and demonstration. These centers, in voluntary co-operation with local school districts, shall concentrate upon the development, testing, and installation of ideas and procedures to solve major educational problems facing the State; including but not limited to reading levels of low-income children, early childhood development, the gifted student and the effective utilization of new materials and equipment, educational technology, and patterns of school organization.

L.1970, c. 122, s. 1, eff. June 30, 1970.

18A:6-72. Projects

The centers shall design projects within an experimental framework in order that unproven educational ideas, equipment, methods and approaches, and newly developed curriculum materials can be objectively tested and evaluated and their value to local school districts demonstrated. These educational centers shall be planned and developed (1) to demonstrate an exemplary result that has widespread use and adaptability to local educational agencies, and (2) to procure and use Federal and private resources in combination with State resources to attain State educational goals.

L.1970, c. 122, s. 2, eff. June 30, 1970.

18A:6-73. Rules and regulations; implementation of provisions

The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

L.1970, c. 122, s. 3, eff. July 30, 1970.

18A:6-74. Cooperation with other agencies

Pursuant to the objectives of this act, the State Department of Education may seek the co-operation and involvement of other State agencies.

L.1970, c. 122, s. 5, eff. June 30, 1970.

18A:6-75. Establishment and operation

The Commissioner of Education and the State Board of Education shall have the authority and responsibility under this act to plan, establish, and operate a Statewide performance evaluation project. This project, through voluntary cooperation among local school districts, teacher training institutions, professional educational organizations, and the State Department of Education, shall concentrate on developing criteria for professional teaching competence based on performance evaluation prior to the issuance of initial teaching certificates.

L.1971, c. 148, s. 1, eff. May 20, 1971.

18A:6-76. Objectives

This project:

a. shall identify the skills, attitudes, and other such pertinent data as the participating groups deem essential for an individual to demonstrate before being issued an initial teaching certificate;

b. shall determine the method or methods of evaluation of the performance of each candidate for an initial teaching certificate;

c. shall recommend to the commissioner and to the State Board of Education the minimum standards which an individual must achieve in order to be issued an initial teaching certificate; and

d. shall procure and use Federal and private resources in combination with State resources to attain State educational goals.

L.1971, c. 148, s. 2, eff. May 20, 1971.

18A:6-76.1. Provisional certificate program; implementation

2. a. By November 1, 1992, colleges shall notify all students enrolled in teacher education programs of the details and requirements of the provisional certificate and induction program.

b. By November 1, 1992, the Department of Education shall provide all public school districts with a standard plan to implement the induction program that districts may choose to submit, instead of developing individual plans.

c. By February 1, 1993, each district shall submit a board-approved plan to the Department of Education.

d. The Department of Education shall coordinate county or regional training programs for mentors beginning in the 1993-94 school year.

L.1992,c.127,s.2.

18A:6-77. Implementation

The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

L.1971, c. 148, s. 3, eff. May 20, 1971.

18A:6-78. Cooperation and involvement of other state agencies

Pursuant to the objectives of this act, the State Department of Education may seek the cooperation and involvement of other State agencies.

L.1971, c. 148, s. 4, eff. May 20, 1971.

18A:6-79. Establishment and operation; projects; plan and development; implementation

The Commissioner of Education and the State Board of Education shall have the authority and responsibility to plan for, establish and operate demonstration model early child development centers. These centers, in voluntary cooperation with local school districts or other public agencies, shall concentrate on the cognitive and affective development of children aged 3 to 6; including but not limited to health, dental hygiene, mental health, language and computation skills development, nutrition, socialization, and recreation.

The centers shall design projects within an experimental framework of early childhood education and day care support in order that unproven educational ideas, equipment, methods and approaches, newly developed curriculum materials and reliable educational techniques can be objectively tested and evaluated and their value to local school districts and other early childhood programs be demonstrated. The educational

centers shall be planned and developed (1) to demonstrate an educational approach to day care that has widespread use and adaptability to local educational agencies, and (2) to procure and use Federal and private resources in combination with State resources to attain State educational goals.

The Commissioner of Education shall, with the approval of the State Board of Education, promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

L.1971, c. 149, s. 1, eff. May 20, 1971.

18A:6-91.1. New Jersey Commission on Environmental Education

1. a. There is hereby created in but not of the Department of Environmental Protection the New Jersey Commission on Environmental Education. The commission shall consist of 23 public members, the commissioners, or their designees, of the Department of Education, the Department of Environmental Protection, and the Department of Health, the Attorney General or a designee with responsibility in the area of environmental law, the Executive Director of the Commission on Higher Education, and a designee of the Governor. The public members shall consist of two college professors in the fields of environmental education or environmental science; one private school teacher and two public school teachers, one of whom is selected by the New Jersey Education Association, including one teacher from kindergarten to third grade, one from fourth to sixth grade, and one from seventh to twelfth grade; one school administrator; one representative of the New Jersey Principals and Supervisors Association; one local school board representative selected by the New Jersey School Boards Association; one member of an interfaith religious organization; one representative from labor; one representative from industry; two representatives from environmental or public interest organizations; two representatives from cultural institutions such as museums and nature centers; two representatives from the field of environmental health; two non-academic science professionals; two representatives from the agricultural community; one student representative from a student environmental organization, such as Kids Against Pollution; and one representative from the South Jersey Environmental Information Center.

b. The public members shall be appointed by the Governor for terms of three years, except that the student representative shall be appointed for a term of one year, and in the first year the other public members shall be appointed to staggered terms as follows:

- (1) Seven shall be appointed to terms of one year;
- (2) Seven shall be appointed to terms of two years; and
- (3) Seven shall be appointed to terms of three years.

c. The commission shall meet, at a minimum, four times a year.

d. The commission shall elect a chairperson and a vice-chairperson from among its membership. The term of office for each position shall be two years.

e. The commission may hire staff as necessary within the limits of funding as provided by section 5 of P.L.1995, c.409 (C.18A:6-91.5).

L.1995,c.409,s.1.

18A:6-91.2. Duties of commission

2. The commission shall:

a. Advise and oversee the implementation of the Plan of Action that was adopted by the Commission on Environmental Education created by Executive Order Number 205 of 1989 and reconvened as the New Jersey Commission on Environmental Education by Executive Order Number 111 of 1993;

b. Develop and maintain, with the assistance of the various agencies and departments, a bi-annual inventory of the environmental education resources that are available in all State agencies and departments;

c. Develop and maintain an Environmental Education Network of activities, resources and model programs throughout the State;

d. Organize a global forum on environmental education to be held every three to five years;

e. Organize and support an annual Environmental Education Week;

f. Support such other environmental education activities as the commission determines are appropriate;

g. Provide technical assistance to the Legislature for legislation related to environmental education; and

h. Submit an annual report on the status of environmental education to the Governor and the Legislature.

L.1995,c.409,s.2.

18A:6-91.3. Inter-agency Work Group, duties

3. The Inter-agency Work Group, created pursuant to section 4 of P.L.1995, c.409 (C.18A:6-91.4), may:

a. Publicize existing model environmental education programs;

b. Provide leadership and coordination in conducting teacher in-service programs throughout the State;

c. Solicit public and private partnerships at the local, State and national levels to provide teacher education programs; and

d. Provide the commission with information concerning the availability of environmental education to students in the State.

L.1995,c.409,s.3.

18A:6-91.4. Inter-agency Work Group created

4. There is created an Inter-agency Work Group, which shall consist of the commissioner or secretary, or his designee, of each of the principal departments. This work group shall meet periodically to coordinate the environmental education efforts of the various departments and agencies in the State.

L.1995,c.409,s.4.

18A:6-91.5. Environmental Education Fund created

5. The Environmental Education Fund is established as a nonlapsing revolving fund in the Department of Environmental Protection. The fund shall be administered by the commission, and shall be credited with all moneys appropriated by this act and with grant moneys or any other revenue obtained by the commission for the purpose of environmental education. Interest received on moneys in the fund shall be credited to the fund.

L.1995,c.409,s.5.

18A:6-95.1. Educational information and resource center; establishment; services provided

There is established a local education agency to serve as an educational information and resource center to provide, on request, support and assistance to teachers, administrators, parent and community groups, schools and colleges, the Department of Education, and other public agencies, through the delivery of materials, techniques and expertise to improve school and community programs and services. The services provided by the center shall include: a lending library of educational and instructional materials; preparation of media and materials for informational and instructional purposes; an educational information storage and retrieval system; special topic seminars and conferences; and consultant advice, information and expertise. The programs and services of the center shall not duplicate the programs of the Department of Education.

To the extent permitted by law, the educational information and resource center shall also provide support and service to nonprofit, nonpublic schools.

L.1983, c. 186, s. 1, eff. July 1, 1983.

18A:6-95.2. Coordination with programs and services provided by department of education

The Commissioner of Education or his designee shall meet prior to January 10 of each year with the executive director of the educational information and resource center to mutually communicate those programs and services which the department provides and which the educational information and resource center will provide during the calendar year. The educational information and resource center shall cease to provide any programs and services at the time that these programs and services are provided by the Department of Education, so that there is no interruption in, or loss of services to, the population served.

L.1983, c. 186, s. 2, eff. July 1, 1983.

18A:6-95.3. Funding

State funding of the educational information and resource center shall be by direct appropriation of the Legislature and shall not be derived from the proposed or actual operating budget of the Department of Education.

L.1983, c. 186, s. 3, eff. July 1, 1983.

18A:6-95.4. Transfer of assets

The assets of the educational improvement centers shall be transferred to the Commissioner of Education, except that the assets of Educational Improvement Center-South shall be transferred to the educational information and resource center. All transfers

shall be made as provided in the "State Agency Transfer Act," P.L.1971, c. 375 (C. 52:14D-1 et seq.).

L.1983, c. 186, s. 12, eff. July 1, 1983.

18A:6-96. Control, management, etc. by board of directors

The government, control, conduct, management and administration of the educational information and resource center shall be vested in the board of directors.

L.1978, c. 58, s. 2, eff. June 29, 1978. Amended by L.1983, c. 186, s. 5, eff. July 1, 1983.

18A:6-96.1. Transfer of board; term

The board of the Educational Improvement Center-South shall become the board of the educational improvement and resource center as of the effective date of this act, and each member shall continue in office until the expiration of his respective term and the qualification in office of his successor.

L.1983, c. 186, s. 13, eff. July 1, 1983.

18A:6-97. Members; selection; reimbursement of expenses; term of office; vacancies; removal

The board of directors shall be selected through procedures established by the board of directors and shall consist of 21 members. Members of the board of directors shall be selected as follows:

a. Twelve teaching staff members to be selected from each of the following categories:

- (1) special education teacher;
- (2) vocational education teacher;
- (3) K-2 teacher;
- (4) 3-5 teacher;
- (5) 6-8 teacher;
- (6) 9-12 teacher;
- (7) pupil personnel staff;
- (8) elementary principal;
- (9) secondary principal;
- (10) curriculum supervisor;
- (11) superintendent of schools;
- (12) business manager/board secretary.

The selection of teaching staff members from categories 1 through 6 shall be made from a list of nominees provided by their respective county professional organizations representing local associations dealing with terms and conditions of employment. No one who is not a member of such an organization shall be excluded from consideration for such a list. The selection of teaching staff members from categories 7 through 12 shall be made from a list of nominees provided by their respective county professional organizations;

b. Two parents;

c. Two representatives of a nonprofit, nonpublic school;

d. One representative of higher education;

e. Two members of local boards of education;

f. (Deleted by amendment, P.L.[1983], c. [186]);

g. (Deleted by amendment, P.L.[1983], c. [186]);

h. One representative of business and industry; and

i. One student representative.

Members of the board of directors shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses.

The terms of office of the members shall be for 3 years beginning on July 1 and ending on June 30, except that of the members first appointed, seven shall be appointed for terms of 1 year; seven for terms of 2 years and seven for terms of 3 years.

Each member shall serve until his successor shall have been appointed and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired terms. No member shall serve more than two successive terms. No member of the board of directors shall be interested directly or indirectly in any contract with or claim against the board. Whenever a member of the board of directors shall cease to be a bona fide resident of or an employee of an agency or firm located within the State his or her membership on the board shall immediately cease, and any member who fails to attend three consecutive meetings of the board without good cause may be removed by it.

L.1978, c. 58, s. 3, eff. June 29, 1978. Amended by L.1983, c. 186, s. 6, eff. July 1, 1983.

18A:6-98. Leave of absence without loss of pay to attend meetings of board

Any person employed by a public educational system or institution in a position which requires a certificate issued by the State board of examiners or employed in a professional education capacity by a school, college, or university which is either tax-supported or operated under contract with the State or on behalf of the State, who is a member of the board of directors of the educational information and resource center, shall be entitled to time off from his or her duties as such employee, without loss of pay, during the periods of his attendance at six duly authorized meetings of the board per year.

L.1978, c. 58, s. 4, eff. June 29, 1978. Amended by L.1983, c. 186, s. 7, eff. July 1, 1983.

18A:6-99. Organization; meetings

The board of directors shall meet and organize annually, at a regular meeting held during the second week of September, by the election of a chairman, vice chairman, and such other officers as the board shall determine. Such officers shall serve until the following September meeting and until their successors are elected. Vacancies in such offices shall be filled in the same manner for the unexpired terms only. The board of directors shall hold public meetings at least once in each month at such times and places as its rules may prescribe, at least half of which shall be scheduled during evening hours.

L.1978, c. 58, s. 5, eff. June 29, 1978. Amended by L.1983, c. 186, s. 8, eff. July 1, 1983.

18A:6-100. Powers and duties

The board of directors of the educational information and resource center, within the general rules and regulations set by the State Board of Education, shall have the general supervision over and be vested with the conduct of the center. It shall have the power and duty to:

- a. Adopt and use a corporate seal;
- b. Determine policies for the organization, administration, and development of the center;
- c. Sue or be sued by its corporate name;
- d. (Deleted by amendment, P.L.[1983], c. [186]);
- e. Prepare an annual budget, as determined by the board of directors, to carry out the programs and services described in section 1 of this amendatory and supplementary act, and present the annual budget to the Governor and the Legislature;
- f. Disburse all monies appropriated to the center by the State and all monies received from grants, fees, auxiliary services and other sources;
- g. Direct and control expenditures of the center pursuant to all provisions of law governing local school districts, as set forth in Title 18A, and in accordance with the terms of any applicable trusts, bequests, or other special provisions. A system of bookkeeping and accounting shall be adopted and instituted as prescribed by the State board. The board shall cause an annual audit of the center's accounts and financial transactions in the manner provided by N.J.S. 18A:23-1 et seq. All accounts of the center shall be subject to audit by the State at any time;
- h. Appoint and fix compensation, terms and conditions of employment of an executive director. The executive director shall be secretary to the board of directors and shall serve at the pleasure of the board of directors;
- i. Upon nomination by the executive director, appoint, remove, promote and transfer such other staff as may be required to carry out the provisions of the chapter, assign their duties, determine their salaries and prescribe qualifications for all positions;
- j. Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or any public body, department or any agency of

the State or the United States or with any individual, firm, or corporation, subject to the bidding requirements set forth in the "Public School Contracts Law," N.J.S. 18A:18A-1, et seq., which are deemed necessary or advisable by the board for carrying out the provisions of this chapter;

k. Accept from any 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 any of its purposes;

l . Acquire, own, lease, use and operate property, subject to the facilities for the handicapped provisions set forth in N.J.S. 18A:18A-17 and P.L.1975, c. 221 (C. 52:32-11 et seq.), whether real, personal or mixed, or any interest therein, which is necessary or desirable for center purposes;

m. Determine that any property owned by the center is no longer necessary for center purposes and to sell the same at such price and in such manner and upon such terms and conditions as deemed appropriate;

n. Adopt bylaws, make and promulgate such rules, regulations, and orders, not inconsistent with the provisions of this chapter or rules and regulations of the State Board of Education, as are necessary and proper for the administration and operation of the center and to implement the provisions of this act;

o . Appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the center, consistent with this act and other applicable statutes;

p. Cause a report of the condition of the center and the center's property under its control and an itemized account of the condition of the finances of the center to be printed and submitted to the Legislature as soon as practicable after the close of the fiscal year;

and it may:

q. Utilize all available programs, services, and resources of other social agencies, including institutions of higher education and local school districts, to meet the center's plans and objectives.

L.1978, c. 58, s. 6, eff. June 29, 1978. Amended by L.1983, c. 186, s. 9, eff. July 1, 1983.

18A:6-101. Executive director

The executive director of the educational information and resource center shall be responsible to its board of directors and shall have such powers as shall be requisite for the executive management and conduct of the center and for the execution and enforcement of the bylaws, rules, regulations and orders governing the management, conduct and administration of the center.

L.1978, c. 58, s. 7, eff. June 29, 1978. Amended by L.1983, c. 186, s. 10, eff. July 1, 1983.

18A:6-102. Employees; tenure; pensions

Notwithstanding the provisions of any other law, all employees of the educational information and resource center shall serve at the pleasure of the board of directors. Certificated professional full-time employees shall be eligible for membership in the Teachers' Pension and Annuity Fund established pursuant to N.J.S. 18A:66-1 et seq., and all other employees shall be members of the Public Employees' Retirement System established pursuant to P.L.1954, c. 84 (C. 43:15A-1 et seq.).

Notwithstanding the provisions of any other law, such persons shall be entitled to supplemental compensation upon retirement, as set forth in section 1 of P.L.1973, c. 130 (C. 11:14-9).

L.1978, c. 58, s. 8, eff. June 29, 1978. Amended by L.1983, c. 186, s. 11, eff. July 1, 1983.

18A:6-103. Short title

1. This act shall be known and may be cited as the "Educational Technology Teacher Training Act."

L.1996,c.129,s.1.

18A:6-104. Findings, declarations relative to Educational Technology Teacher Training

2. The Legislature finds and declares that:

a. In order for all of New Jersey's students to acquire the critical thinking and problem solving skills necessary to become productive citizens in the next century, they will require access to the opportunities provided by modern technology;

b. It is imperative that teachers understand the potential of technology within the classroom to support curriculum goals and that they become proficient and sophisticated users of those technologies critical to educating New Jersey's students;

c. Many of this State's teachers ended their training before technology was pervasive within teacher education programs and as a result the most frequently mentioned issue in educational technology has been the need for staff training;

d. The Education Technology Task Force, formed by the Commission on Business Efficiency in the Public Schools to assist the Legislature and Executive branch in formulating a Statewide educational technology policy, noted in its March, 1996 report, Technology and New Jersey's Schools in the 21st Century, that some school districts have exemplary technology programs and also have developed exemplary staff training programs;

e. The task force also recommended that in order to provide access to technology to teachers in the most efficient manner possible, the State should build upon this expertise by providing grants to school districts with proven histories of success in applying technology to education so that these school districts may share that knowledge with other districts through training programs specifically developed for that purpose; and

f. The New Jersey Department of Education has repeatedly stressed the importance of technology training for educational personnel and in fact in its April, 1993 report, Educational Technology in New Jersey: A Plan for Action, emphasized the critical need for strategies that will provide and support effective staff development models in this regard.

L.1996,c.129,s.2.

18A:6-105. Educational Technology Teacher Training Program

3. The Commissioner of Education shall develop and administer an Educational Technology Teacher Training Program. The purpose of the program shall be to provide grants to local school districts which have successfully integrated technology within their own educational programs to develop and offer educational technology training programs to the teachers and staff of other school districts and to the teachers and staff of non-public schools. The grants shall be allocated to school districts on a competitive basis and the commissioner may, if he deems appropriate, award grants to other appropriate applicants which he feels have the potential to develop and offer high quality educational technology training programs to school staff, including the staff of non-public schools.

L.1996,c.129,s.3.

18A:6-106. "Educational Technology Teacher Training Fund"

4. a. There is established within the Department of Education a fund to be known as the "Educational Technology Teacher Training Fund," hereinafter referred to as the "fund." The fund shall be used to provide grants to school districts or other applicants as approved by the commissioner to develop and administer educational technology training programs for school district staff. The grants shall be provided for a three-year period after which the technology training program shall be supported on a fee-for-service basis, through private sector-school district partnership funding, or both. During the initial three-year period, the grant funding shall be supplemented on a fee-for-service basis to offset costs which may exceed the grant amount.

b. The fund shall annually be credited with money appropriated by the Legislature, any moneys received from corporate donors or other private sector support, and any federal funds which may become available for teacher technology training.

c. Grants provided from the fund shall be used for the development of accessible training sites; costs associated with educational technology training personnel; the acquisition of equipment necessary for technological training including hardware and software; subscription fees for telecommunications and data base services; and any other purpose approved by the commissioner.

L.1996,c.129,s.4.

18A:6-107. Proposals for training programs; grants; training sites

5. a. Within 90 days of the effective date of this act, the commissioner shall forward a request for proposals for the establishment of educational technology teacher training programs to local school districts and other appropriate applicants. A local school district or other applicant which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's or applicant's plan to offer educational technology training to teachers and other school staff. The proposal shall include information which outlines the manner in which the technology training program shall become self-supporting at the end of the three-year grant period through a fee-for-service arrangement, private sector support, or some other mechanism as developed by the grant recipient. The proposal shall also include any other information which the commissioner may require. b. The commissioner shall select grant recipients based on the quality of the proposed educational technology teacher training program. In selecting grant recipients, the commissioner shall consider the leadership and experience of the grant applicant in the effective use of educational technology within the classroom; the location of the proposed training site; and the potential for the training

program to operate independently of grant funds at the end of the three-year period.

c. The commissioner shall award grants to support at least 21 teacher training sites in the amount of \$200,000 per site. The commissioner shall provide for a phase-in of training sites over the three-year period with at least seven sites established in the first year of the program, seven sites in the second year, and seven sites in the third year. In establishing a schedule for the phase-in of training sites, the commissioner shall ensure that there is an equitable distribution of sites in terms of their geographic location providing at a minimum for the establishment of one training site per county.

d. Each training site shall include: (1) program offerings providing basic technology skills; (2) program offerings related to word processing, data bases, spreadsheets, and design; (3) a minimum of three educational multimedia program offerings; (4) a minimum of two telecommunications program offerings; and

(5) program offerings which provide instruction on implementing teaching strategies that support the integration of technology in the classroom.

L.1996,c.129,s.5.

18A:6-108. Evaluation by commissioner

6. The commissioner shall annually evaluate the effectiveness of the teacher training programs being operated by grant recipients. Three years following the effective date of this act, the commissioner shall report to the Governor and the Legislature on the progress of the Educational Technology Teacher Training Program.

L.1996,c.129,s.6.

18A:6-109. Rules, regulations

7. The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.1996,c.129,s.7.

18A:6-110 Spread the Word Program.

1. a. There is established the Spread the Word Program in the Department of Education. The purpose of the program is to provide books to elementary school children in grades kindergarten through five. Under the program, donating schools shall collect books from children and families who have extra books at home, and these books shall be donated to recipient schools for distribution to children who have few books at home. The program shall be county-based and shall be administered by the county superintendent of schools.

b. Prior to the start of each school year, the department shall send to each elementary school in the State an informational brochure on the program. If the school is interested in participating in the program as a donating school, the principal shall contact the county superintendent of schools to receive further information on program participation.

c. A donating school shall conduct book drives. When the drive is finished, the school shall review the donated books to ensure that they are age-appropriate and in satisfactory condition. After the review, the school shall count, sort and pack the books and contact the county superintendent of schools to report the approximate number of books collected and the number of boxes needed to be transported. The county superintendent of schools shall arrange for the books to be transported from the donating school to an eligible recipient school. The State shall assume the costs of transporting the donated books to the recipient school.

d. The State Board of Education shall determine criteria for choosing recipient schools which shall be based, at least in part, on the number of low-income pupils attending the school. The county superintendent of schools shall contact schools within the county that meet the criteria and provide information regarding the program. An eligible school that is interested in receiving donated books under the program shall inform the county superintendent of schools.

e. The Commissioner of Education shall assign a person on a part-time basis to serve as the coordinator of the program.

L.2001,c.292,s.1.

18A:6-111 Findings, declarations relative to instruction in suicide prevention in public schools.

1. The Legislature finds and declares that:

a. Suicide is a leading cause of death for young people in this State. According to the Center for Health Statistics in the New Jersey Department of Health and Senior Services, between 1999 and 2001 more than 1,500 young people ages 13 to 18 made suicide attempts which resulted in hospitalization. More than 50 of these attempts were fatal. When young people up to 24 years of age are added to the equation, the number of attempted suicides rises to 3,000 and the number of fatalities rises to nearly 200.

b. A suicide can devastate a community. According to the National Alliance for the Mentally Ill (NAMI), suicide severely impacts the families and friends left behind, who often wrongly live with extreme shame and guilt over not having prevented the death of their loved one. Moreover, many attempts which do not result in death nonetheless end in serious injury to the victims and lifelong trauma to their families and those who know them.

c. A person who is considering suicide may exhibit behavioral warning signs. If someone notices the warning signs of suicide, it may be possible to avert a tragedy. With the possible exception of a parent, no one is better situated than a teacher to detect these signs and to initiate appropriate steps to prevent a suicide attempt. Proper training for teaching staff members can thus save pupils' lives and save the families and friends of would-be victims the trauma of a suicide or suicide attempt. Moreover, early identification of depression and other problems may help to reduce the number of young people who commit or attempt to commit suicide once they have left school and entered adulthood.

d. It is therefore appropriate for the Legislature to require: the State Board of Education to require instruction in suicide prevention as part of any continuing education which public school teaching staff members must complete to maintain their certification; and inclusion of suicide prevention awareness in the Core Curriculum Content Standards in Comprehensive Health and Physical Education.

L.2005,c.310,s.1.

18A:6-112 Instruction in suicide prevention for public school teaching staff.

2. The State Board of Education, in consultation with the New Jersey Youth Suicide Prevention Advisory Council established in the Department of Children and Families pursuant to P.L.2003, c.214 (C.30:9A-22 et seq.), shall, as part of the professional development requirement established by the State board for public school teaching staff members, require each public school teaching staff member to complete at least two hours of instruction in suicide prevention, to be provided by a licensed health care professional with training and experience in mental health issues, in each professional development period.

L.2005, c.310, s.2; amended 2006, c.47, s.80.

18A:6-113 Provision for instruction in suicide prevention in school curriculum.

3. Within 180 days of the effective date of this act, the State Board of Education shall revise the Core Curriculum Content Standards in Comprehensive Health and Physical Education to provide for instruction in suicide prevention in an appropriate place in the curriculum of elementary school, middle school, and high school pupils.

L.2005,c.310,s.3.

18A:7-1 Appointment; qualifications; term of executive county superintendent.

18A:7-1. a. The Governor, upon the recommendation of the commissioner and with the advice and consent of the Senate, shall appoint for each county, a suitable person, who holds an appropriate certificate issued pursuant to this title and who has been a resident of the State for at least three years immediately preceding the appointment, to be the executive county superintendent of schools, who shall serve, unless sooner removed pursuant to law, for a term of three years. The superintendent may be re-appointed by the Governor on the basis of a satisfactory performance assessment required pursuant to subsection b. of this section. A person who is serving as a county superintendent of schools on the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), shall be eligible for appointment as the executive county superintendent of schools. The executive county superintendent of schools shall report to the Commissioner of Education or to a person designated by the commissioner.

b. An executive county superintendent shall be subject to at least one performance assessment during the three-year term. The performance of the superintendent shall be assessed by the Commissioner of Education based on the ability of the superintendent to monitor and promote administrative and operational efficiencies and cost savings within the school districts located in the county, while enhancing the effectiveness of the districts in providing a thorough and efficient system of education, and on their monitoring of the school districts in the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum: instruction and program; personnel; fiscal management; operations; and governance. In establishing the standards for assessing the performance of the superintendent in facilitating administrative efficiencies, the commissioner shall include such factors as administrator-to-teacher ratios, administrator-to-student ratios, per-pupil administrative expenditures, and improved student educational outcomes.

Amended 2007, c.63, s.42.

18A:7-2 Disability or vacancy; designation of temporary replacement by commissioner.

18A:7-2. The commissioner may designate any one of his assistant commissioners or another suitable person to exercise the powers and perform the duties of the executive county superintendent without additional compensation:

a. During any period when an executive county superintendent shall be unable to perform his duties by reason of illness, physical disability or for any other cause; and

b. During any period when the office of executive county superintendent shall be vacant in any county by reason of the death or resignation of the incumbent or for any other cause.

Amended 1971, c.432; 2007, c.63, s.43.

18A:7-3 Salary, cap; expenses.

18A:7-3. An executive county superintendent of schools shall receive such salary as shall be approved by the commissioner and shall receive a salary which is not greater than the salary of a cabinet-level official of the State.

Each executive county superintendent shall receive, in addition to his salary, the traveling and other expenses incurred by him in conducting his office and performing his official duties, which shall be paid by the county treasurer on the orders of the commissioner, upon his furnishing to the commissioner an itemized statement thereof certified under his oath, together with proper vouchers, and no such order shall be issued until such statement and vouchers are so furnished.

Amended 2007, c.63, s.44.

18A:7-4 Withholding salaries and expenses.

18A:7-4. The commissioner shall, subject to appeal to the State board, cause to be withheld the orders for the payment of the salary and expenses of any executive county superintendent, who shall fail to perform faithfully all of the duties imposed upon him by this chapter or by the rules of the State board, until he shall have performed all of such duties.

Amended 2007, c.63, s.45.

18A:7-5 Full-time officer; general jurisdiction.

18A:7-5. Each executive county superintendent shall devote his entire time to the duties of his office, and he shall have general supervision of all of the public schools of the districts of the county except those city school districts in which there shall have been appointed superintendents of schools.

Amended 2007, c.63, s.46.

18A:7-6 Office; location; school records.

18A:7-6. The executive county superintendent shall maintain an office at a suitable location within the county which shall be open to the public as are other county offices and which shall be supplied to him, and shall be suitably furnished and equipped, by the board of chosen freeholders of the county, and the school records of the county for the use of the county and State Departments of Education, the United States Office of Education and the United States Commissioner of Education shall be kept at such office.

Amended 1968, c.470; 2007, c.63, s.47.

18A:7-7 Clerical assistants; selection; salaries.

18A:7-7. The executive county superintendent shall appoint such clerical assistants for his office as he shall deem necessary and fix their compensation within the limits of available appropriations made thereof. In counties governed by Title 11A, Civil Service, of the New Jersey Statutes, such appointments shall be made and compensation shall be fixed pursuant to the provisions thereof, and in all other counties the compensation of such clerical assistants shall be fixed on a basis commensurate with that of other county employees performing similar duties.

Amended 2007, c.63, s.48.

18A:7-8 General powers and duties.

18A:7-8. Each executive county superintendent shall:

a. Visit and examine from time to time all of the schools under his general supervision and exercise general supervision over them in accordance with the rules prescribed from time to time by the State board;

b. Keep himself informed as to the management, methods of instruction and discipline and the courses of study and textbooks in use, the condition of the school libraries, and the condition of the real and personal property, particularly in respect

to the construction, heating, ventilation and lighting of school buildings, in the local districts under his general supervision, and make recommendations in connection therewith;

c. Advise with and counsel the boards of education of the local districts under his general supervision and of any other district of the county when so requested, in relation to the performance of their duties;

d. Promote administrative and operational efficiencies and cost savings within the school districts in the county while ensuring that the districts provide a thorough and efficient system of education;

e. Based on standards adopted by the commissioner, recommend to the commissioner, who is hereby granted the authority to effectuate those recommendations, that certain school districts be required to enter arrangements with one or more other school districts or educational services commissions for the consolidation of the district's administrative services;

f. Recommend to the commissioner the elimination of laws the executive county superintendent determines to be unnecessary State education mandates, other than the categories of laws set forth in section 3 of P.L.1996, c.24 (C.52:13H-3);

g. Have the authority to eliminate districts located in the county that are not operating schools on the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), in accordance with a plan submitted to the commissioner no later than one year following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.);

h. No later than three years following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend to the commissioner a school district consolidation plan to eliminate all districts, other than county-based districts and other than preschool or kindergarten through grade 12 districts in the county, through the establishment or enlargement of regional school districts. After the approval of the plan by the commissioner, the executive county superintendent shall require each board of education covered by a proposal in the plan to conduct a special school election, at a time to be determined by the executive county superintendent, and submit thereat the question whether or not the executive county superintendent's proposal for the regionalization of the school district shall be adopted. The question shall be deemed adopted if it receives a vote in accordance with the provisions of N.J.S.18A:13-5. If the question is adopted by the voters, then the regional district shall be established or enlarged in accordance with chapter 13 of Title 18A of the New Jersey Statutes;

i. Promote coordination and regionalization of pupil transportation services through means such as reviewing bus routes and schedules of school districts and nonpublic schools within the county;

j. Review and approve, according to standards adopted by the commissioner, all employment contracts for superintendents of schools, assistant superintendents of schools, and school business administrators in school districts within the county, prior to the execution of those contracts;

k. Request the commissioner to order a forensic audit and to select an auditor for any school district in the county upon the determination by the executive county superintendent, according to standards adopted by the commissioner, that the accounting practices in the district necessitate such an audit;

l. Review all school budgets of the school districts within the county, and may, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), disapprove a portion of a school district's proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district or if he determines that the budget includes excessive non-instructional expenses. If the executive county superintendent disapproves a portion of the school district's budget pursuant to this paragraph, the school district shall deduct the disapproved amounts from the budget prior to publication of the budget, and during the budget year the school district shall not transfer funds back into those accounts;

m. Permit a district to submit to the voters a separate proposal or proposals for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if: (1) the district provides the executive county superintendent with written documentation that the district has made efforts to enter into shared arrangements with other districts, municipalities, counties, and other units of local government for the provision of administrative, business, purchasing, public and nonpublic transportation, and other required school district services; (2) the district certifies and provides written documentation that the district participates in on-going shared arrangements; or (3) the district certifies and provides written documentation that entering such shared arrangements would not result in cost savings or would result in additional expenses for the district;

n. Promote cooperative purchasing within the county of textbooks and other instructional materials;

o. Coordinate with the Department of Education to maintain a real time Statewide and district-wide database that tracks the types and capacity of special education programs being implemented by each district and the number of students enrolled in each program to identify program availability and needs;

p. Coordinate with the Department of Education to maintain a Statewide and district-wide list of all special education students served in out-of-district programs and a list of all public and private entities approved to receive special education students that includes pertinent information such as audit results and tuition charges;

q. Serve as a referral source for districts that do not have appropriate in-district programs for special education students and provide those districts with information on placement options in other school districts;

r. Conduct regional planning and identification of program needs for the development of in-district special education programs;

s. Serve as a liaison to facilitate shared special education services within the county including, but not limited to direct services, personnel development, and technical assistance;

t. Work with districts to develop in-district special education programs and services including providing training in inclusive education, positive behavior supports, transition to adult life, and parent-professional collaboration;

u. Provide assistance to districts in budgetary planning for resource realignment and reallocation to direct special education resources into the classroom;

v. Report on a regular basis to the commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled students;

w. Render a report to the commissioner annually on or before September 1, in the manner and form prescribed by him, of such matters relating to the schools under his jurisdiction as the commissioner shall require; and

x. Perform such other duties as shall be prescribed by law.

Any budgetary action of the executive county superintendent under this section may be appealed directly to the commissioner, who shall render a decision within 15 days of the receipt of the appeal. If the commissioner fails to issue a decision within 15 days of the filing of an appeal, the budgetary action of the executive county superintendent shall be deemed approved. The commissioner shall by regulation establish a procedure for such appeals.

Nothing in this section shall be construed or interpreted to contravene or modify the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or to limit or restrict the scope of negotiations as provided pursuant to law, or to require an employer to enter into a subcontracting agreement which affects the employment of any employee in a collective bargaining unit represented by a majority representative during the time that an existing collective bargaining agreement with the majority representative is in effect.

Nothing in this section is intended to interfere with a school district's ability to provide a thorough and efficient education.

Amended 2007, c.63, s.49.

18A:7-9 Administration of oaths without charge.

18A:7-9. The executive county superintendent may, without charge, administer oaths.

Amended 2007, c.63, s.50.

18A:7-10 Budget requests; appropriations.

18A:7-10. Each executive county superintendent shall, on or before December 1 of each year, furnish to the board of chosen freeholders of the county a statement of the amounts estimated to be necessary to be appropriated for the ensuing year for:

a. the compensation of his clerical assistants;

b. the supplying of furniture, supplies and equipment for his office;

c. printing; and

d. traveling and other expenses incident to the conduct and the performance of his official duties of his office incurred by him.

The board of chosen freeholders shall fix and determine the amounts necessary to be appropriated for such purposes and shall appropriate the same accordingly.

Amended 2007, c.63, s.51.

18A:7-11 Executive county business official, term.

53. The commissioner shall appoint an executive county business official to serve in the office of the executive county superintendent of schools for a term of three years. The executive county business official shall assist the executive county superintendent in the performance of the superintendent's duties pursuant to N.J.S.18A:7-8, and perform such other duties as determined by the commissioner. Based on criteria developed by the commissioner, the executive county business official shall be subject to a performance assessment at least once during the three-year term. The business official may be re-appointed on the basis of a satisfactory performance assessment.

L.2007, c.63, s.53.

18A:7-12 Application for services assumed by the office of the superintendent.

54. A local school district may apply to the executive county superintendent of schools to have school district services including, but not limited to, transportation, personnel, purchasing, payroll, and accounting, assumed by the office of the superintendent. If the executive county superintendent determines to assume a service, a fee may be assessed the school district for the service. The executive county superintendent of schools may utilize county special services school districts, jointure commissions, and educational services commissions to provide services to local school boards.

L.2007, c.63, s.54

18A:7-13 Appointment of executive county superintendent of schools.

55. a. When the office of county superintendent is vacated through the completion of a current term or for any other reason, the Governor, upon the recommendation of the Commissioner of Education, shall appoint an executive county superintendent of schools pursuant to N.J.S.18A:7-1.

b. When the position of executive county business official is vacated through the completion of a current term or for any other reason, the commissioner shall appoint an executive county business official pursuant to section 53 of P.L.2007, c.63 (C.18A:7-11).

L.2007, c.63, s.55.

18A:7-14 Term county superintendent deemed to refer to executive county superintendent of schools.

56. Whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding or otherwise, reference is made to the office of the county superintendent of schools, the same shall mean and refer to the office of the executive county superintendent of schools.

L.2007, c.63, s.56.

18A:7-15 Limitation on post employment for executive county superintendent.

57. An executive county superintendent of schools shall not accept employment in any school district which was under his supervision in that position for a period of two years commencing on the day his term as executive county superintendent terminates.

L.2007, c.63, s.57.

18A:7-16 Rules, regulations.

58. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) or any other law to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), which shall be effective for a period not to exceed 12 months following the effective date of P.L.2008, c.37 (C.18A:11-13 et al.). The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

L.2007, c.63, s.58; amended 2008, c.37, s.5.

18A:7A-3 Definitions.

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

"Administrative order" means a written directive ordering specific corrective action by a district which has shown insufficient compliance with the quality performance indicators.

"Highly skilled professional" means a designee of the commissioner deemed to have the skills and experience necessary to assist a school district in improving its effectiveness or to provide oversight in a school district in one or more of the five key components of school district effectiveness.

"Joint Committee on the Public Schools" means the committee created pursuant to P.L.1975, c.16 (C.52:9R-1 et seq.).

"Technical assistance" means guidance and support provided to a school district to enable the district to meet State and federal policy and regulatory requirements and to ensure the provision of a thorough and efficient education. "Technical assistance" may include, but shall not be limited to, support of the teaching and learning process and overall school district effectiveness.

L.1975,c.212,s.3; amended 1978, c.158, s.4; 1979, c.207, s.3; 1979, c.353; 1979, c.388, s.4; 1980, c.105, s.2; 1981, c.415, ss.4,9(amended 1982, c.100); 1985, c.50, s.1; 1986, c.10; 1990, c.52, s.30; 1996, c.138, s.34; 2005, c.235, s.1; 2007, c.16, s.1.

18A:7A-10 New Jersey Quality Single Accountability Continuum for evaluating school performance.

10. For the purpose of evaluating the thoroughness and efficiency of all the public schools of the State, the commissioner, with the approval of the State board and after review by the Joint Committee on the Public Schools, shall develop and administer the New Jersey Quality Single Accountability Continuum for evaluating the performance of each school district. The goal of the New Jersey Quality Single Accountability Continuum shall be to ensure that all districts are operating at a high level of performance. The system shall be based on an assessment of the degree to which the thoroughness and efficiency standards established pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46) are being achieved and an evaluation of school district capacity in the following five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. A school district's capacity and effectiveness shall be determined using quality performance indicators comprised of standards for each of the five key components of school district effectiveness. The quality performance indicators shall take into consideration a school district's performance over time, to the extent feasible. Based on a district's compliance with the indicators, the commissioner shall assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district receives.

L.1975, c.212, s.10; amended 1996, c.138, s.35; 2005, c.235, s.2; 2007, c.16, s.2; 2007, c.260, s.22.

18A:7A-11 Reports by school districts, commissioner; interim review.

11. Each school district and county vocational school district shall make a report of its progress in complying with all of the quality performance indicators adopted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10) every three years, pursuant to a schedule to be established by the commissioner. In the years intervening between the district's three-year review, whenever the commissioner determines that conditions exist in a district that significantly and negatively impact the educational program or operations of the district, the commissioner may direct that the department immediately conduct a comprehensive review of the district. Nothing in this section shall preclude the commissioner, in his discretion, from conducting a random review of a school district to assess the district's compliance with the quality performance indicators.

The district reports shall be submitted to the commissioner on a date and in such form as prescribed by the commissioner, who shall make them the basis for an annual report to the Governor and the Legislature, describing the condition of education in New Jersey, the efforts of New Jersey schools in meeting the standards of a thorough and efficient education, the steps underway to correct deficiencies in school performance, and the progress of New Jersey schools in comparison to other state education systems in the United States.

L.1975,c.212,s.11; amended 1976, c.97, s.4; 1996, c.138, s.36; 2000, c.72, s.31; 2005, c.235, s.3; 2007, c.16, s.3.

18A:7A-13. Biennial message of Governor to legislature

Thereafter, the Governor shall deliver a biennial message to the Legislature on the progress of New Jersey's schools in providing a thorough and efficient education and recommending legislative action, if appropriate.

L.1975, c. 212, s. 13, eff. July 1, 1975.

18A:7A-14 Review, evaluation of reports, performance continuum placement, procedure.

14. a. The commissioner shall review the results of the report submitted pursuant to sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11) and after examination of all relevant data, including student assessment data, determine where on the performance continuum the district shall be placed. The commissioner, through collaboration, shall establish a mechanism for parent, school employee and community resident input into the review process. If the commissioner finds that a school district or county vocational school district satisfies 80 percent to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner shall issue to the district a letter of recognition designating the district as a high performing district, provided that the district has submitted to the department a statement of assurance which attests that the contents of the report are valid. The commissioner shall recommend that the State board certify the school district for a period of three years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

b. If a school district satisfies 50 percent to 79 percent of the quality performance indicators in any of the five key components of school district effectiveness, the commissioner shall require the district to develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to and approved by the commissioner. In accordance with the improvement plan, the commissioner shall provide technical assistance to the district. If necessary, the commissioner may authorize an in-depth evaluation of the district to determine the causes for the district's noncompliance with the quality performance indicators.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. If the commissioner finds, based on those reviews, that after two years the district has not satisfied 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner may require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

If a district effectively implements its improvement plan and is able to satisfy 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness through the interventions set forth in this subsection, the commissioner shall issue the district a letter of recognition designating the district as a high performing district. The commissioner shall recommend that the State board certify the school district for a period of three years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators. If the district has not effectively implemented its improvement plan and has not satisfied 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness through the interventions set forth in this subsection, the commissioner shall issue the district a letter detailing the areas in which the district remains deficient.

c. (1) If a school district satisfies less than 50 percent of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner shall authorize an in-depth evaluation of the district's performance and capacity unless the commissioner determines that a comprehensive evaluation of the district by or directed by the department has occurred within the last year. Based on the findings and recommendations of that evaluation, the district, in cooperation with the department, shall develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to the commissioner for approval. Upon approval, the commissioner shall provide the district with the technical assistance outlined in the plan and shall assure that the district's budget provides the resources necessary to implement the improvement plan.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. The reviews shall include an on-site visit. If the commissioner finds, based on those reviews, that after two years the district has not satisfied at least 50% of the quality performance indicators in each of the key components of school district effectiveness, the commissioner may require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

Nothing in this paragraph shall be construed to prohibit the State board from directing the district to enter partial State intervention prior to the expiration of the two-year period.

(2) The district's improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance to the district in the areas in which it has failed to satisfy the quality performance indicators. Each highly skilled professional shall work collaboratively with the district to increase local capacity in the areas of need identified in the improvement plan. The cost for the compensation of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost and the school district being responsible for one-half of the cost.

(3) If the district satisfies less than 50% of the quality performance indicators in one to four of the five key components of school district effectiveness, the commissioner may also order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented. The plenary hearing before a judge of the Office of Administrative Law pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause, shall be conducted on an expedited basis and in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes. In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, the commissioner shall have the power to order necessary budgetary changes within the district or other measures the commissioner deems appropriate to establish a thorough and efficient system of education.

If the board fails to show cause why an administrative order placing the district under partial State intervention should not be implemented, the commissioner shall recommend to the State board that it issue an order placing the district under partial State intervention. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may place the district under partial State intervention. Nothing herein shall limit the right of any party to appeal the State board's order to the Superior Court, Appellate Division.

(4) If the position of superintendent of schools is vacant in a district under partial State intervention, the State board upon the recommendation of the commissioner may appoint a superintendent who shall serve for an initial period not to exceed two years.

(5) In addition to the highly skilled professionals appointed pursuant to paragraph (2) of this subsection to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the local board of education, may appoint one or more highly skilled professionals in a district under partial State intervention to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professional shall represent the interests of the commissioner in all matters relating to the component of school district effectiveness that is under intervention and over which the highly skilled professional is providing direct oversight. The powers and authorities of the highly skilled professional shall include, but not be limited to:

(a) overseeing the operations of the district in the area of intervention over which the highly skilled professional is assigned to provide direct oversight;

(b) ensuring the development and implementation of the district improvement plan with respect to the area over which the highly skilled professional is assigned to provide direct oversight;

(c) overriding a chief school administrator's action and a vote by the board of education regarding matters under direct oversight of the highly skilled professional;

(d) attending all meetings of the board of education, including closed sessions; and

(e) obligating district funds for matters relating to the area under State intervention over which the highly skilled professional is providing direct oversight.

In the event that there is a need to hire, promote, or terminate employees working in the area of intervention over which the highly skilled professional is assigned to provide direct oversight, the hiring, promotion, and termination of those employees shall be determined by the State board upon the recommendation of the commissioner.

The highly skilled professional shall work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan.

When the commissioner appoints more than one highly skilled professional in a district under partial State intervention, he shall delineate the scope and extent of authority of each highly skilled professional appointed and shall establish a decision-making hierarchy for the highly skilled professionals and personnel in the district. The highly skilled professional shall report directly to the commissioner or his designee on a bi-weekly basis and shall report monthly to the board of education and members of the public at the regularly scheduled board of education meeting. The salary of a highly skilled professional appointed pursuant to this paragraph shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost of the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost and the school district being responsible for one-half of the cost. For the purpose of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the highly skilled professional appointed pursuant to this paragraph shall be considered a State officer.

(6) With the State board's approval the commissioner may appoint up to three additional members to the board of education of a district under partial State intervention. The board of education's membership shall remain increased by these additional seats until the State withdraws from intervention. If the commissioner appoints three additional members pursuant to this paragraph, the commissioner shall appoint one of these additional members from a list of three candidates provided by the local governing body of the municipality in which the school district is located. The commissioner shall make every effort to appoint residents of the district. A board member appointed by the commissioner shall be a nonvoting member of the board and shall have all the other rights, powers and privileges of a member of the board. A board member appointed by the commissioner shall report to the commissioner on the activities of the board of education and shall provide assistance to the board of education on such matters as deemed appropriate by the commissioner, including, but not limited to, the applicable laws and regulations governing specific school board action. A member appointed by the commissioner shall serve for a term of two years. The commissioner shall obtain approval of the State board for any extension of the two-year term. Any vacancy in the membership appointed by the commissioner shall be filled in the same manner as the original appointment.

If a board of education is subject to additional appointments pursuant to section 67 of P.L.2002, c.43 (C.52:27BBB-63), then the provisions of this paragraph shall not be applicable during the period in which the board is subject to those appointments.

Six months following the district being placed under partial State intervention, the commissioner shall determine whether or not the board members he has appointed shall become voting members of the board of education. If the commissioner determines that the board members he has appointed shall become voting members, the school district shall have 30 days to appeal the commissioner's determination to the State Board of Education.

(7) Based on the district's success in implementing its improvement plan, the commissioner shall make a determination to withdraw from intervention in one or more of the areas that have been under State intervention, to leave one or more areas under State intervention or to recommend to the State Board of Education that the district be placed under full State intervention.

If the commissioner determines that the district has successfully implemented the improvement plan and achieved sufficient progress in satisfying the performance indicators in one or more areas under intervention, the State shall withdraw from intervention in the district in those areas.

d. (Deleted by amendment, P.L.2005, c.235.)

e. (1) If a school district satisfies less than 50 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner shall authorize an in-depth evaluation of the district's performance and capacity, unless the commissioner determines that a comprehensive evaluation of the district by or directed by the department has occurred within the last year. Based on the findings and recommendations of that evaluation, the district, in cooperation with the department, shall develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to the commissioner for approval. Upon approval, the commissioner shall provide the district with the technical assistance outlined in the plan and shall assure that the district's budget provides the resources necessary to implement the improvement plan.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. The reviews shall include an on-site visit. If the commissioner finds, based on those reviews, that after two years the district has not satisfied at least 50% of the quality performance indicators in each of the key components of school district effectiveness, the commissioner may require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

Nothing in this paragraph shall be construed to prohibit the State board from directing the district to enter full State intervention prior to the expiration of the two-year period.

(2) The district's improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance to the district in the areas in which it has failed to satisfy the quality performance indicators. Each highly skilled professional shall work collaboratively with the district to increase local capacity in the areas of need identified in the improvement plan. The cost for the compensation of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost and the school district being responsible for one-half of the cost.

L.1975,c.212,s.14; amended 1976, c.97, s.5; 1987, c.398, s.2; 1990, c.52, s.31; 1991, c.3, s.3; 1996, c.138, s.37; 2005, c.235, s.4; 2007, c.16, s.4.

18A:7A-14a Findings, declarations relative to school district evaluation and monitoring.

24. The Legislature finds and declares that:

a. It is the constitutional obligation of the Legislature to provide all children in New Jersey with a thorough and efficient system of free public schools;

b. The breadth and scope of such a system are defined by the Legislature through the commissioner and the State board pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) so as to insure quality educational programs for all children;

c. It is imperative that the program in every school district in this State includes all of the major elements identified as essential for that system consistent with standards adopted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10);

d. It is the responsibility of the State to insure that any school district which is shown to be deficient in one or more of these major elements takes corrective actions without delay in order to remedy those deficiencies;

e. This responsibility can be fulfilled, in addition to the mechanism for ensuring compliance established pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6), through an effective and efficient system of evaluation and monitoring which will insure quality and comprehensive instructional programming in every school district and provide for immediate and direct corrective action to insure that identified deficiencies do not persist, and which does so within the context of the maximum of local governance and management and the minimum of paperwork and unnecessary procedural requirements.

L.2007, c.16, s.24; amended 2007, c.260, s.23.

18A:7A-15 Hearing on State intervention, corrective action; full State intervention; withdrawal.

15. a. In addition to procedures established pursuant to subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner may order the local board to show cause why an administrative order placing the district under full State intervention should not be implemented. The plenary hearing before a judge of the Office of Administrative Law, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause, shall be conducted on an expedited basis and in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes. In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, the commissioner shall have the power to order necessary budgetary changes within the district or other measures the commissioner deems appropriate to establish a thorough and efficient system of education.

If the board fails to show cause why an administrative order placing the district under full State intervention should not be implemented, the commissioner shall recommend to the State board that it issue an order placing the district under full State intervention. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may place the district under full State intervention. Nothing herein shall limit the right of any party to appeal the State board's order to the Superior Court, Appellate Division.

b. In districts under full State intervention the State board, upon the recommendation of the commissioner, may appoint a State district superintendent to serve for an initial term not to exceed three years.

c. In addition to the highly skilled professionals appointed pursuant to paragraph (2) of subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the local board of education, may appoint one or more highly skilled professionals in a district under full State intervention to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professional shall represent the interests of the commissioner in all matters relating to the component of school district effectiveness that is under the intervention and over which the highly skilled professional is providing direct oversight. The powers and authorities of the highly skilled professional shall include, but not be limited to:

(1) overseeing the operations of the district in the area of intervention over which the highly skilled professional is assigned to provide direct oversight;

(2) ensuring the development and implementation of the district improvement plan with respect to the area over which the highly skilled professional is assigned to provide direct oversight;

(3) overriding a chief school administrator's action and a vote by the board of education regarding matters under direct oversight of the highly skilled professional;

(4) attending all meetings of the board of education, including closed sessions; and

(5) obligating district funds for matters relating to the area under State intervention over which the highly skilled professional is providing direct oversight.

The highly skilled professional shall work collaboratively with the superintendent or the State district superintendent, as applicable, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan.

When the commissioner appoints more than one highly skilled professional in a district under full State intervention, he shall delineate the scope and extent of authority of each highly skilled professional appointed and shall establish a decision-making hierarchy for the highly skilled professionals, district personnel and the State district superintendent, if applicable. The highly skilled professional shall report directly to the commissioner or his designee on a bi-weekly basis and shall report monthly to the board of education and members of the public at the regularly scheduled board of education meeting. The salary of the highly skilled professional appointed pursuant to this paragraph shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost of the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost and the school district being responsible for one-half of the cost. For the purpose of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the highly skilled professional appointed pursuant to this paragraph shall be considered a State officer.

d. If the district has successfully implemented the improvement plan and achieved sufficient progress in satisfying the performance indicators in one or more areas under intervention, the State shall withdraw from intervention in the district in those areas in accordance with the provisions of section 16 of P.L.1987, c.399 (C.18A:7A-49).

L.1975,c.212,s.15; amended 1987, c.398, s.3; 2005, c.235, s.5; 2007, c.16, s.5.

18A:7A-15.1 Authority of State board.

5. Pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the State board shall have authority to:

a. approve the appointment by the commissioner of up to three additional members to the school board;

b. upon recommendation of the commissioner create a school district under full State intervention; and

c. appoint, upon recommendation of the commissioner, a State district superintendent of schools to direct the operations of the district in accordance with the improvement plan established pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14).

L.1987,c.398,s.5; amended 2005, c.235, s.6; 2007, c.16, s.6.

18A:7A-16. Failure or refusal to comply with administrative order; application to court for order directing compliance

Should the local board of education fail or refuse to comply with an administrative order issued pursuant to section 15 of this act, the State board shall apply to the Superior Court by a proceeding in lieu of prerogative writ for an order directing the local school board to comply with such administrative order.

L.1975, c. 212, s. 16, eff. July 1, 1975.

18A:7A-29. Powers of state board, commissioner or local boards; effect of act

Nothing in this act shall be construed to deny the State board, commissioner or local boards of education powers granted to them elsewhere in Title 18A of the New Jersey Statutes, except as expressly provided herein.

L.1975, c. 212, s. 46, eff. July 1, 1975.

18A:7A-30. State board of education; powers and duties

The State Board of Education shall promulgate rules and adopt policies, subject to the "Administrative Procedure Act." P.L.1968, c. 410 (C. 52:14B-1 et seq.), make all determinations and exercise such powers of visitation as are necessary for the proper administration of this act.

L.1975, c. 212, s. 47, eff. July 1, 1975.

18A:7A-31.2 Report on order to establish school district under full State intervention.

3. Whenever the State Board of Education issues an administrative order establishing a school district under full State intervention pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the commissioner shall immediately inform the Joint Committee on the Public Schools of that administrative order, and shall advise the

committee as to the causes of the district's failure to achieve the requisite compliance with the quality performance indicators.

L.1987,c.400,s.3; amended 2005, c.235, s.7.

18A:7A-31.3 Improvement plan; report on progress; monitoring.

4. a. Within six months following the establishment of a school district under full State intervention, the commissioner shall present to the Joint Committee on the Public Schools the improvement plan developed by the district.

b. On an annual basis the commissioner shall provide a report to the committee on the progress made in the implementation of the improvement plan and the prospects for the State's withdrawal from intervention.

c. The Joint Committee on the Public Schools, in cooperation with the commissioner, may develop a plan for monitoring the administration of a school district under full State intervention and the implementation of the improvement plan. The plan developed by the committee shall include provisions for independent documentation and assessment.

L.1987,c.400,s.4; amended 2005, c.235, s.8.

18A:7A-32. Severability

If any clause, sentence, subdivision, paragraph, subsection or section of this act is held to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, subsection or section thereof directly involved in the controversy in which said judgment shall have been rendered.

L.1975, c. 212, s. 53, eff. July 1, 1975.

18A:7A-33. Repeals

All acts and parts of acts inconsistent with this act are repealed, and without limiting the general effect of this act in repealing acts so inconsistent herewith, the following acts and parts of acts together with all amendments and supplements thereto are specifically repealed:

N.J.S. 18A:13-22

N.J.S. 18A:13-25

N.J.S. 18A:38-2.1

N.J.S. 18A:58-1 to 18A:58-5.4, inclusive

P.L.1968, c. 340 (C. 18A:58-5.5)

P.L.1973, c. 224 (C. 18A:58-5.6)

P.L.1970, c. 234, s. 9 (C. 18A:58-6.3)

N.J.S. 18A:58-8

N.J.S. 18A:58-10

N.J.S. 18A:58-13

P.L.1970, c. 234, s. 15 (C. 18A:58-18.1)

N.J.S. 18A:58-20 to 18A:58-24, inclusive

N.J.S. 18A:58-27

P.L.1968, c. 289, s. 1 (C. 18A:58-27.1)

N.J.S. 18A:58-29

N.J.S. 18A:58-30 to 18A:58-31, inclusive

N.J.S. 18A:58-33 to 18A:58-33.1, inclusive.

L.1975, c. 212, s. 54, eff. July 1, 1975.

18A:7A-34 Creation of school district under full State intervention.

1. Whenever the Commissioner of Education shall determine after the issuance of an administrative order that a local school district has failed to assure a thorough and efficient system of education, the State Board of Education may issue an administrative order as set forth in section 15 of P.L.1975, c.212 (C.18A:7A-15) which shall create a school district under full State intervention. The school district under full State

intervention shall become effective immediately upon issuance of the administrative order by the State board.

L.1987,c.399,s.1; amended 2005, c.235, s.9.

18A:7A-35 State district superintendent.

2. a. The schools of a school district under full State intervention may be conducted by and under the supervision of a State district superintendent of schools appointed by the State board upon recommendation of the commissioner. The individual selected shall be qualified by training and experience for the particular district and shall work collaboratively with any highly skilled professionals appointed by the commissioner, in consultation with the local board of education.

The State board may, upon the recommendation of the commissioner, choose to retain the person who holds the position of superintendent of schools in the school district at the time the State board issues the administrative order pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15). If the State board chooses to retain the superintendent of schools, the person shall have the powers and duties of a State district superintendent of schools and shall comply with the directives of the commissioner or his designee, including any highly skilled professional appointed by the commissioner.

b. If the State board appoints a State district superintendent the appointment shall be for an initial term not to exceed three years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating the superintendent's services pursuant to the terms of the superintendent's individual contract of employment. For the purpose of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State district superintendent shall be considered a State officer.

c. The salary of the State district superintendent shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost for said salary and for the salaries of all persons appointed pursuant to this amendatory and supplementary act, except the highly skilled professionals, shall be an expense of the local school district.

d. The State district superintendent shall perform such duties and possess such powers as deemed appropriate by the commissioner.

e. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent shall have the power to perform all acts and do all things that the commissioner deems necessary for the proper conduct, maintenance and supervision of the schools in the district.

f. The State district superintendent may, if deemed appropriate by the commissioner, make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.

g. The State district superintendent shall provide in each school a mechanism for parent, teacher and community involvement. In addition, the State district superintendent shall provide for at least one public meeting in both the fall and the spring semesters to advise parents and members of the community on the activities within the district and to provide an opportunity for those parents, teachers and community members who wish to be heard. The meetings shall be at such times and places as to ensure maximum public participation.

h. The State district superintendent shall ensure that the district is in compliance with all federal and State laws, rules and regulations relating to equal employment opportunities, affirmative action and minority business opportunities.

L.1987,c.399,s.2; amended 1995, c.179, s.1; 2005, c.235, s.10; 2007, c.16, s.7.

18A:7A-36. Certificate required

No person shall be appointed to any position pursuant to this amendatory and supplementary act unless the person shall hold an appropriate certificate as prescribed by the State Board of Examiners.

L. 1987, c. 399, s. 3.

18A:7A-37 Corporate entity.

4. A school district placed under full or partial State intervention shall remain a corporate entity.

L.1987,c.399,s.4; amended 2005, c.235, s.11.

18A:7A-38 Permissive powers of State district superintendent.

5. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent in a school district under full State intervention may be given the power to:

a. Enforce the rules of the State board; and

b. Perform all acts and do all things, consistent with law and the rules of the State board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district.

L.1987,c.399,s.5; amended 2005, c.235, s.12; 2007, c.16, s.8.

18A:7A-39 Authority of State district superintendent.

6. a. The State district superintendent may in a school district under full State intervention:

(1) Sue in the district's corporate name and likewise submit to arbitration and determination disputes and controversies in the manner provided by law;

(2) Cause a report of the condition of the public schools and the public school property and an itemized account of the condition of the finances of the district to be printed and published as soon as practicable after the close of each school year; and

(3) Cause an exact census to be taken annually of all children residing in the district between the ages of five and 18 years, including such other information as he or she may deem necessary or proper and appoint, for the purpose of taking that census, as many suitable persons as may be necessary to act as enumerators and fix their compensation, which compensation shall be paid as a current expense.

b. A school district under full State intervention may be sued under its corporate name.

c. School districts under full State intervention may join with local boards of education for the purpose of affording the districts those benefits which may accrue pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.).

d. A school district under full State intervention shall be subject to all provisions of chapter 19 of Title 18A of the New Jersey Statutes except that all warrants for claims or expenditures approvable by a district board of education or any action required of a district board of education pursuant to chapter 19 may be authorized by the State district superintendent.

e. Authority for the implementation of any provision of chapter 20 of Title 18A of the New Jersey Statutes relative to the acquisition and disposition of property which requires action by a district board of education may, in a school district under full State intervention, be exercised by the State district superintendent.

f. The authority and powers vested in boards of education by chapter 21 of Title 18A of the New Jersey Statutes may in a school district under full State intervention be vested in the State district superintendent.

g. School districts under full State intervention shall be subject to all requirements set forth in chapter 18A of Title 18A of the New Jersey Statutes except that such determination as may be required of a district board of education by the provisions of said law may be rendered by the State district superintendent.

L.1987,c.399,s.6; amended 2005, c.235, s.13; 2007, c.16, s.9.

18A:7A-40 Collective bargaining agreements.

7. a. When a district under full State intervention is established, pursuant to section 1 of P.L.1987, c.399 (C.18A:7A-34), or when the State withdraws from intervention, pursuant to section 16 of P.L.1987, c.399 (C.18A:7A-49), collective bargaining agreements entered into by the school district shall remain in force, except where otherwise expressly provided in P.L.1987, c.399 (C.18A:7A-34 et seq.).

b. Except where otherwise expressly provided in P.L.1987, c.399 (C.18A:7A-34 et seq.), all teaching staff members and other employees of a district under full State intervention shall retain and continue to acquire all rights and privileges acquired pursuant to Title 18A of the New Jersey Statutes. After the State withdraws from intervention, the board shall preserve and recognize all rights and privileges acquired prior to and during the State intervention in the district.

L.1987,c.399,s.7; amended 2005, c.235, s.14.

18A:7A-41 Internal audit team.

8. There may be established within a school district under full State intervention an internal audit team which shall monitor the business functions of the district and report its findings to the commissioner and any district personnel deemed appropriate by the commissioner. The cost of providing this internal audit function shall be borne by the State.

L.1987,c.399,s.8; amended 2005, c.235, s.15.

18A:7A-42 Officers, employees, consultants.

9. a. In a school district under full State intervention, all officers, employees and consultants, professional and nonprofessional, certified and noncertified, shall be employed or retained, transferred and removed in accordance with the improvement plan which has been approved by the commissioner. In accordance with that plan:

(1) The State district superintendent may appoint, transfer and remove clerks, pursuant to the provisions of Title 11A (Civil Service) of the New Jersey Statutes and the provisions of N.J.S.18A:17-1 et seq.

(2) The State district superintendent, subject to the approval of the commissioner, shall appoint and set the salaries of such State assistant superintendents as the superintendent shall deem necessary and assign to them their duties and responsibilities. No State assistant superintendent shall acquire tenure, notwithstanding any other provision of law.

(3) The State district superintendent of schools shall, subject to the approval of the commissioner or his designee, make all personnel determinations relative to employment, transfer and removal of all officers and employees, professional and nonprofessional, except that the services of the district auditor or auditors and attorney or attorneys shall be immediately terminated by creation of a school district under full State intervention.

b. The State district superintendent may delegate to subordinate officers or employees in the district any of his powers and duties as he may deem desirable to be exercised under his supervision and direction.

L.1987,c.399,s.9; amended 2005, c.235, s.16; 2007, c.16, s.10.

18A:7A-43 Tenure rights.

10. Except as otherwise provided in this amendatory and supplementary act, any person serving under tenure or permanent civil service status shall retain all tenure rights and may continue to serve in the district pursuant to the provisions of this section. However, they shall perform only such duties as prescribed in the improvement plan which has been approved by the commissioner and those duties for which they may be appropriately certified.

L.1987,c.399,s.10; amended 2005, c.235, s.17.

18A:7A-44 Abolition of administrative positions; reorganization.

11. a. Notwithstanding any other provision of law or contract, the positions of the district's chief school administrator and those executive administrators responsible for curriculum, business and finance, and personnel may be abolished upon creation of the school district under full State intervention. The affected individuals shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any individual whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the district. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

b. Within 180 days of the establishment of the school district under full State intervention, the State district superintendent may prepare a reorganization of the district's central administrative and supervisory staff and may evaluate all individuals employed in central administrative and supervisory staff positions. The State district superintendent may implement the reorganization on the July 1 next following its preparation, unless otherwise directed by the commissioner. The State district superintendent shall retain the authority to prepare a reorganization and to evaluate all employed individuals after the expiration of the 180-day period.

c. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and noninstructional, other than those positions abolished pursuant to subsection a. of this section, may be abolished upon the reorganization of the staff of the school district under full State intervention. The State district superintendent may hire an individual whose position is so abolished, based upon the evaluation of the individual and the staffing needs of the reorganized district staff. These individuals shall be hired with tenure if they had tenure in their prior position. If they did not have tenure in their prior position, they may obtain tenure pursuant to the provisions of N.J.S.18A:28-6. Individuals hired as State assistant superintendents shall not be hired with tenure and shall not acquire tenure. Employees or officers not hired for the reorganized staff shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Notwithstanding this limitation, nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved

tuition costs. Any employee whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the employee may be entitled by virtue of tenure or seniority within the district. No employee whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

L.1987,c.399,s.11; amended 1995, c.179, s.2; 2005, c.235, s.18; 2007, c.16, s.11.

18A:7A-45 Evaluation of principals, vice-principals.

12. a. The Commissioner of Education shall adopt criteria for the evaluation of building principals and vice-principals in a school district under full State intervention.

b. Upon appointment, the State district superintendent may establish an assessment unit to conduct on-site evaluations of each building principal and vice-principal in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent. No less than three evaluations shall be performed for each building principal and vice-principal within 18 months following the establishment of the school district under full State intervention. All personnel records for building principals and vice-principals prepared before the establishment of the district under full State intervention shall be sealed upon issuance of the State Board of Education order establishing the school district under full State intervention.

c. Notwithstanding any other provision of law or contract, the State district superintendent, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal or vice-principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal or vice-principal performance in districts under full State intervention established by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal or vice-principal prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals or vice-principals shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except that the State district superintendent shall act as the board of education in all respects.

d. The commissioner and the Office of Administrative Law are empowered and directed to take any necessary action to expedite hearings for dismissal of tenured principals or vice-principals, including relaxation of any time requirements established by law or practice. In no event shall a hearing commence later than 45 days after certification of charges. Hearings shall be completed within 45 days of commencement. In no event shall a final decision be issued later than 120 days following the certification of charges.

e. Evaluations of building principals or vice-principals conducted by district personnel prior to the establishment of the school district under full State intervention shall not be admissible in a tenure hearing for any building principal or vice-principal except in the following circumstances:

(1) Evaluations of building principals or vice-principals performed by members of the central administrative and supervisory staff who are hired to fill one of the positions in the reorganized central office of the district under full State intervention shall be admissible;

(2) Evaluations of building principals or vice-principals made by individuals who were no longer employed by the school district as of the date it became a school district under full State intervention shall be admissible only if the evaluation was performed more than five years preceding the date of the establishment of the district under full State intervention.

L.1987,c.399,s.12; amended 1995, c.179, s.3; 2005, c.235, s.19; 2007, c.16, s.12.

18A:7A-46 Procedure for creation, conduct.

13. a. School districts under full State intervention shall be created only as provided pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15).

b. School districts under full State intervention may be conducted by and under the supervision of a State district superintendent appointed by the State Board of Education upon recommendation of the commissioner.

L.1987,c.399,s.13; amended 2005, c.235, s.20.

18A:7A-46.1 Capital Project Control Board.

1. a. In any school district under full State intervention created pursuant to the provisions of P.L.1975, c.212 (C.18A:7A-1 et seq.) there may be established a Capital Project Control Board, hereinafter the board, to be responsible for the review of any capital project proposed by the State district superintendent, provided that the State

district superintendent proposes that the capital project be financed in whole or in part by school bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board shall also be responsible for the certification to the State district superintendent of schools and the commissioner of the necessity for the capital project and the certification of the appropriation to be made by the governing body of the municipality.

b. The board shall consist of five voting members. One member shall be appointed by the Commissioner of Education and two members shall be appointed by the chief executive officer with the consent of a majority of the full membership of the local governing body of the municipality or municipalities in which the school district is located. If the school district is comprised of two municipalities, each municipality shall be entitled to one member, appointed by the executive officer with the consent of the governing body. If the school district is comprised of more than two municipalities, each of the two municipalities with the largest population according to the most recent federal decennial census shall be entitled to one member, appointed by the executive officer with the consent of the governing body. However, if a local governing body fails to agree upon the selection of either board member appointed by an executive officer, then the Commissioner of Education shall make the appointment. One member shall be appointed by the Director of the Division of Local Government Services in the Department of Community Affairs who shall have experience in the area of local finance and capital projects. The fifth member shall be the State district superintendent of schools who shall serve ex-officio and shall act as chairperson of the board. The board members, except for the State district superintendent, shall each serve for a term of one year commencing on July 1 of each year and expiring on June 30 of the following year. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. Members of the board may be employees of the State or any subdivision thereof. All members of the board shall serve without compensation.

c. The board shall meet from time to time upon the request of the State district superintendent. All meetings of the board shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). The State district superintendent shall be charged with the responsibility of preparing a transcript of the proceedings and all votes shall be recorded in writing.

L.1991,c.139,s.1; amended 2000, c.72, s.32; 2005, c.235, s.21; 2007, c.16, s.13.

18A:7A-46.2 Board to hear recommendations concerning proposed capital projects.

2. In the event that a capital project control board is established pursuant to section 1 of P.L.1991, c.139 (C.18A:7A-46.1) the board shall hear the recommendation of the State district superintendent concerning any proposed capital project, which is to be financed in whole or in part by school bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall undertake all actions necessary to review the proposed capital project to determine whether the project will assist the school district under full State intervention in providing a thorough and efficient system of education in that district. In making this determination it may take into consideration factors such as the conditions in the school district, any applicable educational goals, the objectives and standards established by the State, the need for the capital project, the reasonableness of the amount to be expended for the capital project, the estimated time for the undertaking and completion of the capital project, and any other factors which the board may deem necessary including the relationship of the capital project to the long-term capital budget or plan of the school district and the fiscal implications thereof.

Following its review and within 60 days of the date on which the State district superintendent submits the recommendation to the board, the board shall adopt a resolution as to whether the school district under full State intervention should undertake the capital project and providing its reasons therefor. The board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary to be raised locally for the capital project. If the board fails to act within 60 days of the submission date, the State district superintendent shall submit the recommendation to the commissioner who shall approve or disapprove the capital project. If the board makes a decision which is contrary to the recommendation of the superintendent, the superintendent may, within 30 days from the date of the board's action, submit the matter to the commissioner for final decision. If the commissioner determines that a capital project should be undertaken, the commissioner shall so notify the board and shall indicate the amount necessary to be raised locally for the capital project. Upon notification, the board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary for the capital project as indicated by the commissioner. Certified copies of any resolution requesting the authorization and issuance of bonds and notes or the authorization of a lease purchase agreement shall be delivered to the State district superintendent, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs and the governing body of the municipality or municipalities in which the school district is located. The board shall not approve or recommend any capital project which is inconsistent with the provisions of N.J.S.18A:21-1.

L.1991,c.139,s.2; amended 2000, c.72, s.33; 2005, c.235, s.22; 2007, c.16, s.14.

18A:7A-46.3 Capital projects financed by issuance of bonds, notes.

3. Notwithstanding the provisions of any law to the contrary, the cost of any capital project authorized pursuant to this act which is to be funded by bonds or notes and certified by the board to the State district superintendent, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs and the governing body of the municipality or municipalities in which the school district is located shall be financed by the issuance of school bonds or notes pursuant to the provisions of chapter 24 of Title 18A of the New Jersey Statutes and the "Local Bond Law" (N.J.S.40A:2-1 et seq.) and the notes, school bonds or other obligations shall be authorized, issued, sold and delivered in the manner prescribed by the "Local Bond Law" (N.J.S.40A:2-1 et seq.).

L.1991,c.139,s.3; amended 2000, c.72, s.34; 2005, c.235, s.23; 2007, c.16, s.15.

18A:7A-46.4 Issuance of authorization of notes, bonds.

4. Any authorization of notes or bonds effective prior to the date of the appointment of the State district superintendent shall be issued in the manner prescribed by the "Local Bond Law" (N.J.S.40A:2-1 et seq.).

L.1991,c.139,s.4; amended 2005, c.235, s.24; 2007, c.16, s.16.

18A:7A-46.5. Cessation of existence of board

The board shall immediately cease to exist upon reestablishment of local control in the school district, pursuant to section 16 of P.L.1987, c.399 (C.18A:7A-49).

L.1991,c.139,s.5.

18A:7A-46.6 Debt service part of municipal budget.

6. The debt service on bonds, notes and other obligations authorized pursuant to P.L.1991, c.139 (C.18A:7A-46.1 et seq.) shall be appropriated and made part of the municipal budget and raised through the annual municipal tax levy. However, all debt service payments shall be included in the budget of the school district under full State intervention as the sum necessary for interest and debt redemption charges and shall be eligible for State education aid in the year in which the appropriation and expenditure are made.

L.1991,c.139,s.6; amended 2005, c.235, s.25.

18A:7A-47 Board of Education.

14. a. The State board shall retain the board of education in place at the time that the State board issues the administrative order creating the school district under full State intervention. With the State board's approval the commissioner may appoint up to three additional nonvoting members to the board of education. The board of education's membership shall remain increased by these additional seats until the State withdraws from intervention in the governance component of school district effectiveness. If the commissioner appoints three additional members pursuant to this subsection, the commissioner shall appoint one of these additional members from a list of three candidates provided by the local governing body of the municipality in which the school district is located. The commissioner shall make every effort to appoint residents of the district. The board of education shall have only those rights, powers and privileges of an advisory board. The members appointed by the commissioner shall serve for a term of two years. The commissioner shall obtain approval of the State board for any extension of the two-year term. Any vacancy in the membership appointed by the commissioner shall be filled in the same manner as the original appointment.

Six months following the district being placed under full State intervention, the commissioner shall determine whether or not the board members he has appointed shall become voting members of the advisory board of education. If the commissioner determines that the board members he has appointed shall become voting members, the school district shall have 30 days to appeal the commissioner's determination to the State Board of Education.

b. The State district superintendent may meet with the board as frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent, and the State district superintendent shall determine the agenda. At the meetings, the State district superintendent shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

c. The commissioner, in consultation with the New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

L.1987,c.399,s.14; amended 1995, c.179, s.4; 2005, c.235, s.26; 2007, c.16, s.17.

18A:7A-49 Reports of progress under full State intervention; transition to local control.

16. a. A school district under full State intervention shall make an annual report of its progress in complying with the quality performance indicators adopted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10). The commissioner shall formally report to the State board and to the Governor and the Legislature on the district's progress.

b. Based upon the annual report of progress, but not sooner than three years after the establishment of the school district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. If the State board so determines, the school district shall be placed under partial State intervention or designated as transitioning to local control or placed elsewhere on the performance continuum effective on the July 1 next ensuing.

c. Notwithstanding any other provision of law to the contrary, if a district under full State intervention is placed under partial State intervention, the board of education shall continue to have the rights, powers, and duties of an advisory board, until the district successfully meets the quality performance indicators for the governance component of school district effectiveness.

Despite the continuation of the board of education as an advisory board, the State board, upon the recommendation of the commissioner, may return some voting functions to the board of education as part of and in furtherance of the process of a transition to local control. If some voting functions are returned to the board of education, the commissioner or his designee shall have the authority to veto any action by the board of education until the governance component of school district effectiveness is returned to local control. A true copy of the minutes of every meeting of the board of education shall be forthwith delivered by and under the certification of the secretary thereof to the commissioner or his designee. No action taken at that meeting of the board of education shall have force or effect until 15 days after a copy of the minutes shall have been so delivered unless during that 15-day period the commissioner or his designee shall approve those minutes, in which case the action shall become effective upon that approval. If, in the 15-day period, the commissioner or his designee returns the copy of those minutes with a veto of any action taken by the board of education or any member thereof at that meeting, the action shall be null and void and of no effect.

d. In the event that the State board, upon the recommendation of the commissioner, has appointed a State district superintendent in a district under full State intervention, the State district superintendent shall continue to hold that position until the district successfully meets the quality performance indicators for the governance component of school district effectiveness. If the district is placed under partial State intervention and has successfully met the quality performance indicators for the governance component of school district effectiveness, or if the State has completely withdrawn from intervention and returned the district to local control, then the board of education shall be permitted to extend the contract of the superintendent who holds the position at the time that the district is placed under partial State intervention or is returned to local control, provide 18-months' notice to the superintendent to modify the contract, or allow the contract in effect to expire with the appropriate statutory notice pursuant to subsection b. of section 4 of P.L.1991, c.267 (C.18A:17-20.1).

e. If the district successfully meets the quality performance indicators for the governance component of school district effectiveness, not more than one year following the placement of the district under partial State intervention or return to local control, the board shall call a special election for purposes of placing the question of classification status before the voters of the district, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

f. If the voters of the district shall elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

g. If the voters of the district shall so select that the district shall become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

h. If the commissioner cannot recommend that the school district under full State intervention be placed under partial State intervention within three years, then the commissioner shall provide a comprehensive report to the State board and to the Governor and the Legislature, including a detailed analysis of the causes for the failure of the district to comply with the quality performance indicators and an assessment of the amount of time necessary for the continuation of the school district under full State intervention. On the basis of that report the State board shall determine whether to continue the school district under full State intervention or return the district to partial State intervention.

L.1987,c.399,s.16; amended 1995, c.179, s.6; 1995, c.278, s.25; 2005, c.235, s.27; 2007, c.16, s.18.

18A:7A-50 Budget development, presentation.

17. The State district superintendent in a school district under full State intervention shall develop a budget on or before March 22 and shall present this budget to the board of education to elicit the board's comments and recommendations. This budget shall conform in all respects with the requirements of chapter 22 of Title 18A of the New Jersey Statutes and shall be subject to the limitations on spending by local school districts otherwise required by P.L.1996, c.138 (C.18A:7F-1 et al.).

L.1987,c.399,s.17; amended 1990, c.52, s.32; 1992, c.159, s.6; 1995, c.278, s.38; 1996, c.138, s.39; 2005, c.235, s.28; 2007, c.16, s.19.

18A:7A-51 Public hearing.

18. Upon the preparation of its budget, the State district superintendent shall fix a date, place and time for the holding of a public hearing upon the budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year, and the various items and purposes for which the same are to be appropriated, which hearing shall be held between March 22 and March 29. Notice of the hearing, contents of the notice and the format and purpose of the hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and N.J.S.18A:22-13.

L.1987,c.399,s.18; amended 1992, c.159, s.7; 1995, c.278, s.40; 2005, c.235, s.29; 2007, c.16, s.20.

18A:7A-52 Determination of amount of appropriation for following school year.

19. a. After the public hearing provided for by section 18 of P.L.1987, c.399 (C.18A:7A-51) but not later than April 8, the State district superintendent shall fix and determine the amount of money necessary to be appropriated for the ensuing school year and shall certify the amounts to be raised by special district tax for school purposes as well as the sum necessary for interest and debt redemption, if any, to the county board of taxation and the amount or amounts so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district. The State district superintendent shall follow the procedures established pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

b. (Deleted by amendment, P.L.1996, c.138).

c. (Deleted by amendment, P.L.1996, c.138).

L.1987, c.399, s.19; amended 1990, c.52, s.33; 1992, c.159, s.8; 1996, c.138, s.40; 2005, c.235, s.30; 2007, c.16, s.21.

18A:7A-53 Evaluation of Level I district, Level II or III districts, methodology; transition to local control.

37. a. A district which has been certified as a Level I district by the State Board of Education as of the effective date of this act, shall be phased into the three-year evaluation process and, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school district effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-10). Based on a district's compliance with the quality performance indicators, the commissioner shall assess district effectiveness and place the district on the performance continuum. During the phase-in, a district which has not undergone an evaluation in the five key components of school district effectiveness shall continue to complete and submit a quality assurance annual report in accordance with State board regulations in effect prior to the effective date of P.L.2007, c.16.

b. A State-operated district or a district which has been certified as a Level II or a Level III district by the State Board of Education as of the effective date of this act, shall be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-10). The evaluation shall be completed within 120 days of the date on which rules promulgated by the commissioner pursuant to section 39 of this act (C.18A:7A-53.1) become effective. The commissioner shall establish a process for the receipt of comments from the public during the evaluation. The commissioner shall provide a report of the evaluation to the district within 30 days of the completion of the evaluation. The report shall contain the commissioner's determination of the district's placement on the

performance continuum. The district shall have 30 days from the date of receipt of the report to appeal the placement decision to the State board. The commissioner shall make a recommendation to the State Board of Education if the recommendation is to place the district under partial or full State intervention. The commissioner and State board shall take whatever action is appropriate based on the district's placement on the performance continuum.

c. Notwithstanding any other provision of law to the contrary, if a State-operated district is placed under partial State intervention, the board of education shall continue to have the rights, powers, and duties of an advisory board, until the district successfully meets the quality performance indicators for the governance component of school district effectiveness.

Despite the continuation of the board of education as an advisory board, the State board, upon the recommendation of the commissioner, may return some voting functions to the board of education as part of and in furtherance of the process of a transition to local control. If some voting functions are returned to the board of education, the commissioner or his designee shall have the authority to veto any action by the board of education until the governance component of school district effectiveness is returned to local control. A true copy of the minutes of every meeting of the board of education shall be forthwith delivered by and under the certification of the secretary thereof to the commissioner or his designee. No action taken at that meeting of the board of education shall have force or effect until 15 days after a copy of the minutes shall have been so delivered unless during that 15-day period the commissioner or his designee shall approve those minutes, in which case the action shall become effective upon that approval. If, in the 15-day period, the commissioner or his designee returns the copy of those minutes with a veto of any action taken by the board of education or any member thereof at that meeting, the action shall be null and void and of no effect.

d. If a State-operated school district evaluated pursuant to subsection b. of this section successfully meets the quality performance indicators for the governance component of school district effectiveness, then one year following the State's withdrawal from intervention in that component, the board of education shall call a special election for purposes of placing the question of classification status before the voters of the district, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

If the voters of the district elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

If the voters of the district elect to become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

e. The board of education of a State-operated school district that successfully meets the quality performance indicators for the governance component of school district effectiveness shall be permitted to extend the contract of the superintendent who holds the position at the time of the evaluation conducted pursuant to subsection b. of this section, provide 18-months' notice to the superintendent to modify the contract, or allow the contract in effect to expire with the appropriate statutory notice pursuant to subsection b. of section 4 of P.L.1991, c.267 (C.18A:17-20.1).

L.2005, c.235, s.37; amended 2007, c.16, s.22.

18A:7A-53.1 Rules, regulations; procedure for 36 months following enactment.

39. a. The State Board of Education shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act; except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may for a period of 12 months following the effective date of P.L.2007, c.16, adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the New Jersey Quality Single Accountability Continuum. The commissioner shall engage in a collaborative process with interested stakeholders in the education community prior to the adoption of rules and regulations for the 12-month period. All such rules and regulations adopted by the commissioner shall expire no later than 12 months following the effective date of P.L.2007, c.16 and shall thereafter be amended, adopted or re-adopted during the following 24-month period by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. All such rules and regulations adopted by the commissioner pursuant to subsection a. of this section shall expire no later than 36 months following the effective date of P.L.2007, c.16 and shall thereafter be amended, adopted or re-adopted by the State board in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2005, c.235, s.39; amended 2007, c.16, s.23.

18A:7A-54 Short title.

1. This act shall be known and may be cited as the "School District Fiscal Accountability Act."

L.2006,c.15,s.1.

18A:7A-55 Appointment of State monitor in certain school districts; duties.

2. a. In addition to the powers provided pursuant to P.L.2005, c.235, P.L.1996, c.138 (C.18A:7F-1 et al.), and P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law, the Commissioner of Education shall have the authority to appoint a State monitor and additional staff, as necessary, to provide direct oversight of a board of education's business operations and personnel matters if: the school district receives an adverse or a disclaimer of opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1; or any two or more of the following circumstances apply to the school district:

(1) the school district ends the fiscal year with a deficit balance as calculated for budgetary purposes in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(2) the school district receives a qualified opinion by its independent auditor in the annual audit required pursuant to N.J.S.18A:23-1;

(3) the school district receives an adverse, disclaimer, or qualified opinion by its independent auditor under the single audit section for State or federal awards in the annual audit required pursuant to N.J.S.18A:23-1;

(4) the school district receives any audit findings by its independent auditor identified as material weaknesses in internal controls;

(5) the school district fails to develop and implement a plan acceptable to the commissioner or his designee to address a potential or actual deficit balance in the general fund, special revenue fund, or capital projects fund, with the exception of a capital projects fund deficit caused by the issuance of bond anticipation notes;

(6) the school district fails to implement a plan from the prior year which causes any findings from the independent auditor to be repeated;

(7) the school district is required to return federal funds once it is determined that the school district's expenditures are not in compliance with the grant requirements; or

(8) the school district submits the annual audit after the submission date required pursuant to N.J.S.18A:23-1.

b. The State monitor shall:

(1) oversee the fiscal management and expenditures of school district funds, including, but not limited to, budget reallocations and reductions, approvals of purchase orders, budget transfers, and payment of bills and claims;

(2) oversee the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

(3) ensure development and implementation of an acceptable plan to address the circumstances set forth in subsection a. of this section which resulted in the appointment of the State monitor. The plan shall include measurable benchmarks and specific activities to address the deficiencies of the school district;

(4) oversee all district staffing, including the ability to hire, promote, and terminate employees;

(5) have authority to override a chief school administrator's action and a vote by the board of education on any of the matters set forth in this subsection, except that all actions of the State monitor shall be subject to the education, labor, and employment laws and regulations, including the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and collective bargaining agreements entered into by the school district;

(6) attend all meetings of the board of education, including closed sessions; and

(7) meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions.

c. The Commissioner of Education shall notify the State Board of Education following the appointment of a State monitor pursuant to subsection a. of this section. The State monitor shall report directly to the commissioner or his designee on a weekly basis. The State monitor shall also report monthly to the board of education and members of the public at the regularly scheduled board of education meeting.

d. For purposes of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., the State monitor shall be considered a State officer, but for all other purposes the State monitor shall be considered an employee of the district.

e. The State monitor shall provide oversight in the school district until the commissioner determines that all remedial actions required under the plan have been implemented and the necessary local capacity and fiscal controls have been restored to school district operations.

f. The salary of the State monitor shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The school district shall assume the total cost of the State monitor and necessary additional staff appointed pursuant to subsection a. of this section. The State monitor shall have the authority to appoint legal counsel if legal action is taken against him while acting in his official duties as a State monitor or as needed upon approval of the commissioner.

L.2006, c.15, s.2; amended 2007, c.53, s.16; 2007, c.260, s.24.

18A:7A-56 Recommendation of advance State aid payment to school district; repayment.

3. a. The Commissioner of Education shall recommend to the State Treasurer whether an advance State aid payment should be made to a school district for which a State monitor has been appointed. The commissioner's recommendation shall be based on whether the payment is necessary to ensure the provision of a thorough and efficient education. An advance State aid payment shall be recorded by the school district as revenue for budget purposes in the school year in which the advance State aid payment is provided.

b. The advance State aid payment shall be repaid by the school district through automatic reductions in the State aid provided to the school district in subsequent years. The term of the repayment shall not exceed 10 years, but may be for a shorter term as determined by the State Treasurer. At any time during the term of the repayment the State Treasurer, in consultation with the Commissioner of Education, may determine to impose interest on the unpaid balance ; except that interest shall not be imposed in the case of a school district for which a State monitor is appointed within 90 days of the effective date of this act. The commissioner shall transfer the amount of the reduction in State aid to the account established pursuant to section 5 of this act.

c. In any year in which the school district's undesignated general fund balance is greater than 1.5% of general fund expenditures, the amount which exceeds 1.5% shall be an additional amount applied to the following year's repayment of the advance State aid payment and the school district's State aid shall be reduced by this additional amount in that following year.

L.2006,c.15,s.3.

18A:7A-57 Forensic audit of certain school districts; presentation.

4. a. The Office of the State Auditor, or the Office of the State Comptroller, in cooperation with the State Auditor, shall conduct a forensic audit of the fiscal operations of any school district which has a year-end general fund deficit and also meets one of the other criteria in subsection a. of section 2 of this act. The audit shall be of the fiscal year in which the general fund deficit occurred and shall be in addition to the audit required of school districts pursuant to N.J.S.18A:23-1.

b. Notwithstanding the provisions of R.S.52:24-1 et seq., or any other law to the contrary, the Office of the State Auditor or the Office of the State Comptroller shall submit the audit to the commissioner, the Governor, and the Legislature. The Office of the State Auditor or the Office of the State Comptroller shall also present the audit to the district's board of education and the public at the board's next regularly scheduled monthly meeting.

c. The Office of the State Auditor or the Office of the State Comptroller shall forward any findings of fraudulent activities discovered as a result of the audit to the appropriate law enforcement agency.

d. Within 30 days of the presentation of the audit by the Office of the State Auditor or the Office of the State Comptroller to the board of education, the board shall submit to the commissioner a plan that addresses all of the findings, conclusions, and recommendations of the Office of the State Auditor or the Office of the State Comptroller which have not been previously addressed by the school district.

L.2006, c.15, s.4; amended 2007, c.52, s.21.

18A:7A-58 "School District Deficit Relief Account."

5. There is established in the Department of Education a nonlapsing, revolving dedicated account designated the "School District Deficit Relief Account" which shall be credited with the monies as may be appropriated pursuant to section 7 of P.L.2006, c.15,

monies transferred by the Commissioner of Education pursuant to subsection b. of section 3 of P.L.2006, c.15 (C.18A:7A-56), and such other monies as may be appropriated, transferred or otherwise made available for the purposes of providing an advance State aid payment to a school district pursuant to subsection a. of section 3 of P.L.2006, c.15. Any interest that shall accrue on the monies in the account shall be credited to the account.

L.2006,c.15,s.5.

18A:7A-59 Rules.

6. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to effectuate the purposes of P.L.2006, c.15 (C.18A:7A-54 et seq.) which shall be effective for a period not to exceed 12 months following the effective date of P.L.2008, c.37 (C.18A:11-13 et al.). The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

L.2006, c.15, s.6; amended 2008, c.37, s.1.

18A:7A-60 Additional powers of Commissioner of Education relative to performance of compliance audit report.

14. a. In addition to the powers provided pursuant to P.L.2005, c.235, P.L.1996, c.138 (C.18A:7F-1 et al.), and P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law, the Commissioner of Education may appoint an external entity, in accordance with State procurement laws, to perform a compliance audit of the spending of the district's general fund budget upon identification that the district may be spending State education funds for purposes that are not in compliance with State education law and regulation. The scope of the compliance audit shall be determined by the commissioner based upon the specific circumstances of the district.

b. The final report of a compliance audit conducted pursuant to subsection a. of this section shall include specific findings and recommendations, as applicable, and shall be submitted to the commissioner. The commissioner may use the audit report as evidence for the appointment of a State monitor pursuant to the provisions of subsection a. of section 2 of P.L.2006, c.15 (C.18A:7A-55).

c. The school district shall reimburse the Department of Education for the total cost of the compliance audit conducted pursuant to subsection a. of this section if the final audit report includes findings that the district has spent State education funds for purposes that are not in compliance with State education law and regulation.

L.2007, c.53, s.14; amended 2007, c.260, s.25.

18A:7B-1. Short title

This act shall be known and may be cited as "The State Facilities Education Act of 1979."

L.1979, c. 207, s. 1, eff. Sept. 25, 1979.

18A:7B-2 Deductions, forwarding of sums to appropriate departments; disposition.

6. a. For each State-placed child who is resident in a district and in a State facility on the last school day prior to October 16 of the prebudget year, and for each district-placed child who is resident in a district and in a State facility on the last school day prior to October 16 of the budget year, the Commissioner of Education shall deduct from the State aid payable to that district an amount equal to the approved per pupil cost established pursuant to the provisions of section 24 of P.L.1996, c.138 (C.18A:7F-24); except that for a child in a county juvenile detention center, no deduction shall be made until Fiscal Year 1999, in which year and thereafter 50% of the per pupil cost shall be deducted.

b. If, for any district, the amount to be deducted pursuant to subsection a. of this section is greater than State aid payable to the district, the district shall pay to the Department of Education the difference between the amount to be deducted and the State aid payable to the district.

c. The amount deducted pursuant to subsection a. of this section and the amount paid to the Department of Education pursuant to subsection b. of this section shall be forwarded to the Department of Human Services or the Department of Children and Families, as applicable, if the facility is operated by or under contract with that department, or to the Department of Corrections if the facility is operated by or under contract with that department, or to the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) if the facility is operated by or under contract with that commission, and shall serve as payment by the district of tuition for the child. In the case of county juvenile detention centers, the tuition shall be deemed to supplement

funds currently provided by the county for this purpose under chapter 10 and chapter 11 of Title 9 of the Revised Statutes. In Fiscal Year 1998, a county shall not decrease its level of contribution as a result of the payment of tuition pursuant to this section. In Fiscal Year 1999 and thereafter, a county shall be required to pay 50% of the approved per pupil costs established pursuant to the provisions of section 24 of P.L.1996, c.138 (C.18A:7F-24) for the purpose of implementing chapters 10 and 11 of Title 9 of the Revised Statutes. Amounts so deducted shall be used solely for the support of educational programs and shall be maintained in a separate account for that purpose. No district shall be responsible for the tuition of any child admitted by the State to a State facility after the last school day prior to October 16 of the prebudget year.

L.1979, c.207, s.6; amended 1990, c.52, s.34; 1995, c.280, s.24; 1996, c.138, s.41; 2006, c.47, s.81.

18A:7B-4 Use of funds; authorization for appropriations.

8. Funds received pursuant to this act by the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) shall be used only for the salaries of teachers, educational administrators at the program level, child study team personnel, clerical staff assigned to child study teams or to educational day programs, paraprofessionals assigned to educational programs in State facilities, and for diagnostic services required as part of the child study team evaluations and related educational services personnel whose function requires an educational certificate issued by the State Department of Education, and for the costs of educational materials, supplies and equipment for these programs. No such funds shall be used for the renovation or construction of capital facilities, for the maintenance and operation of educational facilities, or for custodial, habilitation or other noneducational costs.

There are hereby authorized to be appropriated to the Departments of Human Services, Children and Families and Corrections such funds as may be necessary to provide for adult, post-secondary and college programs.

L.1979, c.207, s.8; amended 1983, c.205; 1995, c.280, s.25; 2006, c.47, s.82.

18A:7B-5 Rules, regulations to ensure thorough and efficient education for children in State facilities.

9. The Commissioner of Education, with the approval of the State Board of Education, shall promulgate rules and regulations to ensure a thorough and efficient education, consistent with the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), for the children in State facilities. In the case of county juvenile detention centers, the Office of Education in the Juvenile Justice Commission shall develop, in consultation with the commissioner, appropriate standards, to be effective for Fiscal Year 1999, for the provision of a thorough and efficient education by the county for facilities established under chapter 10 and chapter 11 of Title 9 of the Revised Statutes.

The commissioner shall continually review the operation of educational programs in State facilities. If he finds that the operation of any of these programs does not meet the educational standard required by the regulations, he shall direct that a remedial plan be prepared by the education director of the facility in which the program is located, together with the director of educational services of the department which is operating or contracting with the facility. The plan shall be submitted to the Commissioner of Education for his approval. If he approves the plan, it shall be implemented in a timely and effective manner. If he finds the plan or its implementation to be insufficient, he may, until the insufficiency is corrected, withhold and place in a special account any State aid funds which otherwise would have been forwarded pursuant to section 6 of P.L.1979, c.207.

L.1979, c.207, s.9; amended 1996, c.138, s.42; 2007, c.260, s.26.

18A:7B-6. Teaching staff members and administrators; salary schedules

All teaching staff members and administrators of the educational program in State facilities shall hold the appropriate certificate issued by the State Board of Examiners.

Salary schedules for teaching staff members and administrators shall be comparable to similar positions in the Department of Education and the Marie H. Katzenbach School for the Deaf.

L.1979, c. 207, s. 10, eff. July 1, 1980.

18A:7B-7 Request for administrative review concerning pupil in State facility.

11. a. Any parent or guardian of a pupil in a State facility and any pupil in a State facility between 18 and 20 years of age, may request an administrative review on matters of educational classification or educational program.

b. The administrative review process shall include the following sequence:

(1) A conference with teaching staff members or child study team personnel;

(2) A conference with the Director of Educational Services of the Department of Human Services, the Department of Children and Families, the Department of Corrections, or the Juvenile Justice Commission, whichever is appropriate;

(3) A hearing by the Commissioner of Education pursuant to law and regulation.

c. The due process rights available to children, parents and guardians in the public schools on matters of educational classification or educational program shall be available to children, parents and guardians in State facilities.

d. The placement of a child in a particular State facility shall not be subject to an administrative review or hearing pursuant to this section.

L.1979, c.207, s.11; amended 1996, c.138, s.43; 2006, c.47, s.83.

18A:7B-8. Office of Education in Department of Corrections; establishment; director; appointment; salary; powers; duties

12. There is hereby created and established in the Department of Corrections an Office of Education to be headed by a Director of Educational Services who shall supervise the educational programs in all State facilities operated by that department and shall approve all personnel to be hired for such programs.

The director shall hold the appropriate certificate issued by the State Board of Examiners and shall be qualified by training and experience for his position and shall be appointed by the Commissioner of Corrections. He shall serve at the pleasure of the commissioner and shall receive such salary as shall be fixed by the commissioner.

The director shall establish primary, secondary, and vocational programs which meet the educational needs of school age persons for whom the department is responsible. Appropriate credit and certification shall be given for the successful completion of such programs.

Within any available appropriation, the program of education shall include adult, post-secondary and college programs offered by institutions licensed by the Department of Education or the Commission on Higher Education.

L.1979,c.207,s.12; amended 1994,c.48,s.56.

18A:7B-9 Office of Education in Department of Children and Families.

13. There is hereby created and established in the Department of Children and Families an Office of Education to be headed by a Director of Educational Services who shall supervise the educational programs in all the State facilities operated by or under contract with that department and shall approve all personnel hired by the State for such programs.

The director shall hold the appropriate certificate issued by the State Board of Examiners and shall be qualified by training and experience for his position and shall be appointed by the Commissioner of Children and Families. He shall serve at the pleasure of the commissioner and shall receive such salary as shall be fixed by the commissioner.

The director shall establish primary, secondary, and vocational programs which meet the educational needs of school age persons for whom the department is responsible. Appropriate credit and certification shall be given for the successful completion of such programs.

Within any available appropriation, the program of education shall include adult, post-secondary and college programs offered by institutions licensed by the Department of Education or the Commission on Higher Education.

L.1979, c.207, s.13; amended 1994, c.48, s.57; 2006, c.47, s.84.

18A:7B-10. Garden State school district; allocations and transfers

The Commissioners of Education, Corrections and Human Services shall jointly review the current administrative practices, salary structure, operations and staffing of the Garden State School District and, with the approval of the Director of the Division of Budget and Accounting, shall establish by January 1, 1980 a plan for the orderly allocation or transfer of:

a. All personnel employed by the Garden State School District;

b. All appropriations, grants, or other money available to the Garden State School District, subject to any restrictions, limitations, or other requirements imposed by Federal or State law;

c. All files, books, papers, records, equipment, or other property of the Garden State School District.

Nothing in this act shall be construed to deprive employees of the Garden State School District of any rights or protections provided by Civil Service, pension, or retirement laws of this State.

L.1979, c. 207, s. 14, eff. Sept. 25, 1979.

18A:7B-11. Garden State school district; continuation of actions or proceedings; reference to mean department of corrections, human services or education; rights and privileges of teaching staff members in state facilities

a. This act shall not affect actions or proceedings, civil or criminal, brought by or against the Garden State School District and pending on the effective date of this act, but such actions may be further prosecuted or defended in the same manner and to the same effect by the Department of Corrections, the Department of Human Services, or the Department of Education, whichever has assumed those duties, powers, and responsibilities which are the subject of the proceedings.

b. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceedings, or otherwise, reference is made to the Garden State School District, the same shall be considered and mean the Department of Corrections, the Department of Human Services, or the Department of Education, which has assumed those duties, powers, and responsibilities which are the subject of the reference.

All rights and privileges enjoyed by teaching staff members of the Garden State School District shall be enjoyed by teaching staff members employed in State facilities.

L.1979, c. 207, s. 15, eff. July 1, 1980.

18A:7B-12 Determination of district of residence.

19. For school funding purposes, the Commissioner of Education shall determine district of residence as follows:

a. The district of residence for children in resource family homes shall be the district in which the resource family parents reside. If a child in a resource family home is subsequently placed in a State facility or by a State agency, the district of residence of the child shall then be determined as if no such resource family placement had occurred.

b. The district of residence for children who are in residential State facilities, or who have been placed by State agencies in group homes, skill development homes, private schools or out-of-State facilities, shall be the present district of residence of the parent or guardian with whom the child lived prior to his most recent admission to a State facility or most recent placement by a State agency.

If this cannot be determined, the district of residence shall be the district in which the child resided prior to such admission or placement.

c. The district of residence for children whose parent or guardian temporarily moves from one school district to another as the result of being homeless shall be the district in which the parent or guardian last resided prior to becoming homeless. For the purpose of this amendatory and supplementary act, "homeless" shall mean an individual who temporarily lacks a fixed, regular and adequate residence.

d. If the district of residence cannot be determined according to the criteria contained herein, or if the criteria contained herein identify a district of residence outside of the State, the State shall assume fiscal responsibility for the tuition of the child. The tuition shall equal the approved per pupil cost established pursuant to P.L.1996, c.138 (C.18A:7F-1 et al.). This amount shall be appropriated in the same manner as other State aid under this act. The Department of Education shall pay the amount to the Department of Human Services, the Department of Children and Families, the Department of Corrections or the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170) or, in the case of a homeless child, the Department of Education shall pay to the school district in which the child is enrolled the weighted base per pupil amount calculated pursuant to section 7 of P.L.2007, c.260 (C.18A:7F-49) and the appropriate security categorical aid per pupil and special education categorical aid per pupil.

e. If the State has assumed fiscal responsibility for the tuition of a child in a private educational facility approved by the Department of Education to serve children who are classified as needing special education services, the department shall pay to the Department of Human Services, the Department of Children and Families or the Juvenile Justice Commission, as appropriate, the aid specified in subsection d. of this section and in addition, such aid as required to make the total amount of aid equal to the actual cost of the tuition.

L.1979, c.207, s.19; amended 1985, c.244, s.1; 1989, c.290, s.1; 1990, c.52, s.35; 1995, c.280, s.26; 1996, c.138, s.44; 1997, c.202; 1999, c.114; 2004, c.130, s.39; 2006, c.47, s.85; 2007, c.260, s.27.

18A:7B-12.1. Homeless child, determination of district of residence; tuition costs, transportation

The district of residence for a homeless child determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12) shall be responsible for the education of the homeless child. The district of residence shall determine the educational placement of the child after consulting with the parent or guardian. This determination shall be: a. to

continue the child's education in the school district of last attendance, b. to enroll the child in the district of residence if the district of residence is not the district of last attendance, or c. to enroll the child in the school district where the child is temporarily living, whichever is in the child's best interest. If the parent or guardian objects to the determination made by the district of residence, the county superintendent of schools shall be notified and within 48 hours shall determine the placement of the child based on criteria established by the State Board of Education. Any appeals regarding the determination shall be resolved according to rules established by the State Board of Education.

When the homeless child attends school in a district other than the district of residence, the district of residence shall pay the costs of tuition for the child to attend school in that district and shall pay for any transportation costs incurred by that district. When the homeless child attends school in the district of residence while temporarily residing in another district, the district of residence shall provide for transportation to and from school pursuant to the provisions of N.J.S.18A:58-7.

L.1989, c.290, s.3.

18A:7B-13 Annual report by commissioner to Legislature.

20. Beginning in the school year 1997-98, the Commissioner of Education shall annually report to the Legislature, describing the condition of educational programs in State facilities, the efforts of the Departments of Corrections, Children and Families, and Human Services and the Juvenile Justice Commission in meeting the standards of a thorough and efficient education in these facilities, the steps underway to correct any deficiencies in their educational programs, and the progress of the educational programs in New Jersey State facilities in comparison with those in the state facilities of other states. At that time the commissioner shall recommend to the Legislature any necessary or desirable changes or modifications in P.L.1979, c.207 (C.18A:7B-1 et al.).

L.1979, c.207, s.20; amended 1996, c.138, s.45; 2006, c.47, s.86.

18A:7C-1. Commissioner of education to develop a program of standards and guidelines

By July 1, 1980 the Commissioner of Education with the approval of the State Board of Education shall establish a program of standards for graduation from secondary school. Such a program shall include, but not be limited to:

a. The development of a Statewide assessment test in reading, writing and computational skills to be administered to all secondary school pupils as provided herein;

b. Clear and explicit Statewide levels of proficiency in reading, writing and computational skills to be demonstrated as a minimum requirement for high school graduation;

c. Guidelines for the development of graduation standards by local boards of education;

d. Guidelines for remediation procedures for pupils who fail to meet graduation standards; and

e. Guidelines for graduation standards for those pupils classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

L.1979, c. 241, s. 1.

18A:7C-2. Establishment of standards for graduation from secondary schools

2. Pursuant to guidelines established by the Commissioner of Education, each board of education shall establish standards for graduation from its secondary schools. The standards shall include, but need not be limited to:

a. Satisfactory performance on the Statewide assessment test as provided for in section 1 of P.L.1979, c.241 (C.18A:7C-1);

b. Demonstration of proficiencies in those subject areas and skills identified by the board as necessary for graduation other than those assessed by the Statewide assessment tests.

The Commissioner of Education shall monitor local plans for the assessment of proficiencies required for graduation including techniques and instruments to be used to determine pupil proficiency; required programs designed to provide the opportunity for pupils to progress toward the mastery of proficiencies required for graduation; and remediation programs for pupils who fail to meet graduation proficiency standards in order to assure compliance with the requirement of P.L.1979, c.241 (C.18A:7C-1 et seq.).

The Commissioner of Education shall, upon request of the local board, provide such technical assistance as may be necessary to aid a district in the planning, implementation and evaluation of graduation standards.

L.1979,c.241,s.2; amended 1996, c.138, s.46.

18A:7C-3. Remedial instruction

For any student who does not meet the State and district examination standards for graduation by the end of 11th grade, the local board of education when appropriate shall provide additional remedial instruction specifically directed toward mastery of those proficiencies identified as necessary for the awarding of a diploma which may include but need not be limited to an extended school year, extended school day, or additional school years.

Any 12th grade student who does not meet said requirements but who has met all the credit, curriculum and attendance requirements shall be eligible for a comprehensive assessment of said proficiencies utilizing techniques and instruments other than standardized tests, which techniques and instruments shall have been approved by the Commissioner of Education as fulfilling State and local graduation requirements.

L. 1979, c. 241, s. 3; amended 1988,c.168,ss.1,10.

18A:7C-4. State-endorsed diploma

All students who meet State and local graduation requirements shall receive a State endorsed diploma; provided, however, that the Commissioner of Education shall approve any State endorsed diploma which utilizes the comprehensive assessment techniques as provided in section 3 of P.L. 1979, c. 241 (C. 18A:7C-3).

Local districts may not provide a high school diploma to students not meeting these standards. Any out-of-school youth or adult age 18 or over who has otherwise met the district graduation requirements but has failed to earn a State endorsed diploma may take the graduation proficiencies test which has been developed and administered under the auspices of the Commissioner of Education. Upon passing this test, a State endorsed diploma will be granted.

Each board of education shall provide, in a format approved by the Commissioner of Education, a performance transcript for each student leaving secondary school.

L. 1979, c. 241, s. 4; amended 1988,c.168,ss.2,10.

18A:7C-4.1 "Operation Recognition."

1. a. The Department of Education, in consultation with the Department of Military and Veterans' Affairs, shall establish a program which shall be known as "Operation Recognition." The purpose of Operation Recognition is to award State-endorsed high school diplomas to World War I and World War II veterans who left high school prior to graduation to enter United States military service.

b. A person shall be eligible to receive a State-endorsed diploma under Operation Recognition if the person:

(1) is an honorably discharged World War I veteran who served between April 6, 1917 and November 11, 1918 or an honorably discharged World War II veteran who served between September 16, 1940 and December 31, 1946; and

(2) attended a high school in the State but left prior to graduation in order to serve in the armed forces of the United States, and did not receive a high school diploma as a consequence of such service.

A State-endorsed diploma may be issued under Operation Recognition posthumously. A veteran who meets the eligibility criteria set forth in this section and who passed the General Educational Development Test, GED, may also receive a State-endorsed diploma under Operation Recognition.

c. A veteran who meets the eligibility criteria set forth in subsection b. of this section may apply to the Department of Education to receive a State-endorsed high school diploma. In the case of a veteran who meets the eligibility criteria set forth in subsection b. of this section but who is deceased, the family of the veteran may apply to the department to receive a State-endorsed high school diploma on behalf of the veteran. Upon approval of an application, the department shall issue a State-endorsed high school diploma to the veteran or the veteran's family, as appropriate. The diploma shall indicate the veteran's high school of attendance.

d. The Department of Education, in cooperation with the Department of Military and Veterans' Affairs, shall:

(1) develop an application procedure for obtaining a State-endorsed high school diploma under Operation Recognition, including a method for verifying military service and the high school which the veteran attended prior to military service;

(2) distribute applications for participation by veterans in Operation Recognition to school districts and to local veterans' organizations throughout the State; and

(3) provide information to any school district that is interested in hosting a diploma ceremony on or around Veterans' Day for veterans who received State-endorsed high

school diplomas pursuant to Operation Recognition and attended a high school within the district.

e. For the purposes of this section, "veteran" means an honorably discharged officer, soldier, sailor, marine, airman, nurse or army field clerk who served in the active military or naval service of the United States in the wars listed in subsection b. of this section. A "veteran" also means any honorably discharged member of the American Merchant Marine or the United States Coast Guard who served during World War I or World War II.

L.2001,c.302,s.1.

18A:7C-5. Board of education to provide policy on graduation to students and parents
Upon adoption by the local board of education, each board of education shall provide each high school pupil and the parents or legal guardians of such pupil with a copy of said board's policy on graduation, including a clear statement of the proficiencies required for graduation and those programs available to assist in attaining those levels of proficiency.

L.1979, c. 241, s. 5.

18A:7C-5.1. Graduation, yearbook costs for pupils with financial hardship

1. A board of education shall establish a policy to address the cost of the graduation ceremony and the cost of a yearbook for graduating pupils who have a financial hardship. No graduating pupil shall be excluded from a graduation ceremony whose parent, legal guardian or other person having legal custody of the pupil is unable to pay the fees required for that graduation ceremony because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

L.1996,c.145.

18A:7C-5.2 Special education students, certain circumstances, participation in graduation ceremony permitted.

2. a. The board of education of a school district and the board of trustees of a charter school shall permit a student who has been classified as eligible for special education programs and services pursuant to chapter 46 of Title 18A of the New Jersey Statutes and whose individualized education program prescribes continued special education programs beyond the fourth year of high school to participate in commencement ceremonies with his graduating class and to receive a certificate of attendance, provided that the student has attended four years of high school.

b. Nothing in this section shall be construed to preclude a classified student from receiving a high school diploma when the student satisfactorily completes his individualized education program and has met appropriate graduation requirements.

L.2008, c.19, s.2.

18A:7C-6. Graduation proficiency test

In the school year which begins in September 1993, and annually thereafter, the State graduation proficiency test shall be administered to all 11th grade pupils and to any 11th or 12th grade pupil who has previously failed to demonstrate mastery of State graduation proficiency standards on said test. The mastery of proficiencies required to fulfill local graduation standards shall be determined as appropriate under local board of education assessment plans.

L. 1979, c. 241, s. 6; amended 1988,c.168,ss.3,10.

18A:7C-6.1. Development of test

In the development of the graduation proficiency test to be administered to all 11th grade pupils pursuant to section 6 of P.L. 1979, c. 241 (C. 18A:7C-6), the Commissioner of Education shall consult with educators, parents, students, business and community representatives and members of minority groups. The test shall measure those basic skills all students must possess to function politically, economically and socially in a democratic society.

L. 1988, c. 168, s. 5.

18A:7C-6.2. Assessment of progress; remediation

The Commissioner of Education shall develop and administer to all eighth grade pupils in the school year which begins in September 1990, and annually thereafter, a test to assess progress toward mastery of State graduation proficiency standards. For any student not meeting established examination standards, the local board of education shall provide for appropriate remediation in areas of demonstrated deficiency. Appropriate remediation may include after school, weekend and summer programs.

L.1988,c.168,s.4; amended 1990,c.52,s.36.

18A:7C-7. School administrators report on students awarded or denied diplomas

The local chief school administrators shall report annually to their local boards of education and to the Commissioner of Education the number of students who completed the twelfth grade course requirements and were denied a diploma and the number of students who received State endorsed diplomas;

a. By successfully completing the Statewide assessment tests and local requirements;

b. By using the comprehensive assessment techniques and meeting local requirements, and were not classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes; and

c. By using the comprehensive assessment techniques, meeting local requirements, and were classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

This report to the commissioner shall be included as a portion of the district annual report required under section 11 of P.L.1975, c. 212 (C. 18A:7A-11).

L.1979, c. 241, s. 7.

18A:7C-8. Adult high school programs; diplomas

The Commissioner of Education shall also develop rules and regulations for and may issue State endorsed diplomas to those students who have successfully completed a State approved adult high school program.

L.1979, c. 241, s. 8.

18A:7C-9. Evaluation of state and local programs by Commissioner of Education

The Commissioner of Education shall monitor the results of the implementation of graduation requirements as provided herein, and shall from time to time, but at least once every 5 years review and evaluate State and local programs, and shall report the results of said review and evaluation to the Governor and the Legislature together with such recommendations for changes as may be appropriate to achieve the purposes of this act.

L.1979, c. 241, s. 9.

18A:7C-10. Annual report

Not later than September 1, 1989 and annually thereafter, the Commissioner of Education shall report to the Governor and Legislature on the impact of the State graduation proficiency test required pursuant to section 6 of P.L. 1979, c. 241 (C. 18A:7C-6). In addition to including data on test performance of students, this annual report shall include data on the number of students who have dropped out of school, the number of students who have failed to take the test, curriculum realignments in grades K-12 to prepare students for the examination, analysis of remediation efforts for students who have failed the examination, testing requirements and practices in grades K-8 and any other related matters requested by the Chairman of the Joint Committee on the Public Schools or the chairman of the education committee of either House of the Legislature. The report shall also enumerate the efforts by the Department of Education to assist local school districts in the areas of pupil retention, curriculum alignment and remediation.

L. 1988, c. 168, s. 7.

18A:7C-11. Status report

a. Not later than September 1, 1990 the Joint Committee on the Public Schools shall evaluate and report to the Legislature on the status of proficiency testing in the public schools of New Jersey. Among other topics the report shall specifically address: (1) how New Jersey's testing program compares to that in other states, (2) the advisability of requiring State administered tests in elementary grades, and (3) whether any changes in the statutes providing for the State graduation proficiency test are appropriate. The committee's analysis shall include an evaluation of all provisions of this amendatory and supplementary act and any recommendations for additional legislation. The joint committee shall use the funds appropriated or otherwise made available, in addition to all other resources to which the committee may have access, to secure the expertise necessary to conduct this evaluation and shall report its findings to the Governor and Legislature.

b. Beginning in 1991, the Joint Committee on the Public Schools shall undertake an annual evaluation of the report submitted to the Legislature by the Commissioner of Education pursuant to section 7 of this amendatory and supplementary act.

L. 1988, c. 168, s. 8.

18A:7C-12 Education programs, certain, in county juvenile detention centers, validity in public school districts.

1. Notwithstanding any provision of law to the contrary, in the case of a student enrolled in an educational program in a county juvenile detention center that meets the standards for a thorough and efficient education developed by the Office of Education in the Juvenile Justice Commission, in consultation with the Commissioner of Education, pursuant to section 9 of P.L. 1979, c.207 (C.18A:7B-5), who subsequently

enrolls in a public school district, the district shall accept all days of attendance and courses studied by the student at the county juvenile detention center and apply them toward district requirements for elementary, middle, or high school graduation.

L.2005,c.265,s.1.

18A:7D-28.5. New budget increase for supplemental State aid

4. Each regional school district formed after the effective date of this act shall, for the purposes of calculation of its maximum permissible net budget pursuant to the provisions of section 85 of P.L.1990, c.52 (C.18A:7D-28), have its net budget for the prebudget year increased by an amount equal to the supplemental State aid received by the district pursuant to section 3 of this act plus the amount of any start-up costs incurred by the district in the regionalization process including, but not limited to, the costs to the district of a regionalization study, program expansion, transportation expansion, and modifications to collective bargaining agreements.

L.1993,c.67,s.4.

18A:7E-1. Findings, declarations on school report card programs

1. The Legislature finds and declares that:

a. The State of New Jersey has invested more resources than virtually any other state in the nation in its students, teachers and schools, yet parents and other interested members of the community have a difficult time determining the educational results of the expenditure of their tax dollars;

b. Obtaining complete and accurate information on the performance of local schools can be a difficult and confusing task and concerned individuals have no place to turn to get an objective and authoritative evaluation of their local schools;

c. The establishment of school report cards would provide a simple and uniform mechanism for measuring the return on the investment which the people of this State are making in the education of their children;

d. Nationally, a school report card program is recognized as an important component of the current educational reform effort; and

e. The Commissioner of Education is encouraged to seek continued financial and technical support from the business and nonprofit communities for the preparation and dissemination of the report cards.

L.1995,c.235,s.1.

18A:7E-2. School Report Card Program

2. The Commissioner of Education shall develop and administer a School Report Card Program. The program shall provide for the annual preparation and dissemination of a school report card to parents and other interested taxpayers within each local school district. In order to avoid duplication and minimize the expense of this program, the commissioner shall coordinate the school report card program with other State and federal programs that require school districts to collect and publish data. The commissioner is authorized to collect the data and to define the terms as necessary to effectuate the purposes of this act.

L.1995,c.235,s.2.

18A:7E-3. Report card information

3. Report cards issued pursuant to section 2 of this act shall include, but not be limited to, the following information for:

a. the school district and for each school within the district, as appropriate:

(1) results of the elementary assessment programs;

(2) results of the Early Warning Test;

(3) results of the High School Proficiency Test;

(4) daily attendance records for students and professional staff;

(5) student graduation and dropout rates;

(6) annual student scores on the Scholastic Aptitude Test;

(7) total student enrollment, percentage of limited English proficient students, percentage of students in advanced placement courses, and any other school characteristics which the commissioner deems appropriate;

(8) instructional resources including teacher/student ratio, average class size and amount of instructional time per day, as calculated by formulas specified by the commissioner; and

(9) a written narrative by the school principal or a designee which describes any special achievements, events, problems or initiatives of the school or district; and

b. the school district, as appropriate:

(1) per pupil expenditures and State aid ratio;

(2) percent of budget allocated for salaries and benefits of administrative personnel;

(3) percent of budget allocated for salaries and benefits of teachers;

(4) percentage increase over the previous year for salaries and benefits of administrative and instructional personnel;

(5) the number of administrative personnel and the ratio of administrative personnel to instructional personnel;

(6) a profile of the most recent graduating class concerning their educational or employment plans following graduation; and

(7) any other information which the commissioner deems appropriate.

For the purposes of this section, the Commissioner of Education shall establish a uniform methodology for the reporting of the data concerning administrative personnel on a full-time equivalent basis.

L.1995,c.235,s.3.

18A:7E-4. Statewide, district averages included

4. The school report card shall include, for purposes of comparison and review, the Statewide average for each element reported by school and a comparison of the district averages for each element reported by district with the averages of school districts which have similar characteristics as defined by the commissioner.

L.1995,c.235,s.4.

18A:7E-5. Rules, regulations

5. The State Board of 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.

L.1995,c.235,s.5.

18A:7F-4.1 Findings, declarations relative to core curriculum content standards and cross-content workplace readiness standards.

1. The Legislature finds and declares that:

a. the five cross-content workplace readiness standards, which are a part of the core curriculum content standards, apply to all areas of instruction and are concepts which are designed to be integrated by teachers into all programs in content-specific and grade-appropriate ways;

b. one of the cross-content workplace readiness standards is the requirement that all students use technology;

c. with the growing importance of technology to our society, it is vital that students receive an education that emphasizes technological literacy;

d. rather than being one component of the cross-content workplace readiness standards, technology, given its importance in our knowledge-based economy, should rightfully be one of the core fields of study in school, along with mathematics, science, social studies, world languages, visual and performing arts, comprehensive health and physical education and language arts/literacy that currently comprise the core curriculum content areas.

L.2003,c.68,s.1.

18A:7F-4.2 Adoption of core curriculum content standards for technology.

2. a. Within one year of the effective date of this act, the State Board of Education shall adopt core curriculum content standards in the area of technology.

b. The State board shall convene a committee comprised of educators, business persons, information technology professionals, parents and Department of Education personnel to develop a set of core curriculum content standards in the area of technology. In developing the standards the committee shall review the Standards for Technological Literacy set forth by the International Technology Education Association,

other states' standards and any other information deemed relevant by the committee. The committee shall engage experts to review the standards it develops.

c. Prior to adopting the core curriculum content standards in the area of technology, the State board shall conduct at least one public hearing in the northern part of the State, at least one public hearing in the central part of the State, and at least one public hearing in the southern part of the State for the purpose of permitting the public to comment on the rigor, clarity and reasonableness of the standards developed by the committee.

L.2003,c.68,s.2.

18A:7F-4.3 Information relative to organ donation given to students in grades 9 through 12.

3. a. The State Board of Education, in consultation with the organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey, shall review the Core Curriculum Content Standards for Comprehensive Health and Physical Education to ensure that information about organ donation is included therein to students in grades 9 through 12, beginning with the 2009-2010 school year.

(1) The goals of the instruction shall be:

(a) to emphasize the benefits of organ and tissue donation to the health and well-being of society generally, and to individuals whose lives are saved by organ and tissue donations, so that students will be motivated to make an affirmative decision to register as a donor when they become adults;

(b) to fully address myths and misunderstandings regarding organ and tissue donation;

(c) to explain the options available to adults, including the option of designating a decision-maker to make the donation decision on one's behalf; and

(d) to instill an understanding of the consequences when an individual does not make a decision to become an organ donor and does not register or otherwise record a designated decision-maker;

(2) The instruction shall inform students that beginning five years from the date of enactment of P.L.2008, c.48 (C.26:6-66 et al.), the New Jersey Motor Vehicle Commission will not issue or renew a New Jersey driver's license or personal identification card unless a prospective or renewing licensee or card holder makes an acknowledgement regarding the donor decision pursuant to section 8 of P.L.2008, c.48 (C.39:3-12.4).

b. The Commissioner of Education, through the non-public school liaison in the Department of Education, shall make any related instructional materials available to private schools educating students in grades 9 through 12, or any combination thereof. Such schools are encouraged to use the instructional materials at the school; however, nothing in this subsection shall be construed to require such schools to use the materials.

L.2008, c.48, s.3.

18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, the State average classification rate and the excess cost for general special education services pupils, the State average classification rate and the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year.

Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides for a thorough and efficient education. Notwithstanding the provisions of this subsection to the contrary, the commissioner may adjust the date for the submission of district budgets if the commissioner determines that the availability of preliminary aid numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs, administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et al.), a general fund tax levy which when added to the other components of its net budget does not exceed the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expenditures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of \$40,000. The adjustment for special education costs shall equal any increase in the sum of per pupil amounts in excess of \$40,000 for the budget year less the sum of per pupil amounts in excess of \$40,000 for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for enrollments shall equal the increase in weighted resident enrollments between the prebudget year and budget year multiplied by the per pupil general fund tax levy amount for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for capital outlay shall equal any increase between the capital outlay portion of the general fund budget for the budget year less any withdrawals from the capital reserve account and the capital outlay portion of the general fund budget for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. Any district with a capital outlay adjustment to its spending growth limitation shall be restricted from transferring any funds from capital outlay accounts to current expense accounts. The adjustment for capital outlay shall not become part of the prebudget year net budget for purposes of calculating the spending growth limitation of the subsequent year. The adjustment for pupil transportation costs provided pursuant to N.J.S.18A:39-1.1 shall equal any increase between the cost of providing such pupil transportation services for the budget year and the cost of providing such pupil transportation services for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for the opening of a new school facility shall include costs associated with the new facility related to new teaching staff members, support staff, materials and equipment, custodial and maintenance expenditures, and such other required costs as determined by the commissioner.

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's spending growth limitation.

(5) (Deleted by amendment, P.L.2007, c.260).

(6) (Deleted by amendment, P.L.2007, c.260).

(7) (Deleted by amendment, P.L.2004, c.73).

(8) If an increase in tuition for the budget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 would reduce the sending district's per pupil net budget amount below the prior year's per pupil net budget amount in order to comply with the district's spending growth limitation, the district may apply to the commissioner for an adjustment to that limitation.

(9) Any district may submit at the annual school budget election a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines

that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of an additional general fund tax levy.

Except as otherwise provided pursuant to paragraph (3) of subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), any proposal or proposals rejected by the voters shall be submitted to the municipal governing body or bodies for a determination as to the amount, if any, that should be expended notwithstanding voter rejection. The decision of the municipal governing body or bodies or board of school estimate, as appropriate, shall be final and no appeals shall be made to the commissioner.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its spending growth limitation as calculated pursuant to this subsection, shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or below the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the action of the voters or municipal governing body or bodies, whichever is later, or of the board of school estimate as the case may be.

f. (Deleted by amendment, P.L.2007, c.260).

g. (Deleted by amendment, P.L.2007, c.260).

L.1996, c.138, s.5; amended 2000, c.147, s.1; 2001, c.43; 2004, c.73, s.1; 2007, c.260, s.28.

18A:7F-5a Inclusion of certain amounts in future school district budget.

36. a. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et al.) or P.L.2007, c.260 (C.18A:7F-43 et al.) to the contrary and except as otherwise provided pursuant to subsection b. of this section, any school district which increases its net budget between the prebudget and budget years in an amount less than that authorized pursuant to subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), shall be permitted to include the amount of the difference between its actual net budget and its permitted net budget in either of the next two succeeding budget years; except that beginning with any difference in the 2004-2005 budget year and any difference in a subsequent budget year, only 50% of the difference may be included in either of the next two succeeding budget years.

b. For the 2005-2006 school year and thereafter, the executive county superintendent of schools may disapprove a school district's proposed budget which includes the amount of any difference authorized pursuant to subsection a. of this section if the executive county superintendent determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the inclusion of the differential amount. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year and each subsequent school year to identify administrative inefficiencies in the operations of the district that might cause the executive county superintendent to reject the district's proposed budget.

L.2000, c.126, s.36; amended 2004, c.73, s.2; 2007, c.260, s.29.

18A:7F-5b Temporary school budget cap adjustments for certain expenditures

3. a. Notwithstanding any provision of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) to the contrary, for the first three budget years following the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.), any costs incurred by a school district for the budget year for liability insurance, workers' compensation insurance and employee group insurance or incurred for domestic security preparedness and responses to incidents and threats to domestic security shall be an adjustment to the district's spending growth limitation.

b. For the first budget year in which an expenditure that was subject to the district's spending growth limitation in the prebudget year is made an adjustment to that limitation pursuant to subsection a. of this section, a school district shall deduct from its prebudget year net budget the amount which the district expended for that purpose in that prebudget year.

c. For the first budget year in which an expenditure that was an adjustment to the district's spending growth limitation in the prebudget year pursuant to subsection a. of this section is subject to the district's spending growth limitation, the district's prebudget year net budget shall be increased by the amount of that adjustment to the spending growth limitation in the prebudget year.

L.2003, c.92, s.3.

18A:7F-5c Adjustments to school budget calendar, notification of nontenured personnel.

3. Notwithstanding any other law to the contrary, the Commissioner of Education is authorized to make any adjustments to the school budget calendar and to the date for the notification of nontenured personnel pursuant to section 1 of P.L.1971, c.436 (C.18A:27-10) that are necessary to conform with the State aid notification date.

L.2003, c.275, s.3.

18A:7F-5.1 Additional State aid to school districts.

1. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et al.) or any rule or regulation promulgated pursuant thereto to the contrary, for the 1997-98 school year a school district, county vocational school district, or county special services school district shall receive additional State aid equal to the amount by which the district's State aid was reduced in the 1996-97 school year pursuant to the provisions of P.L.1995, c.236 (C.18A:7E-6 et seq.). The additional aid received by a district shall be an adjustment to the district's spending growth limitation for the 1997-98 school year. For the 1998-99 school year and thereafter, this additional amount shall be included in the school district's or county vocational school district's prebudget year net budget and prebudget year net T&E budget.

L.1997, c.232, s.1.

18A:7F-5.2 Sale, lease-back of textbooks; funds classification.

4. a. Proceeds from the sale and lease-back of textbooks and non-consumable instructional materials shall not be considered miscellaneous local general fund revenue for the purpose of calculating the net budget or the spending growth limitation under P.L.1996, c.138 (C.18A:7F-1 et seq.).

b. A board of education may establish a reserve account in the general fund with all or a part of the proceeds from the sale and lease-back of textbooks and non-consumable instructional materials provided that subsequent appropriations from the reserve account shall only be made within the original budget certified for taxes or as approved by the commissioner for good cause.

L.1998,c.55,s.4.

18A:7F-5.3 Additional supporting documents for budget submissions relative to certain school employees.

4. a. In addition to other items prescribed by the Commissioner of Education pursuant to subsection c. of section 5 of P.L.1996, c.138 (C.18A:7F-5), the Commissioner of Education shall require a school district to submit annually with the budget, the following items as supporting documentation in regard to the superintendent of schools, the assistant superintendent of schools, the school business administrator, and any employee with an annual salary that exceeds \$75,000 who is not a member of a collective bargaining unit:

(1) a detailed statement of the employment contract terms for these school employees, including, but not limited to, the duration of the contract and all forms of compensation provided for under the contract;

(2) the annualized cost of all benefits provided to these school employees, including, but not limited to, all allowances, bonuses and stipends, and all contributions made by the school district towards the costs of health, dental, life and other types of insurance, medical and reimbursement plans, and retirement plans which exceed the contributions for the costs of these items made on behalf of a teaching staff member under a collective bargaining agreement with the board;

(3) a detailed statement of any benefits provided for in the employment contract with these school employees which are to be conferred after or upon the separation from the school district; and

(4) a detailed statement of any form of in-kind or other form of remuneration provided to these school employees which is not otherwise included in the employee's salary or benefits.

b. The items required to be submitted pursuant to subsection a. of this section shall be provided for public inspection on the school district's Internet site, if one exists, in a "user-friendly" format using plain language, and on the Department of Education's Internet site in an easily accessible location. The Commissioner of Education shall promulgate a "user-friendly," plain language format for the use of local districts for this purpose.

L.2007, c.53, s.4.

18A:7F-6 Approval of budget by commissioner.

6. a. The commissioner shall not approve any budget submitted pursuant to subsection c. of section 5 of this act unless he is satisfied that the district has adequately implemented within the budget the thoroughness and efficiency standards set forth pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46). In those instances in which a district submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget, the commissioner may, when he deems it necessary to ensure implementation of standards, direct additional expenditures, in specific accounts and for specific purposes, up to the district's adequacy budget. A district which submits a budget with a general fund tax levy and equalization aid set at less than its adequacy budget and which fails to meet core curriculum content standards in any school year shall be required to increase expenditures so as to meet at least the adequacy budget within the next two budget years. In all cases, including those instances in which a district submits a budget with a general fund tax levy and equalization aid above its adequacy budget, the commissioner may direct such budgetary reallocations and programmatic adjustments, or take such other measures, as he deems necessary to ensure implementation of the required thoroughness and efficiency standards.

b. In addition, whenever the commissioner determines, through the results of Statewide assessments conducted pursuant to law and regulation, or during the course of an evaluation of school performance conducted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10), that a district, or one or more schools within the district, is failing to achieve the core curriculum content standards, the commissioner may summarily take such action as he deems necessary and appropriate, including but not limited to:

- (1) directing the restructuring of curriculum or programs;
- (2) directing staff retraining or reassignment;
- (3) conducting a comprehensive budget evaluation;
- (4) redirecting expenditures;

(5) enforcing spending at the full adequacy budget; and

(6) notwithstanding any provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), to the contrary, reviewing the terms of future collective bargaining agreements.

The commissioner shall report any action taken under this subsection to the State board within 30 days. A board of education may appeal a determination that the district is failing to achieve the core curriculum content standards and any action of the commissioner to the State board.

Nothing in this section shall be construed to limit such general or specific powers as are elsewhere conferred upon the commissioner pursuant to law.

Nothing in this act shall be deemed to restrict or limit any rights established pursuant to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), nor shall the commissioner's powers under this act be construed to permit the commissioner to restrict, limit, interfere with, participate, or be directly involved in collective negotiations, contract administration, or processing of grievances, or in relation to any terms and conditions of employment. This provision shall apply to an existing State-operated school district or a district that is placed under full State intervention only after the terms and conditions of a contract have been finalized.

c. (Deleted by amendment, P.L.2007, c.260).

d. In addition to the audit required of school districts pursuant to N.J.S.18A:23-1, the accounts and financial transactions of any school district in which the State aid equals 80% or more of its net budget for the budget year shall be directly audited by the Office of the State Auditor on an annual basis.

e. (Deleted by amendment, P.L.2007, 260).

L.1996, c.138, s.6; amended 2003, c.275, s.2; 2007, c.260, s.30.

18A:7F-7 Undesignated general fund balances, use, limits.

7. a. For the 2004-2005 school year, an undesignated general fund balance in excess of 3% of the budgeted general fund for the prebudget year or \$100,000, whichever is greater, shall be appropriated by a school district based on surplus as anticipated pursuant to paragraph (2) of subsection a. of N.J.S.18A:22-8 and included in the budget prepared pursuant to section 5 of this act. In the event that the district's 2004-2005 budget is not approved by the voters of the district or the board of school estimate, the district may use the undesignated general fund balance which exceeds 3% to meet the reduction in tax levy certified by the municipal governing body or bodies or board of school estimate following review of the defeated budget. Any appropriation of the undesignated general fund balance made by board resolution following the April 2004 school budget election and prior to the effective date of P.L.2004, c.73 to the capital reserve account or maintenance reserve account or to increase spending for the 2003-2004 school year shall be null and void unless, upon written application to the commissioner, the district demonstrates that the appropriation was necessary for use in the 2003-2004 school year to meet the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4) and no other line item account balances were available.

In the 2005-2006 school year and thereafter, an undesignated general fund balance in excess of 2% of the budgeted general fund for the prebudget year or \$250,000, whichever is greater, shall be appropriated by a school district for the purpose of the budget prepared pursuant to section 5 of this act.

The amount of any funds made available for appropriation as a result of the reduction in the percentage of authorized undesignated general fund balance pursuant to P.L.2004, c.73 shall be used to reduce the general fund tax levy required for the budget year.

In the case of a county vocational school district, if the amount of the budgeted general fund for the prebudget year is \$100 million or less, an undesignated general fund balance in excess of 6% of that amount or \$250,000, whichever is greater, shall be appropriated by the county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5). If the amount of the budgeted general fund for the prebudget year exceeds \$100 million, an undesignated general fund balance in excess of 6% of the first \$100 million and in excess of 3% of the amount which exceeds \$100 million shall be appropriated by a county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

b. Notwithstanding the provisions of subsection a. of this section, the district may, with the approval of the commissioner, appropriate any anticipated excess undesignated general fund balance to the capital reserve account established pursuant to N.J.S.18A:21-3 or section 57 of P.L.2000, c.72 (C.18A:7G-31) for that purpose.

c. If it is determined that the undesignated general fund balances at June 30 of any school year exceed those permitted under subsection a. of this section, the excess

undesignated general fund balances shall be reserved and designated in the subsequent year's budget submitted to the commissioner pursuant to subsection c. of section 5 of this act.

d. The commissioner may withhold State aid in an amount not to exceed the excess undesignated general fund balances for failure to comply with subsection c. of this section.

e. Proceeds from the sale and lease-back of textbooks and non-consumable instructional materials shall not be included in the calculation of excess undesignated general fund balance during the budget year in which they are realized.

L.1996, c.138, s.7; amended 1998, c.55, s.3; 2004, c.73, s.3; 2007, c.62, s.8.

18A:7F-8 Payments to school district by State Treasurer, dates.

8. The amounts payable to each school district and county vocational school district pursuant to this act shall be paid by the State Treasurer upon the certification of the commissioner and warrant of the Director of the Division of Budget and Accounting. Five percent of the appropriation for equalization aid, special education categorical aid, preschool education aid, security aid, transportation aid, adjustment aid, and any other aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) shall be paid on the eighth and twenty-second of each month from September through June. If a local board of education requires funds prior to the first payment, the board shall file a written request with the commissioner stating the need for the funds. The commissioner shall review each request and forward for payment those for which need has been demonstrated.

Facilities funds shall be paid as required to meet due dates for payment of principal and interest. Each school district, county vocational school district, and county special services school district shall file an annual report regarding facilities payments to the commissioner. The report shall include the amount of interest bearing school debt, if any, of the municipality or district then remaining unpaid, together with the rate of interest payable thereon, the date or dates on which the bonds or other evidences of indebtedness were issued, and the date or dates upon which they fall due. In the case of a Type I school district, the board secretary shall secure the schedule of outstanding obligations from the clerk of the municipality.

L.1996, c.138, s.8; amended 2007, c.260, s.31.

18A:7F-9 Receipt of State aid by school district; conditions.

9. In order to receive any State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), a school district, county vocational school district, or county special services school district shall comply with the rules and standards for the equalization of opportunity which have been or may hereafter be prescribed by law or formulated by the commissioner pursuant to law, including those implementing P.L.1996, c.138 (C.18A:7F-1 et al.) and P.L.2007, c.260 (C.18A:7F-43 et al.) or related to the core curriculum content standards required by P.L.2007, c.260 (C.18A:7F-43 et al.), and shall further comply with any directive issued by the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6). The commissioner is hereby authorized to withhold all or part of a district's State aid for failure to comply with any rule, standard or directive. No State aid shall be paid to any district which has not provided public school facilities for at least 180 days during the preceding school year, but the commissioner, for good cause shown, may remit the penalty.

L.1996, c.138, s.9; amended 2007, c.260, s.32.

18A:7F-24 Submission of budget for educational programs in State facilities.

24. Annually by December 15, the Department of Corrections, the Department of Human Services, the Department of Children and Families and the Juvenile Justice Commission shall each submit to the commissioner for approval, with respect to the facilities under their operational or supervisory authority, a budget for educational programs as set forth in section 8 of P.L.1979, c.207 (C.18A:7B-4) for the subsequent year, together with enrollments and per pupil costs. For the purposes of calculating a per pupil cost, enrollment shall be based on the number of pupils in the State facility on the last school day prior to October 16 of the prebudget year. In the subsequent year, pursuant to P.L.1979, c.207 (C.18A:7B-1 et seq.) for students resident in a district, approved per pupil amounts shall be deducted from each school district's State aid and remitted to the appropriate agency, except that for county juvenile detention centers, no deduction shall be made until Fiscal Year 1999; in that year and thereafter, 50% of approved per pupil amounts shall be deducted and remitted to the Juvenile Justice Commission.

L.1996, c.138, s.24; amended 2006, c.47, s.89.

18A:7F-32 Adjustment of State aid calculations in regional districts.

32. a. When State aid is calculated for any year and a part of any district becomes a new school district or a part of another school district, or comes partly under the authority of a regional board of education, the commissioner shall adjust the State aid calculations among the districts affected, or between the district and the regional board, as the case may be, on an equitable basis in accordance with the intent of this act.

Whenever an all-purpose regional school district is approved by the voters during any calendar year, the regional district shall become effective on the succeeding July 1 for the purpose of calculating State aid, and the commissioner shall request supplemental appropriations for such additional State aid as may be required. After a regional school district becomes entitled to State aid, it shall continue to be entitled to aid as calculated for a regional district notwithstanding the subsequent consolidation of the constituent municipalities of the regional school district.

b. For a period of five years following regionalization, each regional school district formed after the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.) shall be eligible to receive supplemental State aid equal to the difference between the regional district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) for the budget year and the sum of equalization aid received by each constituent district of that regional school district in the year prior to regionalization, multiplied by the transition weight. For the purpose of this section, the transition weight shall equal 1.0 for the first year following regionalization, .80 for the second year following regionalization, .60 for the third year following regionalization, .40 for the fourth year following regionalization, and .20 for the fifth year following regionalization.

L.1996, c.138, s.32; amended 2007, c.260, s.33.

18A:7F-33 Annual filing of district report with commissioner.

33. Annually, on or before October 20, the secretary of the board of education, with approval of the superintendent of schools, or if there is no superintendent of schools, with the approval of the executive county superintendent of schools, shall file with the commissioner a report prescribed by the commissioner containing all data necessary to effectuate the aid provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), which shall include but not be limited to, the number of pupils enrolled by grade, the number of these pupils classified as eligible for special education services and speech-only services, the number of pupils in approved programs for bilingual education, the number of at-risk pupils, the number of combination pupils, and the number of pupils in State facilities, county vocational schools, State college demonstration schools, evening schools, other public or private schools to which the district is paying tuition, or who are receiving home instruction on the last school day prior to October 16. In addition, districts shall file annual reports providing such information as the commissioner may require for pupils receiving special education services.

L.1996, c.138, s.33; amended 2007, c.260, s.34.

18A:7F-34 Rules, regulations.

84. The Commissioner of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the provisions of this act.

L.1996, c.138, s.84; amended 2007, c.260, s.35.

18A:7F-37 Definitions relative to property tax levy cap concerning school districts.

2. For the purposes of sections 2 through 7 of P.L.2007, c.62 (C.18A:7F-37 through C.18A:7F-42):

"Adjusted tax levy" means the amount raised by property taxation for the purposes of the school district, excluding any debt service payment.

"Commissioner" means the Commissioner of Education.

"New Jersey Quality Single Accountability Continuum" or "NJQSAC" means the monitoring and evaluation process of school districts pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10).

"Prebudget year adjusted tax levy" means the amount raised by property taxation in the prebudget year for the purposes of the school district, excluding any debt service payment, less any amounts raised after approval of a waiver by the commissioner or separate question by the voters or board of school estimate in the prebudget year unless such approval explicitly allows the approved increases to be permanent.

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes.

"Unrestricted State aid" means, for the 2007-2008 school year, State aid that is included in a school district's State aid notice and allocated pursuant to P.L.1996,

c.138 (C.18A:7F-1 et al.) or any other law for appropriation in a school district's general fund plus early childhood program aid allocated pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16) or any other law and demonstrably effective program aid and instructional supplement aid allocated pursuant to section 18 of P.L.1996, c.138 (C.18A:7F-18) or any other law; and for the 2008-2009 through 2011-2012 school years, State aid that is included in a school district's State aid notice and allocated pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) or any other law for appropriation in a school district's general fund plus preschool education aid allocated pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) or any other law. "Weighted resident enrollment" means weighted resident enrollment as calculated pursuant to section 8 of P.L.2007, c.260 (C.18A:7F-50) and as projected by the commissioner.

L.2007, c.62, s.2; amended 2007, c.260, s.36.

18A:7F-38 School district budget increase subject to tax levy growth limitation.

3. a. (1) Notwithstanding the provisions of any other law to the contrary, a school district shall not adopt a budget pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6) with an increase in its adjusted tax levy that exceeds the tax levy growth limitation calculated as follows: the sum of the prebudget year adjusted tax levy and the adjustment for increases in enrollment multiplied by four percent, and adjustments for a reduction in total unrestricted State aid from the prebudget year, an increase in health care costs, and beginning in the 2008-2009 school year, amounts approved by a waiver granted by the commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-39).

(2) Notwithstanding any provision of paragraph (1) of this subsection to the contrary, beginning in the 2008-2009 school year the tax levy growth limitation for a district which is spending above adequacy as determined pursuant to subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general fund tax levy greater than its local share as calculated pursuant to section 10 of that act and which receives an increase in State aid between the prebudget and budget years that is greater than 2% or the CPI, whichever is greater, shall be reduced by the amount of the State aid increase that exceeds 2% or the CPI, whichever is greater. For the purposes of this paragraph, the CPI shall not exceed 4%. The reduction shall be made following the calculation of any adjustments for increases in enrollment, a reduction in total unrestricted State aid, and an increase in health care costs calculated pursuant to subsections b., c., and d. of this section and prior to the request or approval of waivers pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the reduction would bring the district's spending below adequacy, notwithstanding the requirements of this paragraph to the contrary the amount of the reduction made to the district's tax levy growth limitation shall not be greater than the amount that brings the district's spending to adequacy.

b. (1) The allowable adjustment for increases in enrollment authorized pursuant to subsection a. of this section shall equal the per pupil prebudget year adjusted tax levy multiplied by EP, where EP equals the sum of:

(a) 0.50 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 1%, but not more than 2.5%;

(b) 0.75 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 2.5%, but not more than 4%; and

(c) 1.00 for each unit of weighted resident enrollment that constitutes an increase from the prebudget year over 4%.

(2) A school district may request approval from the commissioner to calculate EP equal to 1.00 for any increase in weighted resident enrollment if it can demonstrate that the calculation pursuant to paragraph (1) of this subsection would result in an average class size that exceeds 10% above the facilities efficiency standards established pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

c. The allowable adjustment for a reduction in total unrestricted State aid authorized pursuant to subsection a. of this section shall equal any reduction in total unrestricted State aid from the prebudget to the budget year.

d. The allowable adjustment for increases in health care costs authorized pursuant to subsection a. of this section shall equal that portion of the actual increase in total health care costs for the budget year, less any withdrawals from the current expense emergency reserve account for increases in total health care costs, that exceeds four percent of the total health care costs in the prebudget year, but that is not in excess of the product of the total health care costs in the prebudget year multiplied by the average percentage increase of the State Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as annually determined by the Division of Pensions and Benefits in the Department of the Treasury.

e. In addition to the adjustments authorized pursuant to subsection a. of this section, for the purpose of determining a school district's allowable tax levy growth limitation for the 2007-2008 school year, a school district may apply to the commissioner for an adjustment for increases in special education costs over \$40,000 per pupil, increases in tuition, capital outlay increases, and incremental increases in costs for opening a new school facility in the budget year.

(1) The allowable adjustment for increases in special education costs over \$40,000 per pupil shall equal any increase in the sum of per pupil amounts in excess of \$40,000 for the budget year less the sum of per pupil amounts in excess of \$40,000 for the prebudget year indexed by four percent.

(2) The allowable adjustment for increases in tuition shall equal any increase in the tuition for the budget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1).

(3) The allowable adjustment for increases in capital outlay shall equal any increase in capital outlay, less any withdrawals from the capital reserve account, over the prebudget year in excess of four percent.

f. The adjusted tax levy shall be increased or decreased accordingly whenever the responsibility and associated cost of a school district activity is transferred to another school district or governmental entity.

L.2007, c.62, s.3; amended 2007, c.260, s.37.

18A:7F-39 Waiver for school district to increase adjusted tax levy by more than allowable amount.

4. a. (1) Beginning in the 2008-2009 school year, a school district may request approval from the commissioner for a waiver to increase its adjusted tax levy by more than the allowable amount authorized in section 3 of P.L.2007, c.62 (C.18A:7F-38) to address extraordinary costs which may include, but not be limited to:

(a) a district's failure to meet the core curriculum content standards as determined through the New Jersey Quality Single Accountability Continuum. Prior to full implementation of NJQSAC, such determination shall be based on a school district's status under the "No Child Left Behind Act of 2001," Pub.L. 107-110. The commissioner shall approve the increase only if the district satisfactorily demonstrates that the increase will be used to implement or expand programs or services to address the causes of the district's failure to meet the core curriculum content standards or other performance indicators as determined through NJQSAC;

(b) energy cost increases over the prebudget year in excess of four percent;

(c) capital outlay increases, less any withdrawals from the capital reserve account, over the prebudget year in excess of four percent;

(d) the appropriation of non-recurring general fund revenues in the prebudget year original budget, including the appropriation of surplus;

(e) increases in insurance costs over the prebudget year in excess of four percent;

(f) increases in transportation costs required to service hazardous routes over the prebudget year in excess of four percent;

(g) increases in special education costs that exceed \$40,000 per each special education pupil over the prebudget year in excess of four percent;

(h) increases in tuition costs charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 over the prebudget year in excess of four percent or charged by a county vocational school district pursuant to the provisions of section 71 of P.L.1990, c.52 (C.18A:54-20.1) over the prebudget year in excess of four percent; and

(i) incremental increases in costs associated with opening a new school facility in the budget year.

(2) A waiver request shall be submitted at least five working days prior to the required budget submission dates established pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6) in a form required by the commissioner, as appropriate, and shall include such information and documentation as the commissioner deems necessary.

(3) In considering a waiver request, in addition to the authority granted to the commissioner pursuant to section 6 of P.L.1996, c.138 (C.18A:7F-6), the commissioner shall have the power to make budgetary reallocations up to the total amount of the waiver request. The commissioner shall not reduce or reallocate any line item accounts that will impact the district's ability to meet the core curriculum content standards and provide a thorough and efficient education.

(4) A waiver approval shall specify whether the adjusted tax levy increase shall be limited to the budget year or added to the adjusted tax levy as a permanent increase.

(5) Any decision of the commissioner as to the entitlement of any school district to an increase of its adjusted tax levy pursuant to this section shall be final and conclusive, and no appeal or review shall be taken therefrom; except that the matter may be put before the voters pursuant to subsection c. of this section.

b. (1) The commissioner may direct a school district to increase specific line item expenditure accounts, for specific purposes, to address low achievement or the causes of the district's failure to meet the core curriculum content standards as determined through NJQSAC, or prior to full implementation of NJQSAC, as determined based on a school district's status under the "No Child Left Behind Act of 2001," Pub.L.107-110.

(2) The commissioner is authorized to approve a school district budget with an increase in its adjusted tax levy by more than the allowable amount authorized pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38), up to the amount required to support the increase in expenditure accounts as directed in paragraph (1) of this subsection.

c. For the 2007-2008 school year, or for the 2008-2009 through 2011-2012 school years if a waiver requested pursuant to subsection a. of this section fails to be approved by the commissioner or if the school district elects not to request a waiver, the school district may submit to the voters at the April school election, or on such other date as is set by regulation of the commissioner, a proposal or proposals to increase the tax levy by more than the allowable amount authorized pursuant to section 3 of P.L.2007, c.62 (C.18A:7F-38). The proposal or proposals to increase the tax levy shall be approved if a majority of people voting at the April 2007 school election vote in the affirmative, or if 60 percent of the people voting at the April 2008 through April 2011 school elections vote in the affirmative. In the case of a school district with a board of school estimate, the additional tax levy shall be authorized only if a quorum is present for the vote and a majority of those board members who are present vote in the affirmative to authorize the additional tax levy.

(1) A proposal or proposals submitted to the voters or the board of school estimate to increase the tax levy pursuant to this subsection shall not include any programs or services necessary for students to achieve the core curriculum content standards.

(2) All proposals to increase the tax levy submitted pursuant to this subsection shall include interpretive statements specifically identifying the program purposes for which the proposed funds shall be used and a clear statement on whether approval will affect only the current year or result in a permanent increase in the levy. The proposals shall be submitted and approved pursuant to sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6).

(3) For only the 2007-2008 school budget year, any proposal or proposals rejected by the voters shall be submitted to the municipal governing body or bodies for a determination as to the amount, if any, that should be expended notwithstanding voter rejection. The decision of the municipal governing body or bodies or board of school estimate, as appropriate, shall be final and no appeals shall be made to the commissioner.

d. The commissioner shall have the authority to grant additional waivers, applicable to all or some school districts, as determined by the commissioner, and only effective for the school budget year in which the waiver is granted, upon a finding of extraordinary circumstances that result in an unanticipated increase in expenditures for a service essential to the health, safety and welfare of the school children of the State.

L.2007, c.62, s.4.

18A:7F-40 Calculation of increase in school district's general fund tax levy for certain school years.

5. a. Notwithstanding any provision of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) or section 36 of P.L.2000, c.126 (C.18A:7F-5a) to the contrary, for the 2007-2008 through 2011-2012 school years the increase in a school district's general fund tax levy shall be calculated in accordance with the provisions of sections 2 through 4 of P.L.2007, c.62 (C.18A:7F-37 through C.18A:7F-39).

b. Notwithstanding any provision of paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) to the contrary, for the 2007-2008 through 2011-2012 school years the submission of a separate proposal or proposals for additional funds to the voters or the board of school estimate shall be submitted in accordance with the provisions of subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39).

L.2007, c.62, s.5.

18A:7F-41 Supplementation of accounts, establishment of reserve accounts by board of education or board of school estimate.

6. Notwithstanding the provisions of any law or regulation to the contrary:

a. A board of education or board of school estimate, as appropriate, may supplement a capital reserve account through a transfer by board resolution at year end of any unanticipated revenue or unexpended line-item appropriation amounts, or both, for withdrawal in subsequent school years.

b. A board of education or board of school estimate, as appropriate, may supplement a maintenance reserve account through a transfer by board resolution at year end of any unanticipated revenue or unexpended line-item appropriation amounts, or both, for withdrawal in subsequent school years.

c. A board of education or a board of school estimate, as appropriate, may through the adoption of a board resolution establish the following reserve accounts:

(1) Current expense emergency reserve account. The funds in the reserve shall be used to finance unanticipated general fund current expense costs required for a thorough and efficient education. The account shall not exceed \$250,000 or one percent of the district's general fund budget up to a maximum of \$1,000,000, whichever is greater. A board of education may appropriate funds to establish or supplement the reserve in the district's annual budget or through a transfer by board resolution at year end of any unanticipated revenue and unexpended line-item appropriation amounts. Withdrawals from the reserve shall require the approval of the commissioner unless the withdrawal is necessary to meet an increase in total health care costs in excess of four percent.

(2) Debt service reserve account in the debt service fund for proceeds from the sale of district property. The funds in the reserve shall be used to retire outstanding debt service obligations of the district. The reserve shall be liquidated within the lesser of five years from its inception or the remaining term on the obligations. Any remaining balance shall be used for tax relief.

d. All reserve accounts shall be established and held in accordance with GAAP and shall be subject to annual audit. Any capital gains or interest earned shall become part of the reserve account. A separate bank account is not required, however, a separate identity for each reserve account shall be maintained.

L.2007, c.62, s.6.

18A:7F-42 Rules, regulations.

7. a. Within 60 days of the effective date of P.L.2007, c.62 (C.18A:7F-37 et al.), the Commissioner of Education shall promulgate emergency rules and regulations necessary to effectuate the purposes of sections 2 through 6 of P.L.2007, c.62 (C.18A:7F-37 through C.18A:7F-41) for the 2007-08 school year.

b. For the 2008-09 school year and thereafter, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to effectuate the purposes of sections 2 through 6 of P.L.2007, c.62 (C.18A:7F-37 through C.18A:7F-41) which shall be effective for a period not to exceed 12 months following the effective date of P.L.2008, c.37 (C.18A:11-13 et al.). The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

L.2007, c.62, s.7; amended 2008, c.37, s.4.

18A:7F-43 Short title.

1. This act shall be known and may be cited as the "School Funding Reform Act of 2008."

L.2007, c.260, s.1.

18A:7F-44 Findings, declarations relative to school funding reforms.

2. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey states that the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years. (N.J. Const. art. VIII, sec. 4, par.1).

b. The State, in addition to any constitutional mandates, has a moral obligation to ensure that New Jersey's children, wherever they reside, are provided the skills and knowledge necessary to succeed. Any school funding formula should provide resources in a manner that optimizes the likelihood that children will receive an education that will make them productive members of society.

c. Although the Supreme Court of New Jersey has held that prior school funding statutes did not establish a system of public education that was thorough and efficient

as to certain districts, the Court has consistently held that the Legislature has the responsibility to substantively define what constitutes a thorough and efficient system of education responsive to that constitutional requirement.

d. Every child in New Jersey must have an opportunity for an education based on academic standards that satisfy constitutional requirements regardless of where the child resides, and public funds allocated to this purpose must be expended to support schools that are thorough and efficient in delivering those educational standards. In turn, school districts must be assured the financial support necessary to provide those constitutionally compelled educational standards. Any school funding formula should provide State aid for every school district based on the characteristics of the student population and up-to-date measures of the individual district's ability to pay.

e. New Jersey's current public school funding formula, established under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996," (CEIFA) P.L.1996, c.138, has not been used to calculate State aid for public schools since the 2001-02 school year. Any new school funding formula should account for changes in enrollment and other significant developments, providing relief to those districts that have experienced substantial enrollment increases.

f. The decisions in the Abbott cases have resulted in frequent litigation and a fragmented system of funding under which limited resources cannot be distributed equitably to all districts where at-risk children reside, instead dividing the districts sharply into Abbott and non-Abbott categories for funding purposes without regard to a district's particular pupil characteristics and leading to needlessly adversarial relationships among school districts and between districts and the State.

g. In the absence of a clear, unitary, enforceable statutory formula to govern appropriations for education, crucial funding decisions are made annually, in competition for limited State resources with other needs and requirements as part of the annual budget negotiation process, utilizing many different classes and categories of aid, leading to an uncertain, unpredictable, and untenable funding situation for the State and school districts alike.

h. This act represents the culmination of five years of diligent efforts by both the Executive and Legislative branches of State government to develop an equitable and predictable way to distribute State aid that addresses the deficiencies found in past formulas as identified by the Supreme Court. Working together toward this common goal, the Department of Education and the Legislature engaged nationally recognized experts in education funding and provided significant opportunities for stakeholder involvement and public input to assist in formulating and refining a comprehensive school funding model that has been validated by experts. The formula accounts for the individual characteristics of school districts and the realities of their surroundings, including the need for additional resources to address the increased disadvantages created by high concentrations of children at-risk.

i. The formula established under this act is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education, including specifically addressing the supplemental needs of at-risk students and those with limited English proficiency (LEP), and a determination of the actual cost of providing those programs. The formula provides adequate funding that is realistically geared to the core curriculum content standards, thus linking those standards to the actual funding needed to deliver that content.

j. In recognition of the unique problems and cost disadvantages faced by districts with high concentrations of at-risk students, it is appropriate to reflect in the formula a greater weight as the district's proportion of at-risk students increases. In addition, the new formula recognizes the disadvantages of an expanded group of students by including in the definition of at-risk those students who qualify for free or reduced-price lunch. Expanding the definition of at-risk students in this manner will significantly increase the resources flowing to districts with high concentrations of these low-income students.

k. In light of the demonstrable, beneficial results and success of the current Abbott preschool program, it is appropriate to build upon this success by incorporating in the formula an expanded high-quality preschool program for all children who qualify for free and reduced price meals in all districts. It is appropriate for the formula to acknowledge that at-risk children do not always receive the same educational exposure at an early age as their peers and to provide the additional resources necessary through high-quality preschool to prepare every child to learn and succeed.

l. It is appropriate to reflect in this formula the inherent value of educating a child in the least restrictive environment and, whenever possible, in that child's neighborhood school alongside his peers. The new funding formula should provide incentives for keeping classified students in district.

m. It is also appropriate to recognize in the formula the need for all schools to incorporate effective security measures, which may vary from district to district depending upon the at-risk student population and other factors, and to provide categorical funding to address these important requirements.

n. In recognition of the potentially wide variability in special education costs, even for the same category of disability, from district to district, it is appropriate for the new funding formula to mitigate the impact of that variability by establishing a census model based on the actual Statewide average excess cost of educating special education students and by providing for an increase in State aid for extraordinary costs incurred by districts.

o. It is imperative that any new school funding formula work in conjunction with the key school accountability measures that have been enacted in recent years to promote greater oversight, transparency, and efficiency in the delivery of educational services. These accountability measures include the New Jersey Quality Single Accountability Continuum, the "School District Fiscal Accountability Act," P.L.2006, c.15 (C.18A:7A-54 et seq.), P.L.2007, c.63 (C.40A:65-1 et al.) which established the duties and responsibilities of the executive county superintendent of schools, and P.L.2007, c.53 (C.18A:55-3 et al.).

p. Together with a renewed legislative focus on and commitment to providing sufficient means to maintain and support a high-quality system of free public schools in the State, a new funding formula supported by significantly increased State resources will ensure compliance with all statutory and constitutional mandates. Districts that were formerly designated as Abbott districts will be provided sufficient resources to continue those Court-identified programs, positions, and services that have proven effective while being provided the flexibility to shift resources and programmatic focus based on the needs of their students and current research.

q. The time has come for the State to resolve the question of the level of funding required to provide a thorough and efficient system of education for all New Jersey school children. The development and implementation of an equitable and adequate school funding formula will not only ensure that the State's students have access to a constitutional education as defined by the core curriculum content standards, but also may help to reduce property taxes and assist communities in planning to meet their educational expenses. The development of a predictable, transparent school funding formula is essential for school districts to plan effectively and deliver the quality education that our citizens expect and our Constitution requires.

L.2007, c.260, s.2.

18A:7F-45 Definitions relative to school funding reform.

3. As used in this act and P.L.1996, c.138, unless the context clearly requires a different meaning:

"At-risk pupils" means those resident pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.85;

"Base per pupil amount" means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough and efficient education;

"Bilingual education pupil" means a resident pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

"Budgeted local share" means the district's local tax levy contained in the budget certified for taxation purposes;

"Capital outlay" means capital outlay as defined in GAAP;

"Combination pupil" means a resident pupil who is both an at-risk pupil and a bilingual education pupil;

"Commissioner" means the Commissioner of Education;

"Concentration of at-risk pupils" shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the number of at-risk pupils among those counted in resident enrollment, divided by resident enrollment;

"County special services school district" means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

"County vocational school district" means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

"CPI" means the increase, expressed as a decimal, in the average annualized consumer price index for the New York City and Philadelphia areas in the fiscal year preceding the prebudget year relative to the previous fiscal year as reported by the United States Department of Labor;

"Debt service" means payments of principal and interest upon school bonds and other obligations issued to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration,

modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees, and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes;

"District income" means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending two years prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value rate, Statewide average equalized school tax rate, or Statewide equalized total tax rate;

"Full-day preschool" means a preschool day consisting of a six-hour comprehensive educational program in accordance with the district's kindergarten through grade 12 school calendar;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"General special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Geographic cost adjustment" means an adjustment that reflects county differences in the cost of providing educational services that are outside the control of the district;

"Household income" means income as defined in 7 CFRss.245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Net budget" means the sum of the district's general fund tax levy, State aid received pursuant to the provisions of this act other than preschool education aid, miscellaneous revenue estimated pursuant to GAAP, and designated general fund balance;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Nonpreschool ECPA" means the amount of early childhood program aid, excluding prior year carry-forward amounts, included in a district's 2007-2008 school year budget certified for taxes that was allocated to grades K through 3;

"Report" means the Educational Adequacy Report issued by the commissioner pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than preschool pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Disabled children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

"Spending growth limitation" means the annual rate of growth permitted in the net budget of a school district, county vocational school district, or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5);

"State facility" means a State developmental center, a State Division of Youth and Family Services' residential center, a State residential mental health center, a Department of Children and Families Regional Day School, a State training school/secure care facility, a State juvenile community program, a juvenile detention center or a boot camp under the supervisory authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.), or an institution operated by or under contract with the Department of Corrections, Children and Families or Human Services, or the Juvenile Justice Commission;

"Statewide equalized school tax rate" means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are not school tax levies.

L.2007, c.260, s.3.

18A:7F-46 Review, update of core curriculum content standards; Educational Adequacy Report, development of T & E standards.

4. a. The State Board of Education shall review and update the core curriculum content standards every five years. The standards shall ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor.

The Commissioner of Education shall develop and establish, through the report issued pursuant to subsection b. of this section, efficiency standards which define the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education.

b. By September 1 of 2010 and by September 1 every three years thereafter, the Governor, after consultation with the commissioner, shall recommend to the Legislature through the issuance of the Educational Adequacy Report for the three school years to which the report is applicable:

(1) the base per pupil amount based upon the core curriculum content standards established pursuant to subsection a. of this section;

(2) the per pupil amounts for full-day preschool;

(3) the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils;

(4) the cost coefficients for security aid and transportation aid;

(5) the State average classification rate for general special education services pupils and for speech-only pupils;

(6) the excess cost for general special education services pupils and for speech-only pupils; and

(7) the extraordinary special education aid thresholds.

The base per pupil amount, the per pupil amounts for full-day preschool, the excess costs for general special education services pupils and for speech-only pupils, and the cost-coefficients for security aid and transportation aid shall be adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

The amounts shall be deemed approved for the three successive fiscal years beginning from the subsequent July 1, unless between the date of transmittal and the subsequent November 30, the Legislature adopts a concurrent resolution stating that the Legislature is not in agreement with all or any specific part of the report. The concurrent resolution shall advise the Governor of the Legislature's specific objections to the report and shall direct the commissioner to submit to the Legislature a revised report which responds to those objections by January 1.

L.2007, c.260, s.4.

18A:7F-47 Total stabilized aid per district, limit on increase.

5. a. Notwithstanding any provision of this act to the contrary, the total stabilized aid for each district shall not be increased by more than the district's State aid growth limit. In the event that total stabilized aid exceeds the prebudget year total by a rate greater than the State aid growth limit, the commissioner shall adjust the components of total stabilized aid so that they total exactly the prebudget year total increased by the State aid growth limit.

b. For the 2008-2009 school year, the prebudget year total shall include Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Education Opportunity Aid, Above Average Enrollment Growth Aid, High Expectations for Learning Proficiency Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Supplemental Stabilization Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice Aid, Consolidated Aid, Additional Formula Aid, Full-day Kindergarten Supplemental Aid, Targeted-At-Risk Aid, Abbott-Bordered District Aid, Nonpreschool ECPA, Extraordinary Special Education Aid paid in 2006-2007, and Aid for Enrollment Adjustments, taking into consideration the June 2008 payment made in July 2008. For the 2009-2010 school year and thereafter, the prebudget year total shall be the total for the same aid categories as included in total stabilized aid.

c. For the 2008-2009 school year, total stabilized aid shall include equalization aid, special education categorical aid, extraordinary special education aid projected for 2008-2009, security aid, and transportation aid.

For the 2009-2010 school year and thereafter, total stabilized aid shall include equalization aid, special education categorical aid, security aid, and transportation aid.

d. For the purposes of this section, "State aid growth limit" means 10% in the case of a district spending above adequacy and 20% in the case of a district spending below adequacy.

(1) For purposes of determining if a school district or county vocational school district is spending above or below adequacy and its applicable State aid growth limit, the district's spending shall equal the sum for the prebudget year of its equalization aid calculated pursuant to section 11 of this act, special education categorical aid calculated pursuant to section 13 of this act, security categorical aid calculated pursuant to section 14 of this act, and general fund local levy.

(2) Notwithstanding any provision of this section to the contrary, for the purposes of determining a district's increase in State aid between the 2007-2008 and 2008-2009 school years, the commissioner shall compare the State aid received by the district for the 2007-2008 school year under the State aid categories listed under subsection b. of this section, other than transportation aid, and the district's general fund levy for that school year to the sum of the district's adequacy budget calculated pursuant to section 9 of this act, special education categorical aid calculated pursuant to section 13 of this act, extraordinary special education aid projected for the 2008-2009 school year, and security aid calculated pursuant to section 14 of this act.

(3) Notwithstanding any provision of this section to the contrary, the commissioner may increase the State aid growth limit in the case of a county vocational school district that has revised one or more of its programs from a shared-time program to a full-time program between the 2001-2002 and 2007-2008 school years or shall make such revision in the 2008-2009 school year. In the event that the commissioner increases the State aid growth limit for a county vocational school district, the commissioner shall adjust the State aid amount provided for the district in the December 12, 2007 report.

L.2007, c.260, s.5.

18A:7F-48 Calculation of equalization aid.

6. Beginning in the 2009-2010 school year and for each school year thereafter, the amount of equalization aid for the budget year shall equal the total Statewide equalization aid calculated pursuant to section 11 of this act for the prebudget year and prior to the application of section 5 of this act indexed by the sum of 1.0, the CPI, and the State average enrollment growth percentage between the prebudget year and the budget year as projected by the commissioner.

L.2007, c.260, s.6.

18A:7F-49 Determination of base per pupil amount; grade level weights.

7. The commissioner shall determine, based on the standards established pursuant to section 4 of this act, a base per pupil amount, and shall develop appropriate weights reflecting the differing costs of providing education at the kindergarten, elementary, middle school, and high school levels, which weights shall be applied in determining a district's base cost as set forth in section 8 of this act. The base per pupil amount for the 2008-2009 school year shall be \$9,649. The weight for kindergarten shall be 0.5 in the case of a pupil enrolled in a half-day kindergarten program and 1.0 in the case of a pupil enrolled in a full-day kindergarten program, and shall be 1.0 for the elementary

(grades 1-5) level, 1.04 for the middle school (grades 6-8) level, and 1.17 for the high school (grades 9-12) level.

The base per pupil amount shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the base per pupil amount and the grade level weights shall be established in the Educational Adequacy Report, with the base per pupil amount adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

L.2007, c.260, s.7.

18A:7F-50 Calculation of weighted enrollment for each school district.

8. a. The weighted enrollment for each school district and county vocational school district shall be calculated as follows:

$$\text{WENR} = (\text{PW} \times \text{PENR}) + (\text{EW} \times \text{EENR}) + (\text{MW} \times \text{MENR}) + (\text{HW} \times \text{HENR})$$

where

PW is the applicable weight for kindergarten enrollment;

EW is the weight for elementary enrollment;

MW is the weight for middle school enrollment;

HW is the weight for high school enrollment;

PENR is the resident enrollment for kindergarten;

EENR is the resident enrollment for grades 1 - 5;

MENR is the resident enrollment for grades 6 - 8; and

HENR is the resident enrollment for grades 9 - 12.

For the purposes of this section, ungraded pupils shall be counted in their age-equivalent grade.

b. The base cost for each school district shall be calculated as follows:

$$\text{BC} = \text{BPA} \times \text{WENR}; \text{ and}$$

the base cost for each county vocational school district shall be calculated as follows:

$$\text{BC} = \text{BPA} \times \text{WENR} \times 1.31$$

where

BPA is the base per pupil amount; and

WENR is the weighted enrollment of the school district or county vocational school district.

L.2007, c.260, s.8.

18A:7F-51 Calculation of adequacy budget.

9. a. The adequacy budget for each school district and county vocational school district shall be calculated as follows:

$$\text{AB} = (\text{BC} + \text{AR Cost} + \text{LEP Cost} + \text{COMB Cost} + \text{SE Census}) \times \text{GCA}$$

where

BC is the district's or county vocational school district's base cost as calculated pursuant to section 8 of this act;

AR Cost is the cost of providing educational and other services for at-risk pupils as calculated pursuant to subsection b. of this section;

LEP Cost is the cost of providing educational and other services for bilingual education pupils as calculated pursuant to subsection c. of this section;

COMB Cost is the cost of providing educational and other services for pupils who are both at-risk and bilingual as calculated pursuant to subsection d. of this section;

SE Census is the cost of providing programs and services to general special education services pupils and speech-only pupils as calculated pursuant to subsection e. of this section; and

GCA is geographic cost adjustment.

The GCA shall be the geographic cost adjustment developed by the commissioner and revised by the commissioner every five years in accordance with receipt of census data.

b. AR Cost shall be calculated as follows:

$$\text{AR Cost} = \text{BPA} \times \text{ARWENR} \times \text{AR Weight}$$

where

BPA is the base per pupil amount;

ARWENR is the weighted enrollment for at-risk pupils of the school district or county vocational school district, which shall not include combination pupils; and

AR Weight is the at-risk weight.

For the 2008-2009 through 2010-2011 school years the at-risk weight shall be as follows:

for a district in which the concentration of at-risk pupils is less than 20% of resident enrollment, the at-risk weight shall equal 0.47;

for a district in which the concentration of at-risk pupils is equal to 20% but less than 60% of resident enrollment, the at-risk weight shall equal the district's ((at-risk % - 0.20) x 0.25)) + 0.47; and

for a district in which the concentration of at-risk pupils is equal to or greater than 60% of resident enrollment, the at-risk weight shall equal 0.57.

For subsequent school years, the AR weight shall be established in the Educational Adequacy Report.

c. LEP Cost shall be calculated as follows:

$$\text{LEP Cost} = \text{BPA} \times \text{LWENR} \times \text{LEP Weight}$$

where

BPA is the base per pupil amount;

LWENR is the weighted enrollment for the bilingual education pupils of the school district or county vocational school district, which shall not include combination pupils; and

LEP Weight is the bilingual pupil weight.

For the 2008-2009 through 2010-2011 school years the LEP weight shall be 0.5. For subsequent school years, the LEP weight shall be established in the Educational Adequacy Report.

d. COMB Cost shall be calculated as follows:

$$\text{COMB Cost} = \text{BPA} \times \text{CWENR} \times (\text{AR Weight} + \text{COMB Weight})$$

where

BPA is the base per pupil amount;

CWENR is the weighted enrollment for pupils who are both at-risk and bilingual;

AR Weight is the at-risk weight; and

COMB Weight is the combination pupil weight.

For the 2008-2009 through 2010-2011 school years the COMB weight shall be 0.125. For subsequent school years, the COMB weight shall be established in the Educational Adequacy Report.

e. SE Census shall be calculated as follows:

$$\text{SE Census} = (\text{RE} \times \text{SEACR} \times \text{AEC} \times 2/3) + (\text{RE} \times \text{SACR} \times \text{SEC})$$

where

RE is the resident enrollment of the school district or county vocational school district;

SEACR is the State average classification rate for general special education services pupils;

AEC is the excess cost for general special education services pupils;

SACR is the State average classification rate for speech-only pupils; and

SEC is the excess cost for speech-only pupils.

For the 2008-2009 through 2010-2011 school years the State average classification rate shall be 14.69% for general special education services pupils and 1.897% for speech-only pupils. For subsequent school years, the State average classification rates shall be established in the Educational Adequacy Report.

For the 2008-2009 school year the excess cost shall be \$10,898 for general special education services pupils and \$1,082 for speech-only pupils. The excess cost amounts shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amounts shall be established in the Educational Adequacy Report, with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

L.2007, c.260, s.9.

18A:7F-52 Determination of equalization aid.

10. Each school district and county vocational school district shall receive equalization aid predicated on a local share determined by district property wealth and district income.

a. Each district's local share shall be calculated as follows:

$$\text{LSHARE} = (\text{EQVAL} \times \text{PVR} \times 50\%) + (\text{INC} \times \text{INR} \times 50\%)$$

where

EQVAL is the district's prebudget year equalized valuation;

PVR is the Statewide property value rate determined pursuant to subsection c. of this section;

INC is the district's income; and

INR is the Statewide income rate determined pursuant to subsection c. of this section.

b. The local share for each county vocational school district shall be calculated as follows:

$$\text{LSHARE} = (\text{COLSHARE}/\text{COAB}) \times \text{AB}$$

where

COLSHARE is the sum of the local shares for all school districts in the county calculated pursuant to subsection a. of this section;

COAB is the sum of the adequacy budgets for all school districts in the county calculated pursuant to section 9 of this act; and

AB is the county vocational school district's adequacy budget calculated pursuant to section 9 of this act.

c. For the 2008-2009 school year, the property value rate shall be set at 0.0092690802 and the income value rate shall be set at 0.04546684. For subsequent school years the values for the property value rate and the income value rate shall be annually determined by the commissioner as follows:

the property value rate shall be determined such that equalization aid equals the Statewide available equalization aid for all districts determined according to this act had each school district's local share equaled the product of the property value rate and the district's equalized valuation and each county vocational school district's local share equaled the product of the county vocational school district's adequacy budget and the average local share, expressed as a percent, of the school districts located in the county; and

the income rate shall be determined such that equalization aid equals the Statewide available equalization aid for all districts determined according to this act had each school district's local share equaled the product of the income rate and the district's income and each county vocational school district's local share equaled the product of the county vocational school district's adequacy budget and the average local share, expressed as a percent, of the school districts located in the county.

In the event that these rates, when used in accordance with the provisions of this section and assuming that each district's general fund levy is equal to its local share,

do not result in equalization aid for all districts equal to the Statewide available equalization aid, the commissioner shall adjust these rates appropriately, giving equal weight to each.

L.2007, c.260, s.10.

18A:7F-53 Calculation of equalization aid.

11. Each school district's and county vocational school district's equalization aid shall be calculated as follows:

$$\text{EQAID} = \text{AB} - \text{LSHARE}$$
 provided that EQAID shall not be less than zero; and

where

AB is the district's adequacy budget calculated pursuant to section 9 of this act; and

LSHARE is the district's local share calculated pursuant to section 10 of this act.

Each district's equalization aid for general fund expenses shall be expended to provide a thorough and efficient system of education consistent with the core curriculum content standards established pursuant to section 4 of this act.

A school district may make an appeal to the commissioner on the amount of its equalization aid on the basis that the calculation of income within the local share formula under section 10 of this act does not accurately reflect the district's income wealth.

L.2007, c.260, s.11.

18A:7F-54 Access to full-day preschool; calculation of preschool education aid.

12. a. District factor group A and B school districts, and district factor group CD school districts with a concentration of at-risk pupils equal to or greater than 40%, shall provide free access to full-day preschool for all three- and four-year old pupils. All other school districts shall provide free access to full-day preschool for at-risk pupils. Preschool education aid shall reflect the cost of the pupil's placement in either a district program, a licensed child care provider program, or a Head Start Program.

(1) Preschool education aid shall be calculated for district factor group A and B school districts, and for district factor group CD school districts with a concentration of at-risk pupils equal to or greater than 40%, as follows:

$$\text{Aid} = (\text{IDE} \times \text{IDA}) + (\text{PRE} \times \text{PRA}) + (\text{HSE} \times \text{HSA})$$

where

IDE is the number of district pupils, other than preschool disabled pupils, in an in-district preschool program;

IDA is the per pupil aid amount for an in-district preschool program;

PRE is the number of district pupils, other than preschool disabled pupils, in a preschool program operated by a licensed child care provider;

PRA is the per pupil aid amount for a preschool program operated by a licensed child care provider;

HSE is the number of district pupils, other than preschool disabled pupils, in a Head Start Program; and

HSA is the per pupil aid amount for a Head Start Program.

A CD school district with a concentration of at-risk pupils equal to or greater than 40% shall be eligible to receive preschool education aid pursuant to the provisions of this paragraph for a minimum of three school years from the time of initial determination of eligibility even if the district's concentration of at-risk pupils falls below a 40% concentration of at-risk pupils. In the event that the district falls below a 40% concentration of at-risk pupils for two consecutive school years, in the third school year the district shall receive preschool education aid for each at-risk pupil and for any four-year old pupil for whom the district received preschool education aid in the prior school year, and that pupil shall receive free preschool education.

(2) Preschool education aid shall be calculated for all other districts as follows:

$$\text{Aid} = (\text{ARID} \times \text{IDA}) + (\text{ARP} \times \text{PRA}) + (\text{ARHS} \times \text{HSA})$$

where

ARID is the number of at-risk district pupils, other than preschool disabled pupils, in an in-district preschool program;

IDA is the per pupil aid amount for an in-district preschool program;

ARP is the number of at-risk district pupils, other than preschool disabled pupils, in a preschool program operated by a licensed child care provider;

PRA is the per pupil aid amount for a preschool program operated by a licensed child care provider;

ARHS is the number of at-risk district pupils, other than preschool disabled pupils, in a Head Start Program; and

HSA is the per pupil aid amount for a Head Start Program.

b. In accordance with regulations adopted by the commissioner, all districts shall submit a five-year plan that provides for the full implementation of full-day preschool for all eligible three- and four-year olds by the 2013-2014 school year. For the purposes of this section, "full implementation" means serving 90% of eligible pupils in accordance with the preschool quality standards adopted by the commissioner or such greater percentage as determined by the commissioner. A school district shall annually update the five-year plan based on actual implementation experience and shall revise its pupil projections in accordance with that experience.

c. (1) In the case of a school district that did not receive any form of preschool aid in the 2007-2008 school year, the 2008-2009 school year shall be a preschool planning year. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(2) In the case of a school district that received Early Launch to Learning Initiative aid in the 2007-2008 school year, for the 2008-2009 school year the district shall receive preschool education aid in an amount equal to the district's allocation of Early Launch to Learning Initiative aid in the 2007-2008 school year. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(3) In the case of a school district that received early childhood program aid in the 2007-2008 school year but did not receive preschool expansion aid or education opportunity aid in that year, for the 2008-2009 school year the district shall receive preschool education aid equal to the greater of the district's 2007-2008 amount of early childhood program aid for preschool or the district's 2007-2008 per pupil allocation of early childhood program aid as included in the district's original 2007-2008 budget certified for taxes, inflated by the CPI, and multiplied by the district's projected preschool enrollment; except that if the district is able to demonstrate in the five-year plan submitted to the commissioner that it has the capacity to offer a full-day three- or four-year-old program, or a full-day three- and four-year-old program, in the 2008-2009 school year, the commissioner may approve the funding of the full-day program calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment. The district shall be informed of the commissioner's determination upon approval of the five-year plan. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

(4) In the case of a school district that received preschool expansion aid or education opportunity aid in the 2007-2008 school year, for the 2008-2009 school year the district shall receive preschool education aid in an amount equal to the preschool budget approved by the commissioner for the 2008-2009 school year. Preschool education aid for the 2008-2009 school year shall be adjusted following receipt of the Application for State School Aid in October 2008. Beginning in the 2009-2010 school year, the school district shall receive preschool education aid calculated in accordance with the provisions of subsection a. of this section based upon projected preschool enrollment; except that for any school year the district shall not receive preschool aid in an amount less than either the total amount of preschool aid the district received in the 2008-2009 school year after the State aid adjustment or the district's 2008-2009 school year preschool per pupil aid amount multiplied by the projected number of preschool pupils after the State aid adjustment, whichever is greater.

In the 2009-2010 school year the school district may also receive start-up funds in accordance with regulations adopted by the commissioner.

d. For the 2008-2009 school year, the preschool per pupil aid amounts shall be \$11,506 for pupils enrolled in an in-district program, \$12,934 for pupils enrolled in a licensed child care provider program, and \$7,146 for pupils enrolled in a Head Start Program. The preschool per pupil aid amounts shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the preschool per pupil aid amounts shall be established in the Educational Adequacy Report, with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

e. A district shall appropriate preschool education aid in a special revenue fund for expenditure. In the event that any preschool education aid is not expended during the budget year, the aid may be carried forward in accordance with regulations adopted by the commissioner.

f. In the event that a district has fully implemented a full-day preschool program for three- and four-year old pupils in accordance with its five-year plan and meets the preschool quality standards or has provided preschool education to the number of eligible students to be served during a school year in accordance with that plan and its annual updates and the preschool quality standards, the district may appropriate preschool education aid to support kindergarten through grade 12 or to provide preschool education for three- and four-year old pupils for whom the district is not required to provide preschool education upon the approval of the commissioner. The district shall request approval in its annual plan update and any approval granted by the commissioner shall be made during the annual school budget process.

g. A school district shall maintain the preschool quality standards as adopted by the commissioner as a condition of receipt of preschool education aid.
L.2007, c.260, s.12.

18A:7F-55 Calculation of special education categorical aid.

13. a. Special education categorical aid for each school district and county vocational school district shall be calculated as follows:

$$SE = (RE \times SEACR \times AEC \times 1/3) \times GCA$$

where

RE is the resident enrollment of the school district or county vocational school district;

SEACR is the State average classification rate for general special education services pupils;

AEC is the excess cost for general special education services pupils; and

GCA is the geographic cost adjustment as developed by the commissioner.

For the 2008-2009 school year the excess cost shall be \$10,898 for general special education services pupils. The excess cost amount shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amount shall be established in the Educational Adequacy Report, with the amount adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

b. Extraordinary special education aid for an individual classified pupil shall be available when the student is educated in a general education classroom, special education program, including but not limited to a resource program or special class program, or any combination of general education and special education programs and services, subject to the requirements and thresholds set forth in this section.

(1) In those instances in which a pupil is educated in an in-district public school program with non-disabled peers, whether run by a public school or by a private school for the disabled, and the cost of providing direct instructional and support services for an individual classified pupil exceeds \$40,000, for those direct instructional and support services costs in excess of \$40,000 a district shall receive extraordinary special education State aid equal to 90% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(2) In those instances in which a pupil is educated in a separate public school program for students with disabilities and the cost of providing direct instructional and support services for an individual classified pupil exceeds \$40,000, for those direct instructional and support services costs in excess of \$40,000 a district shall receive extraordinary special education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(3) In those instances in which a pupil is educated in a separate private school for students with disabilities and the tuition for an individual classified pupil exceeds \$55,000, for tuition costs in excess of \$55,000 a district shall receive extraordinary special education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(4) Extraordinary special education State aid for an individual classified pupil shall be calculated as follows:

$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC - \$55,000)) \times .75)$$

where

ADC equals the district's actual cost for the direct instructional and support services in an in-district public school program as set forth in paragraph (1) of this subsection;

AIC equals the district's actual cost for direct instructional and support services in a separate public school program as set forth in paragraph (2) of this subsection; and

ASC equals the district's actual cost for tuition paid to a separate private school as set forth in paragraph (3) of this subsection.

(5) The receipt of extraordinary special education State aid for an individual classified pupil shall be conditioned upon a demonstration by the district that the pupil's Individualized Education Plan requires the provision of intensive services, pursuant to factors determined by the commissioner.

c. In order to receive funding pursuant to this section, a district shall file an application with the department that details the expenses incurred on behalf of the particular classified pupil for which the district is seeking reimbursement. Additional State aid awarded for extraordinary special education costs shall be recorded by the district as revenue in the current school year and paid to the district in the subsequent school year.

d. A school district may apply to the commissioner to receive emergency special education aid for any classified pupil who enrolls in the district prior to March of the budget year and who is in a placement with a cost in excess of \$40,000 or \$55,000, as applicable. The commissioner may debit from the student's former district of residence any special education aid which was paid to that district on behalf of the student.

e. The department shall review expenditures of federal and State special education aid by a district in every instance in which special education monitoring identifies a failure on the part of the district to provide services consistent with a pupil's Individualized Education Plan.

f. The commissioner shall commission an independent study of the special education census funding methodology to determine if adjustments in the special education funding formulas are needed in future years to address the variations in incidence of students with severe disabilities requiring high cost programs and to make recommendations for any such adjustments. The study and recommendations shall be completed by June 30, 2010.

g. A school district may apply to the commissioner to receive additional special education categorical aid if the district has an unusually high rate of low-incidence disabilities, such as autism, deaf/blindness, severe cognitive impairment, and medically fragile. In applying for the aid the district shall: demonstrate the impact of the unusually high rate of low-incidence disabilities on the school district budget and the extent to which the costs to the district are not sufficiently addressed through special education aid and extraordinary special education aid; and provide details of all special education expenditures, including details on the use of federal funds to support those expenditures.

L.2007, c.260, s.13.

18A:7F-56 Calculation of security categorical aid.

14. Security categorical aid for each school district and county vocational school district shall be calculated as follows:

$$SA = ((RE \times \$70) + (AREN \times ARSA)) \times GCA$$

where

RE means the school district's or county vocational school district's resident enrollment;

AREN means the district's number of at-risk pupils;

ARSA means the at-risk security amount; and

GCA is the geographic cost adjustment as developed by the commissioner.

For the 2008-2009 through 2010-2011 school years the at-risk security amount shall be calculated as follows:

for a district in which the concentration of at-risk pupils is less than 40% of resident enrollment, the at-risk security amount shall equal the district's $(AR\% \times \$10.15 \times 100)$; and

for a district in which the concentration of at-risk pupils is equal to or greater than 40%, the at-risk security amount shall equal \$406.

The security cost coefficients, \$70, \$10.15 and \$406, used to determine the security amount, shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the cost coefficients shall be established in the Educational Adequacy Report, with adjustments by the CPI for each of the two school years following the first school year to which the report is applicable.

L.2007, c.260, s.14.

18A:7F-57 Calculation of State aid for transportation.

15. a. Each school district's and county vocational school district's State aid for transportation shall consist of base aid (BA) and an incentive factor (IF) determined as follows:

$$BA = (BA1 \times IF) + BA2$$

where

$$BA1 = CP1 \times P1 + CD1 \times P1 \times D1;$$

$$BA2 = CP2 \times P2 + CD2 \times P2 \times D2;$$

P1 is the total number of regular education public pupils and regular nonpublic pupils eligible for transportation pursuant to N.J.S.18A:39-1, excluding preschool pupils except pupils that qualify for free full-day preschool pursuant to section 12 of this act, and of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with no special transportation requirements, who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D1 is the average home-to-school mileage for P1 pupils;

P2 is the total number of special education pupils eligible for transportation pursuant to N.J.S.18A:46-23 with special transportation requirements who are resident in the district as of the last school day prior to October 16 of the prebudget year;

D2 is the average home-to-school mileage for P2 pupils; and

CP1, CD1, CP2 and CD2 are cost coefficients with values set forth in subsection b. of this section.

IF is the incentive factor, which modifies base aid paid for pupils transported on regular vehicles according to each district's percentile rank in regular vehicle capacity utilization. Students within the district who receive courtesy busing services shall be included in the calculation of the district's regular vehicle capacity utilization if the courtesy busing services are provided to a student who would otherwise be required to walk to and from school along a route designated as a hazardous route by the school district pursuant to section 2 of P.L.1999, c.310 (C.18A:39-1.5). For the 2008-2009 school year, IF = 1. The Governor shall submit to the Legislature at least 60 days prior to the FY 2011 budget address proposed transportation incentive factors applicable to the 2010-2011 school year and thereafter along with supporting data. The incentive factors shall be deemed approved by the Legislature unless a concurrent resolution is passed within 60 days of the date of submission.

b. For the 2008-2009 school year, the cost coefficients in subsection a. of this section shall have the following values:

$$CP1 = \$383.88;$$

$$CD1 = \$10.50;$$

$$CP2 = \$2,675.77; \text{ and}$$

$$CD2 = \$5.10.$$

The cost coefficients shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the cost coefficients shall be established in the Educational Adequacy Report with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

c. For the 2008-2009 school year each district and county vocational district shall receive State transportation aid in an amount equal to the school district's or county vocational school district's State aid entitlement calculated pursuant to subsections a. and b. of this section multiplied by 81.4876%.

d. Each executive county superintendent of schools shall complete a study of pupil transportation services in the county no later than 18 months after the effective date of P.L.2007, c.260 (C.18A:7F-43 et al.). The purpose of the study shall be to determine ways to provide pupil transportation services in a more cost-effective and efficient manner. The study shall be transmitted upon completion to the Commissioner of Education and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

L.2007, c.260, s.15.

18A:7F-58 Adjustment aid; educational adequacy aid.

16. a. (1) For the 2008-2009 school year, each school district and county vocational school district shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated for the district pursuant to the provisions of this act or the State aid received by the district for the 2007-2008 school year multiplied by 102%. The State aid received by the district for the 2007-2008 school year shall include the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Education Opportunity Aid, Above Average Enrollment Growth Aid, High Expectations for Learning Proficiency Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Supplemental Stabilization Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice Aid, Consolidated Aid, Additional Formula Aid, Full-day Kindergarten Supplemental Aid, Targeted-At-Risk Aid, Abbott-Bordered District Aid, Nonpreschool ECPA, Extraordinary Special Education Aid paid in 2006-2007, and Aid for Enrollment Adjustments, taking into consideration the June 2008 payment made in July 2008.

(2) For the 2009-2010 and 2010-2011 school years a school district or county vocational school district shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated for the district pursuant to the provisions of this act or the State aid, other than educational adequacy aid, received by the district for the 2008-2009 school year.

(3) For the 2011-2012 school year and for each school year thereafter, a school district or county vocational school district that does not have a decline in its weighted enrollment, adjusted for bilingual education pupils and at-risk pupils, between the 2008-2009 school year and the budget year that is greater than 5% shall receive adjustment aid in such amount as to ensure that the district receives the greater of the amount of State aid calculated pursuant to the provisions of this act or the State aid, other than educational adequacy aid, received by the district for the 2008-2009 school year.

(4) For the 2011-2012 school year and for each school year thereafter, a school district or county vocational school district that has a decline in its weighted enrollment, adjusted for bilingual education pupils and at-risk pupils, between the 2008-2009 school year and the budget year that is greater than 5% shall have its adjustment aid reduced in an amount equal to the district's 2008-2009 per pupil adjustment aid amount multiplied by the decline in its resident enrollment that is greater than 5%.

b. In the case of a school district that received education opportunity aid in the 2007-2008 school year and for which the sum of the district's 2007-2008 State aid under the State aid categories listed under paragraph (1) of subsection a. of this section and general fund local levy is less than the sum of the district's adequacy budget as calculated pursuant to section 9 of this act, special education categorical aid calculated pursuant to section 13 of this act, and security aid calculated pursuant to section 14 of this act, the district shall receive educational adequacy aid if it meets the following criteria:

(1) the district fails to meet educational adequacy standards as determined by the commissioner; or

(2) the district is located in a municipality with an equalized total tax rate that is greater than 130% of the Statewide average equalized total tax rate; or

(3) the district has an equalized school tax rate that is greater than 110% of the Statewide average equalized school tax rate and is located in a municipality with an equalized total tax rate that is greater than 120% of the Statewide average equalized total tax rate; and

(4) the district will not meet adequacy in the 2008-2009 school year based on the State aid increase received by the district for that school year.

An eligible district shall receive educational adequacy aid for the 2008-2009 school year in accordance with the following formula:

$$EA \text{ aid} = ((AB + SE + SA) - (GFL + A08)) \times .33) - 1s - SA;$$

where AB is the district's adequacy budget as calculated pursuant to section 9 of this act;

SE is the district's special education categorical aid calculated pursuant to section 13 of this act;

SA is the district's security categorical aid calculated pursuant to section 14 of this act;

GFL is the district's prebudget year general fund local levy;

A08 is the sum of the district's 2007-2008 State aid under the State aid categories listed under paragraph (1) of subsection a. of this section;

ls is the district's prebudget year general fund local levy, multiplied by 4% in the case of a district which meets the criteria of paragraph (2) or paragraph (3) of this subsection, or in the case of a district which does not meet those criteria multiplied by 6%; and

SA is any increase in State aid between the prebudget and budget years.

An eligible district shall receive educational adequacy aid for the 2009-2010 school year in accordance with the following formula:

$$EA \text{ aid} = ((AB - (GFL + PEQAID)) \times .50) - ls; \text{ and}$$

An eligible district shall receive educational adequacy aid for the 2010-2011 school year in accordance with the following formula:

$$EA \text{ aid} = (AB - (GFL + PEQAID) - ls)$$

where

AB is the district's adequacy budget as calculated pursuant to section 9 of this act;

GFL is the district's prebudget year general fund local levy;

PEQAID is the district's prebudget year equalization aid calculated pursuant to section 11 of this act; and

ls is the district's prebudget year general fund local levy, multiplied by 4% in the case of a district which meets the criteria of paragraph (2) or paragraph (3) of this subsection, or in the case of a district which does not meet those criteria multiplied by 8% for the 2009-2010 school year and by 10% for the 2010-2011 school year;

For the 2011-2012 school year and for each school year thereafter, the district shall receive the amount of educational adequacy aid that the district received in the 2010-2011 school year.

L.2007, c.260, s.16.

18A:7F-59 Study of tax levy growth limitation.

17. The Commissioner of Education shall complete by the end of the 2010-2011 school year a study of the tax levy growth limitation enacted pursuant to sections 2 through 5 of P.L.2007, c.62 (C.18A:7F-37-18A:7F-40), for the purpose of analyzing any effects that the tax levy growth limitation has had on disparities in spending among the districts. The study shall include a recommendation by the commissioner on whether the tax levy growth limitation should be continued after the 2011-2012 school year, or whether the spending growth limitation under the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) would be more effective in addressing any identified disparities in school district spending, or whether a revised growth limitation method might be warranted.

L.2007, c.260, s.17.

18A:7F-60 Conditions for disbursement of funds.

18. The Commissioner of Education shall not authorize the disbursement of funds to any district until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable students to achieve the core curriculum content standards. The commissioner shall be authorized to take any affirmative action as is necessary to ensure the effective and efficient expenditure of funds by school districts and county vocational school districts.

L.2007, c.260, s.60.

18A:7F-61 Percentage of district's district aid for 2008-09.

19. Notwithstanding any law or regulation to the contrary, for the 2008-2009 school year a district's district aid percentage calculated for purposes of the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10) shall equal the percentage calculated for the 2001-2002 school year.

L.2007, c.260, s.19.

18A:7F-62 Calculation of aid for choice student in choice district, resident enrollment.

20. For the purpose of calculating all forms of State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) for a choice student in a choice district, the student shall be counted in the resident enrollment of the receiving district. The receiving district shall receive school choice aid for each choice student equal to the adequacy budget local levy per pupil amount.

For purposes of this section, "adequacy budget local levy per pupil amount" means the adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) minus equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) divided by the resident enrollment.

L.2007, c.260, s.20.

18A:7F-63 Inclusion of facilities projects in SDA district budget.

21. a. Notwithstanding any provision of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) may include in its annual capital outlay budget and construct one or more school facilities projects if the cost of each project does not exceed \$500,000 and the commissioner approves the inclusion of the project upon a demonstration by the district that its budget includes sufficient funds to finance the project. A district may also withdraw funds from a capital reserve account for such purpose with the approval of the commissioner.

b. A school facilities project, the cost of which does not exceed \$500,000 and that is not financed and constructed pursuant to subsection a. of this section, shall continue to be financed and constructed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.).

L.2007, c.260, s.21.

18A:7G-1 Short title.

1. Sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.), sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections 8 through 11 of P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall be known and may be cited as the "Educational Facilities Construction and Financing Act."

L.2000, c.72, s.1; amended 2008, c.39, s.1.

18A:7G-2 Findings, declarations relative to construction, financing of public school facilities.

2. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey requires the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools and this legislative responsibility includes ensuring that students are educated in physical facilities that are safe, healthy, and conducive to learning.

b. Inadequacies in the quality, utility, and safety of educational facilities have arisen among local school districts of this State. In order to ensure that the Legislature's constitutional responsibility for adequate educational facilities is met, there is a need to establish an efficiency standard for educational facilities at the elementary, middle, and secondary school levels which will assure that the core curriculum content standards are taught to all of the children of the State in a setting which facilitates and promotes that learning.

c. Educational infrastructure inadequacies are greatest in the SDA districts where maintenance has been deferred and new construction has not been initiated due to concerns about cost. To remedy the facilities inadequacies of the SDA districts, the State must promptly engage in a facilities needs assessment and fund the entire cost of repairing, renovating, and constructing the new school facilities determined by the Commissioner of Education to be required to meet the school facilities efficiency standards in the SDA districts. In other districts, the State must also identify need in view of anticipated growth in school population, and must contribute to the cost of the renovation and construction of new facilities to ensure the provision of a thorough and efficient education in those districts.

d. While providing that the educational infrastructure meets the requirements of a thorough and efficient education, the State must also protect the interests of taxpayers who will bear the burden of this obligation. Design of school facilities should incorporate maximum operating efficiencies and new technologies to advance the energy efficiency of school facilities and the efficiency of other school building systems, construction should be achieved in as efficient a manner as possible, and a mechanism to assure proper maintenance of new facilities should be established and implemented, in order to reduce the overall cost of the program and to preserve this infrastructure investment.

L.2000, c.72, s.2; amended 2007, c.260, s.38.

18A:7G-3 Definitions relative to construction, financing of public school facilities.

3. As used in sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), unless the context clearly requires a different meaning:

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be established by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

"Capital maintenance project" means a school facilities project intended to extend the useful life of a school facility, including up-grades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems;

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the development authority pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon school bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Development authority" means the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237);

"District" means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a district under full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et al.);

"District aid percentage" means the number expressed as a percentage derived from dividing the district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as of the date of the commissioner's determination of preliminary eligible costs by the district's adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's determination of preliminary eligible costs;

"Excess costs" means the additional costs, if any, which shall be borne by the district, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and not approved pursuant to paragraph (1) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as community design features included in final eligible costs pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Final eligible costs" means for school facilities projects to be constructed by the development authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the development authority, pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the development authority which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the development authority and approved by the State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

and for districts other than SDA districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

"Financing authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"FTE" means a full-time equivalent student which shall be calculated as follows: each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and each preschool student who is enrolled in a full-day preschool program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at 100% of the actual count of preschool students. In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the development authority, the total costs less the State share as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project which shall be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as determined pursuant to that section;

"Local unit" means a county, municipality, board of education or any other political subdivision or instrumentality authorized to construct, operate and maintain a school facilities project and to borrow money for those purposes pursuant to law;

"Local unit obligations" means bonds, notes, refunding bonds, refunding notes, lease obligations and all other obligations of a local unit which are issued or entered into for the purpose of paying for all or a portion of the costs of a school facilities project, including moneys payable to the development authority;

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include capital maintenance or contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Other allowable costs" means the costs of temporary facilities, site development, acquisition of land or other real property interests necessary to effectuate the school

facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the development authority and the financing authority or the district incurred in connection with the school facilities project;

"Other facilities" means athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration;

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall be deemed to include the costs of construction and other allowable costs;

"Redevelopment entity" means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

"School bonds" means, in the case of a school facilities project which is to be constructed by the development authority, a redevelopment entity, or a district under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the total costs;

"School enrollment" means the number of FTE students other than evening school students, including post-graduate students and post-secondary vocational students, who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities;

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have a redevelopment entity construct the project or which elect not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), the amount of State aid determined pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10);

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the development authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6);

and in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as determined by the district.

L.2000, c.72, s.3; amended 2005, c.235, s.31; 2006, c.47, s.90; 2007, c.137, s.18; 2007, c.260, s.39.

18A:7G-4 Long-range facilities plan; facilities efficiency standards; time lines.

4. a. By December 15, 2000 and by October 1, 2005, each district shall prepare and submit to the commissioner a long-range facilities plan that details the district's school facilities needs and the district's plan to address those needs for the ensuing five years. Following the approval of the 2005 long-range facilities plan, each district shall amend its long-range facilities plan at least once every five years to update enrollment projections, building capacities, and health and safety conditions. The long-range facilities plan shall incorporate the facilities efficiency standards and shall be filed with the commissioner for approval in accordance with those standards. For those Abbott districts that have submitted long-range facilities plans to the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require an additional filing by October 1, 2000.

b. Notwithstanding any other law or regulation to the contrary, an application for a school facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the district has filed a long-range facilities plan that is consistent with the application and the plan has been approved by the commissioner; except that prior to October 1, 2000, the commissioner may approve an application if the project is necessary to protect the health or safety of occupants of the school facility, or is related to required early childhood education programs, or is related to a school facility in which the functional capacity is less than 90% of the facilities efficiency standards based on current school enrollment, or the district received bids on the school facilities project prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district demonstrates that further delay will negatively affect the cost of the project.

c. An amendment to a long-range facilities plan may be submitted at any time to the commissioner for review and determination on the approval or disapproval of the amendment.

d. Each long-range facilities plan shall include a cohort survival methodology or other methodology approved by the commissioner, accompanied by a certification by a qualified demographer retained by the district that serves as the basis for identifying the capacity and program needs detailed in the long-range facilities plan.

e. The long-range facilities plan shall include an educational adequacy inventory of all existing school facilities in the district including the adequacy of school facilities to educate within the district the existing and projected number of pupils with disabilities, the identification of all deficiencies in the district's current inventory of school facilities, which includes the identification of those deficiencies that involve emergent health and safety concerns, and the district's proposed plan for future construction and renovation. The long-range facilities plan submissions shall conform to the guidelines, criteria and format prescribed by the commissioner.

f. Each district shall determine the number of "unhoused students" for the ensuing five-year period calculated pursuant to the provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

g. Each district shall submit the long-range facilities plan to the planning board of the municipality or municipalities in which the district is situate for the planning board's review and findings and the incorporation of the plan's goals and objectives into the municipal master plan adopted by the municipality pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

h. The commissioner shall develop, for the March 2002 Report on the Cost of Providing a Thorough and Efficient Education issued by the commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for elementary, middle, and high schools consistent with the core curriculum school delivery assumptions in the report and sufficient for the achievement of the core curriculum content standards, including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. The area allowances per FTE student in each class of the district shall be derived from these facilities efficiency standards. The commissioner shall revise the facilities efficiency standards and the area cost allowance in accordance with such schedule as the commissioner deems necessary. The commissioner shall publish the revised facilities efficiency standards and the area cost allowance in the New Jersey Register

and, within a reasonable period of time after 30 days following publication, shall file the revised facilities efficiency standards and the area cost allowance with the Office of Administrative Law for publication in the New Jersey Register and those standards shall become effective immediately upon filing. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards and the area cost allowance.

The facilities efficiency standards developed by the commissioner shall not be construction design standards but rather shall represent the instructional spaces, specialized instructional areas, and administrative spaces that are determined by the commissioner to be educationally adequate to support the achievement of the core curriculum content standards including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. A district may design, at its discretion, the educational and other spaces to be included within the school facilities project. The design of the project may eliminate spaces in the facilities efficiency standards, include spaces not in the facilities efficiency standards, or size spaces differently than in the facilities efficiency standards upon a demonstration of the adequacy of the school facilities project to deliver the core curriculum content standards pursuant to paragraph (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

Within a reasonable period of time after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the facilities efficiency standards developed for the 2000-2001, 2001-2002, and 2002-2003 school years in the New Jersey Register. Within a reasonable period of time after 30 days after publication in the New Jersey Register, the commissioner shall file the facilities efficiency standards with the Office of Administrative Law and those standards shall become effective immediately upon filing with the Office of Administrative Law. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards.

i. Within 90 days of the commissioner's receipt of a long-range facilities plan for review, the commissioner shall determine whether the plan is fully and accurately completed and whether all information necessary for a decision on the plan has been filed by the district. If the commissioner determines that the plan is complete, the commissioner shall promptly notify the district in writing and shall have 60 days from the date of that notification to determine whether to approve the plan or not. If the commissioner determines that the plan is not complete, the commissioner shall notify the district in writing. The district shall provide to the commissioner whatever information the commissioner determines is necessary to make the plan accurate and complete. The district shall submit that information to the commissioner, and the commissioner shall have 60 days from the date of receipt of accurate and complete information to determine whether to approve the plan or not.

j. Notwithstanding any provision in subsection i. of this section, if at any time the number of long-range facilities plans filed by school districts with the commissioner and pending review exceeds 20% of the number of school districts in New Jersey, the commissioner may extend by 60 days the deadline for reviewing each plan pending at that time.

k. (Deleted by amendment, P.L.2007, c.260).

l. By July 1, 2001, the commissioner shall provide the Legislature with recommendations to address the circumstances of districts which are contiguous with two or more Abbott districts. The recommendations shall address the issues of the financing of school facilities projects and the funding of the educational and other programs required within these districts as a result of their unique demographic situation.

m. By July 1, 2001, the commissioner shall study the Safe Schools Design Guidelines, prepared by the Florida Center for Community Design and Research, which address the issues of school safety and security through the design of school facilities. Based upon the commissioner's study, the commissioner shall issue recommendations to districts on the appropriateness of including the Safe Schools Design Guidelines in the design and construction of school facilities projects.

L.2000, c.72, s.4; amended 2007, c.137, s.19; 2007, c.260, s.40.

18A:7G-5 Undertaking and financing of school facilities in certain districts.

5. a. The development authority shall undertake and the financing authority shall finance the school facilities projects of SDA districts.

b. In the case of a district other than an SDA district, State support for the project shall be determined pursuant to section 9 or section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose school facilities project is not constructed by the development authority shall also be required to comply with the provisions of N.J.S.18A:18A-16.

d. (1) Any district seeking to initiate a school facilities project shall apply to the commissioner for approval of the project. The application may include, but not be limited to: a description of the school facilities project; a schematic drawing of the project or, at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; educational specifications detailing the programmatic needs of each proposed space; the number of unhoused students to be housed in the project; the area allowances per FTE student as calculated pursuant to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to complete the project as determined by the district.

(2) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the development authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the development authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project.

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of this section; and in the case of a district other than an SDA district the commissioner shall also review the project's priority pursuant to paragraph (4) of subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the development authority.

g. If the commissioner determines that the school facilities project is inconsistent with the facilities efficiency standards or exceeds the area allowances per FTE student derived from those standards, the commissioner shall notify the district.

(1) The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the board of education or State district superintendent, as appropriate, demonstrates that school facilities needs related to required programs cannot be addressed within the facilities efficiency standards and that all other proposed spaces are consistent with those standards. The commissioner shall approve area allowances in excess of the area allowances per FTE student derived from the facilities efficiency standards if the additional area allowances are necessary to accommodate centralized facilities to be shared among two or more school buildings within the district and the centralized facilities represent a more cost effective alternative.

(2) The commissioner may waive a facilities efficiency standard if the board of education or State district superintendent, as appropriate, demonstrates to the commissioner's satisfaction that the waiver will not adversely affect the educational adequacy of the school facility, including the ability to deliver the programs and services necessary to enable all students to achieve the core curriculum content standards.

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative

space will continue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

If the commissioner approves excess facilities efficiency standards or additional area allowances pursuant to paragraph (1), (2), or (3) of this subsection, the commissioner shall calculate the preliminary eligible costs based upon the additional area allowances or excess facilities efficiency standards pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either: modify its submission so that the school facilities project meets the facilities efficiency standards; or pay for the excess costs.

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities, including that the spaces are necessary to provide in-district programs and services for current disabled pupils who are being served in out-of-district placements or in-district programs and services for the projected disabled pupil population. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

h. Upon approval of a school facilities project and determination of the preliminary eligible costs:

(1) In the case of a district other than an SDA district, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an SDA district, the commissioner shall promptly prepare and submit to the development authority a preliminary project report which shall consist, at a minimum, of the following information: a complete description of the school facilities project; the actual location of the project; the total square footage of the project together with a breakdown of total square footage by functional component; the preliminary eligible costs of the project; the project's priority ranking determined pursuant to subsection m. of this section; any other factors to be considered by the development authority in undertaking the project; and the name and address of the person from the district to contact in regard to the project.

i. Upon receipt by the development authority of the preliminary project report, the development authority, upon consultation with the district, shall prepare detailed

plans and specifications and schedules which contain the development authority's estimated cost and schedule to complete the school facilities project. The development authority shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the development authority determines should be considered by the commissioner.

(1) In the event that the development authority determines that the school facilities project can be completed within the preliminary eligible costs: the final eligible costs shall be deemed to equal the preliminary eligible costs; the commissioner shall be deemed to have given final approval to the project; and the preliminary project report shall be deemed to be the final project report delivered to the development authority pursuant to subsection j. of this section.

(2) In the event that the development authority determines that the school facilities project cannot be completed within the preliminary eligible costs, prior to the submission of its recommendations to the commissioner, the development authority shall, in consultation with the district and the commissioner, determine whether changes can be made in the project which will result in a reduction in costs while at the same time meeting the facilities efficiency standards approved by the commissioner.

(a) If the development authority determines that changes in the school facilities project are possible so that the project can be accomplished within the scope of the preliminary eligible costs while still meeting the facilities efficiency standards, the development authority shall so advise the commissioner, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs; give final approval to the project with the changes noted; and issue a final project report to the development authority pursuant to subsection j. of this section.

(b) If the development authority determines that it is not possible to make changes in the school facilities project so that it can be completed within the preliminary eligible costs either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be increased accordingly, whereupon the commissioner shall: calculate the final eligible costs to equal the sum of the preliminary eligible costs plus the increase recommended by the development authority; give final approval to the project; and issue a final project report to the development authority pursuant to subsection j. of this section.

(c) If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards or approved pursuant to paragraph (1) of subsection g. of this section, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted, whereupon the commissioner shall: calculate the final eligible costs to equal the preliminary eligible costs and specify the excess costs which are to be borne by the district; give final approval to the school facilities project; and issue a final project report to the development authority pursuant to subsection j. of this section; provided that the commissioner may approve final eligible costs which are in excess of the preliminary eligible costs if, in his judgment, the action is necessary to meet the educational needs of the district.

(d) For a school facilities project undertaken by the development authority, the development authority shall be responsible for any costs of construction, but only from the proceeds of bonds issued by the financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount originally projected by the development authority and approved for financing by the development authority, provided that the excess is the result of an underestimate of labor or materials costs by the development authority. After receipt by the development authority of the final project report, the district shall be responsible only for the costs associated with changes, if any, made at the request of the district to the scope of the school facilities project.

j. The development authority shall not commence the construction of a school facilities project unless the commissioner transmits to the development authority a final project report and the district complies with the approval requirements for the local share, if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The final project report shall contain all of the information contained in the preliminary project report and, in addition, shall contain: the final eligible costs; the excess costs, if any; the total costs which equals the final eligible costs plus excess costs, if any; the State share; and the local share.

k. For the SDA districts, the State share shall be 100% of the final eligible costs. For all other districts, the State share shall be an amount equal to the district aid percentage; except that the State share shall not be less than 40% of the final eligible costs.

If any district which is included in district factor group A or B, other than an SDA district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the

project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

1. The local share for school facilities projects constructed by the authority or a redevelopment entity shall equal the final eligible costs plus any excess costs less the State share.

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational facilities needs assessment. The assessment shall be transmitted to the development authority to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

(2) Following the approval of an SDA district's long-range facilities plan or of an amendment to that plan, but prior to authorization of preconstruction activities for a school facilities project included in the plan or amendment, the commissioner shall establish, in consultation with the SDA district, an educational priority ranking of all school facilities projects in the SDA district based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the early childhood, elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, rehabilitation, and educational adequacy.

(3) Upon the commissioner's determination of the educational priority ranking of school facilities projects in SDA districts pursuant to paragraph (2) of this subsection, the development authority, in consultation with the commissioner, the SDA districts, and the governing bodies of the municipalities in which the SDA districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues which impact the development authority's ability to complete the projects including, but not limited to, the construction schedule and other appropriate factors. The development authority shall revise the Statewide strategic plan and the sequencing of SDA district school facilities projects in accordance with that plan no less than once every five years.

Any amendment to an SDA district's long-range facilities plan that is submitted to the commissioner in the period between the five-year updates of the long-range facilities plan shall be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan. In making a determination on whether or not to amend the Statewide strategic plan, the development authority shall consider the cost of the amendment, the impact of the amendment upon the school development plans for other districts, and other appropriate factors.

(4) In the case of a district other than an SDA district, the commissioner shall establish a priority process for the financing of school facilities projects based upon the commissioner's determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, and full-day kindergarten facilities in the case of school districts required to provide full-day preschool pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

n. The provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities project constructed by a district but shall not be applicable to projects constructed by the development authority or a redevelopment entity pursuant to the provisions of this act.

o. In the case of a school facilities project of a district other than an SDA district, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

p. Upon completion by the development authority of a school facilities project, if the cost of construction and completion of the project is less than the total costs, the district shall be entitled to receive a portion of the local share based on a pro rata share of the difference based on the ratio of the State share to the local share.

q. The development authority shall determine the cause of any costs of construction which exceed the amount originally projected by the development authority and approved for financing by the financing authority.

r. (Deleted by amendment, P.L.2007, c.137).

s. (Deleted by amendment, P.L.2007, c.137).

L.2000, c.72, s.5; amended 2005, c.235, s.32; 2006, c.47, s.91; 2007, c.137, s.20; 2007, c.260, s.41; 2008, c.39, s.2

18A:7G-5.1 No construction of school within 1,000 feet of an existing entry, exit ramp of a highway; exceptions.

5. a. A school shall not be constructed within 1,000 feet of an existing entry or exit ramp of a highway unless, during the planning and design of the proposed school, the local board of education and, in the case of a school to be constructed by the New Jersey Economic Development Authority, the authority, or, in the case of a nonpublic school, the board thereof, determines that there is no feasible or prudent alternative. Prior to making this determination, the local board of education and, in the case of a school to be constructed by the New Jersey Economic Development Authority, the authority, or, in the case of a nonpublic school, the board thereof, shall notify the members of the Legislature representing the district in which the school is proposed to be constructed and the Departments of Transportation and Education that construction of a school is being considered within 1,000 feet of the entry or exit ramp of a highway. The legislators shall be afforded the opportunity to submit comments to the local board of education, and, in the case of a school being constructed by the New Jersey Economic Development Authority, the authority, or the board of the nonpublic school, as the case may be, and the Departments of Transportation and Education. If the determination is subsequently made that there is no feasible or prudent alternative, the Department of Transportation shall be so notified and the Department of Transportation shall review the proposed location of the school, identify potential safety hazards, and make recommendations to abate or minimize such hazards consistent with the study required pursuant to section 7 of this act, or if the study is not completed, consistent with such preliminary findings and recommendations which may exist. The Department of Transportation shall complete its review within 90 days of receiving notification of the determination, and shall report its findings to the local board of education and, in the case of a school being constructed by the New Jersey Economic Development Authority, to the authority, or to the board of the nonpublic school, the Department of Education and the members of the Legislature representing the legislative district in which the school is proposed to be constructed.

b. As a condition of granting approval of a proposed school facilities project, the Department of Education shall require a local board of education to include with a board's application for approval: (1) a certification that the proposed school is not within 1,000 feet of an entry or exit ramp of a highway; or (2) a response to each item of advice to mitigate safety hazards that the Department of Transportation has issued based on the Department of Transportation's review of the school project.

L.2007, c.308, s.5.

18A:7G-6 Applicability of C.18A:7G-5 to demonstration projects; exceptions.

6. The provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5) shall pertain to school facilities projects designated to be demonstration projects except as otherwise provided in this section.

a. For the initial three full fiscal years following the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the State Treasurer may designate up to six school facilities projects which the State Treasurer determines to be in the best interests of the State and of the districts to be demonstration projects pursuant to the provisions of this section. As used in this section, "authority" means the New Jersey Economic Development Authority which was designated as both the financing and construction agency for school facilities projects prior to the enactment of P.L.2007, c.137 (C.52:18A-235 et al.); except that in the event that any actions required to be taken pursuant to this section by the New Jersey Economic Development Authority or its subsidiary, the New Jersey Schools Construction Corporation, have not been taken prior to the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), authority shall mean the New Jersey Schools Development Authority.

b. A district and municipality may apply to the authority for the designation of a school facilities project contained in a long-range facilities plan submitted to the commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4) to be a demonstration project to provide for the coordination of local economic development, redevelopment or community development with a school facilities project. The application shall be accompanied by resolutions requesting the designation adopted by the board of education of the district and the governing body of the municipality. The application shall set forth:

(1) a plan for carrying out the redevelopment project as a whole, including the construction of the school facilities project;

(2) the name of the redevelopment entity to undertake the project under the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et al.);

(3) a description of how the project fits into a redevelopment plan adopted or to be adopted by the municipal governing body pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7); and

(4) a description of the community design features to be included in the school facilities project.

c. The authority shall evaluate the request to determine whether the school facilities project is suitable for designation as a demonstration project and whether the proposed redevelopment entity is suitable for designation as the entity to construct the demonstration project based upon consideration of the following factors:

(1) whether the demonstration project furthers definite local objectives as to appropriate land uses, density of population, and improved traffic and public transportation, public utilities, recreational and community facilities and other public improvements;

(2) whether the demonstration project provides significant social and economic benefits to the municipality, its neighborhoods and residents;

(3) whether the development of the school facilities project is consistent with the local development plan;

(4) the extent to which the school facilities project contains community design features which can be used by the community;

(5) whether the redevelopment entity has the current capacity to construct the demonstration project;

(6) whether the redevelopment entity has the appropriate prior experience in developing similar types of projects; and

(7) whether there exist donations from private entities for the purpose of the demonstration project.

d. The authority's review of the proposed school facilities project for designation as a demonstration project under this section shall commence upon approval by the commissioner of the school facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5). Upon approval by the commissioner of the school facilities project, and recommendation by the authority that the school facilities project be a demonstration project, the recommendation of the authority shall be forwarded to the State Treasurer who shall determine whether the school facilities project should be designated as a demonstration project. At the same time as the authority forwards its recommendation to the State Treasurer, the authority shall forward its recommendation to the Urban Coordinating Council for review pursuant to subsection i. of this section.

e. In addition to the requirements set forth in section 5 of P.L.2000, c.72 (C.18A:7G-5), a demonstration project may request inclusion in the final eligible costs of the school facilities project, of all or any portion of the cost of any community design features including any area, rooms, equipment, recreational area or playground included in the school facilities project which are to be used in common by students of the district and by residents of the community, but there shall not be included in the final eligible costs any portion of the cost of any features which are not an integral part of the school building and grounds or exceed the facilities efficiency standards. The commissioner shall approve the inclusion of the community design features as part of the school facilities project if he finds that the inclusion of the community design features as part of the school facilities project would be conducive to the usefulness and success of the project for both the students of the district and the residents of the community. The commissioner may condition his approval upon the adoption by the district of policies suitable for assuring continuing community or educational access to the community design features.

f. The cost of the community design features approved by the commissioner shall be reviewed by the authority. The district shall submit the documentation required by the authority for the authority to make its determination. The authority shall, in its recommendation to the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5), include its recommendation with respect to the cost of the community design features. The commissioner shall make the final determination with respect to the inclusion of the cost of community design features in the final eligible costs.

g. The authority shall provide funding for the State's share of the final eligible costs of a school facilities project to be constructed as part of a demonstration project pursuant to an agreement among the authority, the redevelopment entity and the district which shall, in addition to any other terms and conditions, set forth the terms for disbursement of the State share and provide for the monitoring of construction by the authority.

h. Upon completion of a demonstration project by a redevelopment entity, the district shall submit to the commissioner a plan to provide for the maintenance of the project and shall enter into a contract which provides for that maintenance.

i. The Urban Coordinating Council shall review the recommendations of the authority with respect to the demonstration projects and shall advise the authority, redevelopment entity and the district regarding the potential availability of funding for the demonstration project, including, but not limited to, sources of funds for

acquisition, clearance, site remediation, and assemblage of land and the development, redevelopment, construction or rehabilitation of any structure or improvement included in the project.

j. Any district may consult with the Urban Coordinating Council with respect to the potential availability of funding for aspects of the school facilities project, including, but not limited to, sources of funds for acquisition, clearance, site remediation, and assemblage of land and the development, redevelopment, construction or rehabilitation of any structure or improvement included in the project.

L.2000, c.72, s.6; amended 2007, c.137, s.21.

18A:7G-7 Approval of preliminary eligible costs.

7. a. Preliminary eligible costs for construction of new school facilities and additions to school facilities, characterized by an increase in the square footage of the school facility, shall be approved only if necessary for reasons of unhoused students. Unhoused students are the number of students to be housed in a school building, but which cannot be housed in an existing building without additional space or a new building in order to maintain educational adequacy; or which are temporarily being housed in space that was originally designed or intended for instruction in specialized areas including, but not limited to, science, art, music, other hands-on learning experiences and comprehensive health and physical education. Unhoused students are calculated by subtracting the projected enrollment for a school building from its functional capacity.

Preliminary eligible costs for construction of new school facilities and additions to school facilities pursuant to this subsection shall be calculated as follows:

Preliminary eligible costs = AU x C

where

AU is the approved area for unhoused students; and

C is the area cost allowance.

b. Preliminary eligible costs shall be approved for a rehabilitation project which means the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities but only for the purpose of keeping the school building functional for its original purpose or for new purposes that can be accomplished without increasing the gross square footage of the original facility.

Preliminary eligible costs for rehabilitation projects pursuant to this subsection shall be calculated as follows:

Preliminary eligible costs = estimated actual costs.

All school facilities shall be deemed suitable for rehabilitation unless a pre-construction evaluation undertaken by the district demonstrates to the satisfaction of the commissioner that the structure might pose a risk to the safety of the occupants even after rehabilitation, or that rehabilitation is not cost-effective. Whenever a district determines to undertake new construction rather than a rehabilitation project, the district shall undertake a preconstruction evaluation to determine whether, because of health and safety or efficiency, it would be more feasible to replace rather than renovate the school facility. When the district demonstrates to the satisfaction of the commissioner that replacement is more feasible, the district shall be authorized to have the school facility replaced rather than renovated and the preliminary eligible costs shall be determined pursuant to subsection a. of this section. The estimated costs of a rehabilitation project shall contain only those costs necessary for compliance with the Uniform Construction Code, health and safety, and educational adequacy as determined pursuant to the facilities efficiency standards and paragraph (1) of subsection g. of section 5 of this act.

c. When construction done in lieu of rehabilitation projects qualifies as new construction, the approved area for unhoused students shall be determined by the commissioner, with consideration of the existing school facilities in the district.

d. Preliminary eligible costs for new construction done in lieu of rehabilitation projects which does not meet the requirements of subsection b. of this section shall be determined in accordance with the methodology for aiding rehabilitation projects, with the preliminary eligible costs determined pursuant to subsection b. of this section.

e. Preliminary eligible costs for purchase of an existing facility to be used as a school facility shall be determined in accordance with the methodology for new construction, with preliminary eligible costs determined pursuant to subsection a. of this section.

f. Notwithstanding the provisions of subsections a. and b. of this section, preliminary eligible costs for any addition or reconstruction, remodeling, alteration, modernization, renovation or repair made to a purchased facility within five years of purchase shall be determined as follows:

Preliminary eligible costs = (ACP-PC) x (C/CP)

where

ACP is the preliminary eligible costs for the facilities purchase pursuant to subsection e. of this section;

PC is the purchase cost for the facility;

C is the area cost allowance at the time of application for the renovation;
and

CP is the area cost allowance at the time of purchase of the facility.

Preliminary eligible costs so calculated shall not be less than zero.

L.2000,c.72,s.7.

18A:7G-8 Calculation of number of unhoused students.

8. a. The number of unhoused students shall be calculated as the number of FTE students who are projected to be enrolled in preschool handicapped, preschool, kindergarten, grades 1 through 12, and special education services pupil educational programs provided in a district within five years, which are in excess of the functional capacity of the district's current school facilities or the functional capacity of the school facilities which will be available within five years other than the school facilities for which the preliminary eligible costs are determined, based upon the district's long-range facilities plan. The determination of unhoused capacity shall separately consider projected enrollments and functional capacities at the early childhood and elementary (preschool through grade 5), middle (grades 6 through 8), and high school (grades 9 through 12) levels. For the purpose of calculating the district's unhoused students, special education services students shall be considered part of the grade level to which the students' chronological age corresponds. In the event that the commissioner approves a school facilities project which involves the construction of a new school facility to replace an existing school facility, which shall accommodate both the unhoused students and the students in the existing school facility, the calculation of the number of unhoused students shall include the number of students currently attending the existing facility which is to be replaced.

b. Approved area for unhoused students (AU) shall be determined according to the following formula:

$AU = (UEC \times SEC) + (UE \times SE) + (UM \times SM) + (UH \times SH)$ where

UEC, UE, UM, UH are the numbers of unhoused students in the early childhood, elementary, middle, and high school enrollment categories, respectively; and

SEC, SE, SM, SH are the area allowances per FTE student in preschool and kindergarten, grades 1 through 5, grades 6 through 8, and grades 9 through 12, respectively. Area allowances shall be determined based on the grade level of a student regardless of the grade configurations used in the school buildings of the district.

The minimum area allowance per FTE student shall be as follows:

Preschool through grade 5	125 sq. ft.
Grades 6 through 8	134 sq. ft.
Grades 9 through 12	151 sq. ft.

The commissioner, in consultation with the State Treasurer and the Commissioner of the Department of Community Affairs, shall adopt regulations that establish a process for the consideration of special circumstances, in addition to those provided in section 5 of this act, in which the area allowances per FTE student established pursuant to this subsection may be adjusted. Any decision made by the commissioner pursuant to those regulations shall be made in consultation with the State Treasurer and the Commissioner of the Department of Community Affairs.

L.2000,c.72,s.8.

18A:7G-9 Distribution of State debt service aid.

9. a. State debt service aid for capital investment in school facilities for a district other than an SDA district which elects not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), shall be distributed upon a determination of preliminary eligible costs by the commissioner, according to the following formula:

Aid is the sum of A for each issuance of school bonds issued for a school facilities project approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

where

$$A = B \times AC/P \times DAP \times M, \text{ with } AC/P = 1$$

whenever AC/P would otherwise yield a number greater than one,

and where:

B is the district's debt service for the individual issuance for the fiscal year;

AC is the preliminary eligible costs determined pursuant to section 7 of P.L.2000, c.72 (C.18A:7G-7);

P is the principal of the individual issuance plus any other funding sources approved for the school facilities project;

DAP is the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be less than 40%; and

M is a factor representing the degree to which a district has fulfilled maintenance requirements for a school facilities project determined pursuant to subsection b. of this section.

For county special services school districts, DAP shall be that of the county vocational school district in the same county.

b. The maintenance factor (M) shall be 1.0 except when one of the following conditions applies, in which case the maintenance factor shall be as specified:

(1) Effective ten years from the date of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for reconstruction, remodeling, alteration, modernization, renovation or repair, or for an addition to a school facility, shall be zero for all school facilities projects for which the district fails to demonstrate over the ten years preceding issuance a net investment in maintenance of the related school facility of at least 2% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the area cost allowance of the year ten years preceding the year in which the school bonds are issued.

(2) For new construction, additions, and school facilities aided under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) supported by financing issued for projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), beginning in the fourth year after occupancy of the school facility, the maintenance factor shall be reduced according to the following schedule for all school facilities projects for which the district fails to demonstrate in the prior fiscal year an investment in maintenance of the related school facility of at least two-tenths of 1% of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

(3) Within one year of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall promulgate rules requiring districts to develop a long-range maintenance plan and specifying the expenditures that qualify as an appropriate investment in maintenance for the purposes of this subsection.

c. Any district which obtained approval from the commissioner since September 1, 1998 and prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of the educational specifications for a school facilities project or obtained approval from the Department of Community Affairs or the appropriately licensed municipal code official since September 1, 1998 of the final construction plans and specifications, and the district has issued debt, may elect to have the final eligible costs of the project determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

Any district which received approval from the commissioner for a school facilities project at any time prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than short term notes, may submit an application pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the project determined pursuant to that section and to have the New Jersey Economic Development Authority construct the project; or, at its discretion, the district may choose to receive debt service aid under this section or under section 10 of P.L.2000,

c.72 (C.18A:7G-10) or to receive a grant under section 15 of P.L.2000, c.72 (C.18A:7G-15).

For the purposes of this subsection, the "issuance of debt" shall include lease purchase agreements in excess of five years.

d. For school bonds issued for a school facilities project after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State debt service aid shall be calculated in accordance with the provisions of this section as the same read before the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

L.2000, c.72, s.9; amended 2007, c.137, s.22; 2007, c.260, s.42; 2008, c.39, s.3.

18A:7G-10 Issuance of school bonds, certificates of participation, determination of aid.

10. For each issuance of school bonds or certificates of participation issued for a school facilities project approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.):

Aid is the sum of A

where

$$A = B \times EQAID/AB$$

and where

B is the district's total debt service or lease purchase payment for the individual issuance for the fiscal year;

EQAID is the district's equalization aid amount determined pursuant to section 11 of P.L.2007, c.260 (C.18A:7G-53); and

AB is the district's adequacy budget determined pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51).

For county special services school districts, EQAID/AB shall be that of the county vocational school district in the same county.

L.2000, c.72, s.10; amended 2007, c.260, s.43.

18A:7G-11 Approval of local share of project.

11. A school facilities project shall not be constructed unless the local share of the project, if any, is approved in accordance with the provisions for the approval of capital projects pursuant to N.J.S.18A:22-1 et seq., N.J.S.18A:24-1 et seq. and P.L.1991, c.139 (C.18A:7A-46.1 et seq.), as applicable to the district.

L.2000, c.72, s.11.

18A:7G-12 Submission of project to commissioner for approval of local share.

12. A district, other than a district under full State intervention, that sought approval pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11) of a school facilities project without excess costs but failed to receive that approval, and within the three years prior to that, sought and failed to receive approval of that school facilities project with or without excess costs, may submit the project to the commissioner and request that the commissioner approve the project and authorize the issuance of school bonds for the local share of the project. Upon receipt of the request, the commissioner shall review the school facilities project and determine whether the project is necessary for the provision of a thorough and efficient system of education in the district. If the commissioner concludes that the project is necessary, the commissioner may approve the project without excess costs and authorize the issuance of school bonds to fund the local share. In addition to the amount of taxes determined by the legal voters of the district at the annual school election, the secretary of the board of education shall certify the amount required for the repayment of the interest and principal of the bonds required to fund the local share amount approved by the commissioner in the same manner required for interest and debt redemption charges pursuant to N.J.S.18A:22-33, and the amount so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the school district for those purposes.

Any school facilities project authorized pursuant to this section shall be undertaken by the development authority in accordance with an agreement between the development authority and the district. Nothing in this section shall preclude a school district under full State intervention from using the process established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2) to obtain the approval of the commissioner to undertake a school facilities project.

L.2000, c.72, s.12; amended 2007, c.137, s.23.

18A:7G-13 Responsibilities of financing authority, development authority.

13. a. The financing authority shall be responsible for the issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and the development authority shall be responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects. In the case of a capital maintenance project, the development authority may, in its discretion, authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete the capital maintenance project and shall enter into a grant agreement with the district for the payment of the State share. The development authority may also authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete any other school facilities project in accordance with the procedures established pursuant to subsection e. of this section.

b. The financing authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The financing authority shall finance the State share of a school facilities project and may, in its discretion and upon consultation with the district, finance the local share of the project. In the event that the financing authority finances only the State share of a project, the development authority shall not commence acquisition or construction of the project until the development authority receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the development authority and financed pursuant to this section, a district shall enter into an agreement with the development authority and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the development authority of a school facilities project, the district shall enter into an agreement with the development authority to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26).

e. (1) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner, in consultation with the development authority, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the commissioner shall determine whether an SDA district is eligible to be considered by the development authority to manage a school facilities project or projects. In making the determination, the commissioner shall consider the district's fiscal integrity and operations, the district's performance in each of the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum (NJQSAC) in accordance with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

(2) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the development authority, in consultation with the commissioner, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the development authority shall determine the capacity of an SDA district, deemed eligible by the commissioner pursuant to paragraph (1) of this subsection, to manage a school facilities project or projects identified by the development authority. In making the determination, the development authority shall consider the experience of the SDA district, the size, complexity, and cost of the project, time constraints, and other relevant factors.

(3) The development authority, in consultation with the commissioner, shall develop and implement training programs, seminars, or symposia to provide technical assistance to SDA districts deemed to lack the capacity to manage a school facility project or projects; except that nothing herein shall be construed to require the development authority or the commissioner to authorize an SDA district to hire additional staff in order to achieve capacity.

(4) If the development authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the development authority, the commissioner, and the district shall enter into a grant agreement.

L.2000, c.72, s.13; amended 2004, c.73, s.4; 2007, c.137, s.24; 2007, c.260, s.44.

18A:7G-13.1 Audits conducted of certain projects.

9. The development authority, in consultation with the State Comptroller, shall cause an audit to be conducted of a school facilities project financed pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) which has a State share that exceeds \$10,000,000. This provision shall not be construed to limit the authority of the development authority

or the State Comptroller to conduct audits of other school facilities projects as provided by law.

L.2008, c.39, s.9.

18A:7G-14 Powers of financing authority; powers of development authority.

14. Notwithstanding any other provisions of law to the contrary:

a. The financing authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the financing authority to undertake the financing, and the development authority to undertake the planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. The aggregate principal amount of the bonds, notes or other obligations issued by the financing authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed: \$2,900,000,000 for the State share of costs of SDA district school facilities projects; and \$1,000,000,000 for the State share of costs for school facilities projects in all other districts, \$50,000,000 of which shall be allocated for the State share of costs for county vocational school district school facilities projects. This limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

The financing authority may establish reserve funds to further secure bonds and refunding bonds issued pursuant to this section and may issue bonds to pay for the administrative, insurance and operating costs of the financing authority and the development authority in carrying out the provisions of this act. In addition to its bonds and refunding bonds, the financing authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or refunding bonds as the financing authority may determine.

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer. The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

c. Each issue of bonds or refunding bonds of the financing authority shall be special obligations of the financing authority payable out of particular revenues, receipts or funds, subject only to any agreements with the holders of bonds or refunding bonds, and may be secured by other sources of revenue, including, but not limited to, one or more of the following:

(1) Pledge of the revenues and other receipts to be derived from the payment of local unit obligations and any other payment made to the financing authority pursuant to agreements with any local unit, or a pledge or assignment of any local unit obligations, and the rights and interest of the financing authority therein;

(2) Pledge of rentals, receipts and other revenues to be derived from leases or other contractual arrangements with any person or entity, public or private, including one or more local units, or a pledge or assignment of those leases or other contractual arrangements and the rights and interests of the financing authority therein;

(3) Pledge of all moneys, funds, accounts, securities and other funds, including the proceeds of the bonds;

(4) Pledge of the receipts to be derived from payments of State aid to the financing authority pursuant to section 21 of P.L.2000, c.72 (C.18A:7G-21);

(5) Pledge of the contract or contracts with the State Treasurer pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

(6) Pledge of any sums remitted to the local unit by donation from any person or entity, public or private, subject to the approval of the State Treasurer;

(7) A mortgage on all or any part of the property, real or personal, comprising a school facilities project then owned or thereafter to be acquired, or a pledge or assignment of mortgages made to the financing authority by any person or entity, public or private, including one or more local units and rights and interests of the financing authority therein; and

(8) The receipt of any grants, reimbursements or other payments from the federal government.

d. The resolution authorizing the issuance of bonds or refunding bonds pursuant to this section may also provide for the financing authority to enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contracts, surety bonds, commitments to purchase or sell bonds, purchase or sale agreements, or commitments or other contracts or agreements and other security agreements approved by the financing authority in connection with the issuance of the bonds or refunding bonds pursuant to this section. In addition, the financing authority may, in anticipation of the issuance of the bonds or the receipt of appropriations, grants, reimbursements or other funds, including, without limitation, grants from the federal government for school facilities projects, issue notes, the principal of or interest on which, or both, shall be payable out of the proceeds of notes, bonds or other obligations of the financing authority or appropriations, grants, reimbursements or other funds or revenues of the financing authority.

e. The financing authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of financial advisors and experts, placement agents, underwriters, appraisers, and other advisors, consultants and agents as may be necessary to effectuate the financing of school facilities projects.

f. Bonds and refunding bonds issued by the financing authority pursuant to this section shall be special and limited obligations of the financing authority payable from, and secured by, funds and moneys determined by the financing authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the financing authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the financing authority to finance projects other than school facilities projects. Neither the members of the financing authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the financing authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the financing authority shall contain a statement to that effect on their face.

g. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to this act that it will not limit or alter the rights or powers vested in the financing authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of the holders, or inhibit or prevent performance or fulfillment by the financing authority or the State Treasurer with respect to the terms of any agreement made with the holders of the bonds or refunding bonds or agreements made pursuant to subsection d. of this section; except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

h. The financing authority and the development authority may charge to and collect from local units, districts, the State and any other person, any fees and charges in connection with the financing authority's or development authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the financing authority's administrative, organization, insurance,

operating and other expenses incident to the financing of school facilities projects, and the development authority's administrative, organization, insurance, operating, planning, design, construction management, acquisition, construction, completion and placing into service and maintenance of school facilities projects. Notwithstanding any provision of this act to the contrary, no SDA district shall be responsible for the payment of any fees and charges related to the development authority's operating expenses.

i. Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the development authority.

L.2000, c.72, s.14; amended 2005, c.235, s.33; 2007, c.137, s.25; 2007, c.260, s.45; 2008, c. 39, s.4.

18A:7G-14.1 Priority for projects of certain county vocational school districts.

8. The school facilities projects of a county vocational school district that did not receive State support for its projects from the \$100,000,000 of bond proceeds originally allocated for the State share of county vocational school district school facilities projects pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) shall receive priority in the allocation of the bond proceeds authorized for the State share of county vocational school district school facilities projects pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.) provided that the county vocational school district demonstrates to the commissioner the need for the school facilities projects.

L.2008, c.39, s.8.

18A:7G-15 Election by district to receive one-time grant for State share.

15. a. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project in accordance with the provisions of subsection b. of this section rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and the district aid percentage or 40%, whichever is greater.

b. The commissioner shall establish a process for the annual allocation of grant funding. Under that process, the commissioner shall annually notify districts of the date on which the commissioner shall begin to receive applications for grant funding. A district shall have 90 days from that date to submit an application to the commissioner. The commissioner shall make a decision on a district's application within 90 days of the submission of all such applications and shall allocate the grant funding in accordance with the priority process established pursuant to paragraph (4) of subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

c. The development authority shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the development authority which shall, in addition to other terms and conditions, set forth the terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

L.2000, c.72, s.15; amended 2007, c.137, s.26; 2007, c.260, s.46; 2008, c.39, s.5.

18A:7G-15.1 Rules, regulations.

11. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the process for the allocation of grant funding as established pursuant to subsection b. of section 15 of P.L.2000, c.72 (C.18A:7G-15) which shall be effective for a period not to exceed 12 months. The regulations shall thereafter be amended, adopted, or readopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2008, c.39, s.11.

18A:7G-16 Additional powers, duties of financing authority.

16. In addition to the other powers and duties which have been granted to the financing authority, whenever any local unit finances the construction or acquisition of a school facilities project which would otherwise qualify under this act except that the debt was issued prior to the effective date of this act, the financing authority may refinance the debt issued by the local unit through the issuance of bonds secured by repayments of loans made to the local units and may purchase the work or improvement and lease the same to the district, subject to the approval of the State Treasurer; except that the amount of the purchase price for a school facilities project shall not exceed the original cost. Each loan to a local unit pursuant to this section shall be evidenced by local unit obligations and shall be authorized and issued as provided by law. Notwithstanding the provisions of any law to the contrary, the local unit obligations may be sold at private sale to the financing authority at any price, whether or not less than

par value, and shall be subject to redemption prior to maturity at any times and at any prices as the financing authority and the local unit may agree. All powers, rights, obligations and duties granted to or imposed upon the financing authority, districts, State departments and agencies or others by this act in respect to school facilities projects shall apply to the same extent with respect to any refinance of debt pursuant to this section; except that any action otherwise required to be taken at a particular time in the implementation of a school facilities project may, when the circumstances require in connection with a refinance of debt pursuant to this section, be taken with the same effect as if taken at that particular time. Upon repayment of the bonds or provision for repayment of bonds issued by the financing authority to refinance the debt of the local unit, the school facilities project shall be transferred to the district.

L.2000, c.72, s.15; amended 2007, c.137, s.27.

18A:7G-17 Annual payment to financing authority by State.

17. In each fiscal year the State Treasurer shall pay from the General Fund to the financing authority, in accordance with a contract between the State Treasurer and the financing authority as authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), an amount equal to the debt service amount due to be paid in the State fiscal year on the bonds or refunding bonds of the financing authority issued or incurred pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section; provided that all such payments from the General Fund shall be subject to and dependent upon appropriations being made from time to time by the Legislature for those purposes, and provided further that all payments shall be used only to pay for the costs of school facilities projects and the costs of financing those projects.

In regard to the increase in the amount of bonds authorized to be issued by the financing authority pursuant to P.L.2008, c.39 for the State share of costs for school facilities projects, debt service on the bonds or refunding bonds issued or incurred by the financing authority pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized pursuant to that section shall first be payable from revenues received from the gross income tax pursuant to the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), except for debt service and additional costs for the administrative, insurance, operating, and other expenses of the financing authority and the development authority incurred in connection with school facilities projects.

L.2000, c.72, s.17; amended 2007, c.137, s.28; 2008, c.39, s.6.

18A:7G-18 Financing authority to enter into contracts for State payments.

18. The State Treasurer and the financing authority are authorized to enter into one or more contracts to implement the payment arrangement provided for in section 17 of P.L.2000, c.72 (C.18A:7G-17). The contract shall provide for payment by the State Treasurer of the amounts required pursuant to section 17 of P.L.2000, c.72 (C.18A:7G-17) and shall set forth the procedure for the transfer of moneys for the purpose of that payment. The contract shall contain terms and conditions as determined by the parties and shall, where appropriate, contain terms and conditions necessary and desirable to secure any bonds or refunding bonds of the financing authority issued or incurred pursuant to this act; provided that notwithstanding any other provision of law or regulation of the financing authority to the contrary, the financing authority shall be paid only such funds as shall be determined by the contract, and the incurrence of any obligation of the State under the contract, including any payments to be made thereunder from the General Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

L.2000, c.72, s.18; amended 2007, c.137, s.29.

18A:7G-19 Loans to local units.

19. a. The financing authority may make and contract to make loans to local units in accordance with and subject to the provisions of this act to finance all or any portion of the cost of a school facilities project which the local unit may lawfully undertake or acquire and for which the local unit is authorized by law to borrow money; or to refund obligations of the local unit which were issued to provide funds to pay for the cost of a school facilities project. The loans may be made subject to the terms and conditions the financing authority determines to be consistent with the purposes of this act. Each loan by the financing authority and the terms and conditions thereof shall be subject to approval by the State Treasurer.

b. Each loan to a local unit shall be evidenced by local unit obligations and shall be authorized and issued as provided by law. Notwithstanding the provisions of any other law to the contrary, the local unit obligations may be sold at private sale to the financing authority at any price, whether or not less than par value, and shall be subject to redemption prior to maturity at any times and at any prices as the financing authority and the local unit may agree. Each loan to a local unit and the local unit obligations issued to evidence the loan shall bear interest at a rate or rates per annum, including zero interest, and shall be repaid in whole or in part, as the financing authority and the local unit may agree, with the approval of the State Treasurer.

L.2000, c.72, s.19; amended 2007, c.137, s.30.

18A:7G-20 Acquisition of school facilities by local unit.

20. A local unit may purchase, lease, rent, sublease or otherwise acquire any school facilities project or any space within a project and pay the amounts as may be agreed upon between the local unit and the development authority as the purchase price, rent or other charge therefor; provided that the terms and conditions of the agreement between the development authority and the local unit relating to the purchase, lease, rental or sublease shall be subject to the approval of the State Treasurer.

L.2000, c.72, s.19; amended 2007, c.137, s.30.

18A:7G-21 Payment to financing, development authority to cover deficiency.

21. a. In the event that a local unit has failed or is unable to pay to the financing authority or the development authority in full when due any local unit obligations issued by the local unit to the financing authority, including, but not limited to, any lease or sublease obligations, or any other moneys owed by the district to the financing authority, to assure the continued operation and solvency of the authority, the State Treasurer shall pay directly to the financing authority an amount sufficient to satisfy the deficiency from State aid payable to the local unit; provided that if the local unit is a school district, the State aid shall not include any State aid which may otherwise be restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this section, local unit obligations include the principal or interest on local unit obligations or payment pursuant to a lease or sublease of a school facilities project to a local unit, including the subrogation of the financing authority to the right of the holders of those obligations, any fees or charges payable to the financing authority, and any amounts payable by a local unit under a service contract or other contractual arrangement the payments under which are pledged to secure any local unit obligations issued to the financing authority by another local unit.

b. If the financing authority requires, and if there has been a failure or inability of a local unit to pay its local unit obligations to the financing authority for a period of 30 days, the chairman or the executive director of the financing authority shall certify to the State Treasurer, with written notice to the fiscal officer of the local unit, the amount remaining unpaid, and the State Treasurer shall pay that amount to the financing authority; or if the right to receive those payments has been pledged or assigned to a trustee for the benefit of the holders of bonds or refunding bonds of the financing authority, to that trustee, out of the State aid payable to the local unit, until the amount so certified has been paid. Notwithstanding any provision of this act to the contrary, the State Treasurer's obligation to pay the financing authority pursuant to this section shall not extend beyond the amount of State aid payable to the local unit.

c. The amount paid to the financing authority pursuant to this section shall be deducted from the appropriation or apportionment of State aid payable to the local unit and shall not obligate the State to make, nor entitle the local unit to receive, any additional appropriation or apportionment. The obligation of the State Treasurer to make payments to the financing authority or trustee and the right of the financing authority or trustee to receive those payments shall be subject and subordinate to the rights of holders of qualified bonds issued prior to the effective date of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

L.2000, c.72, s.21; amended 2007, c.137, s.32; 2007, c.260, s.47.

18A:7G-22 Powers of financing and development authorities relative to acceptance and use of funds.

22. a. The financing authority and the development authority shall have the power to accept and use any funds appropriated and paid by the State to the financing authority and the development authority for the purposes for which the appropriations are made. The financing authority and the development authority shall have the power to apply for and receive and accept appropriations or grants of property, money, services or reimbursements for money previously spent and other assistance offered or made available to it by or from any person, government agency, public authority or any public or private entity whatever for any lawful corporate purpose of the financing authority or the development authority, including, without limitation, grants, appropriations or reimbursements from the federal government, and to apply and negotiate for the same upon such terms and conditions as may be required by any person, government agency, authority or entity as the financing authority or the development authority may determine to be necessary, convenient or desirable.

b. The development authority and the State Treasurer may establish a financial incentive program for the purpose of promoting donations to school facilities projects. Any entity which makes a donation approved by the State Treasurer to the preliminary eligible costs of a school facilities project shall receive an incentive payment pursuant to the provisions of this subsection. The amount of the incentive payment shall equal 50% of the fair market value of the donation but shall not in any one year exceed one-half of the amount of taxes paid or otherwise due from the donor pursuant to the provisions of the "New Jersey Gross Income Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as applicable, for the tax year in which the donation is made. The fair market value of a non-cash donation

shall be determined by the State Treasurer. The carry-forward for incentive payments shall not be inconsistent with that allowed by P.L.1976, c.47 (C.54A:1-1 et seq.) in the case of a donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

All incentive payments made pursuant to this section shall be funded by and shall be subject to annual appropriations for this purpose, and shall in no way rely upon funds raised by the issuance of bonds for school facilities projects.

L.2000, c.72, s.22; amended 2007, c.137, s.33.

18A:7G-23 Prevailing wage rates on construction contracts.

23. a. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any school facilities project that is undertaken by the development authority, a redevelopment entity, or a district and any contractor who violates the provisions of this subsection shall be prohibited from subsequently bidding on any State or district contract.

b. Registration fees collected pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and administrative costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the Department of Labor and Workforce Development.

L.2000, c.72, s.23; amended 2007, c.137, s.34.

18A:7G-24 Biannual report on school facilities construction program.

24. The development authority, in consultation with the State Treasurer, the financing authority, and the commissioner, shall biannually submit to the Governor, the Joint Budget Oversight Committee, the President of the Senate and the Speaker of the General Assembly a report on the school facilities construction program established pursuant to the provisions of this act. The report shall be submitted no later than June 1 and December 1 of each year and shall include, but not be limited to, the following information for the prior six-month period: the number of school facilities projects approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects undertaken and funded by the development authority; the aggregate principal amount of bonds, notes or other obligations issued by the financing authority for the State share of construction and renovation of school facilities and whether there is a need to adjust the aggregate principal amount of bonds, notes or other obligations authorized for issuance pursuant to subsection a. of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of approved projects which exceeded the facilities efficiency standards, the components of those projects which exceeded the standards, and the amount of construction by individual districts and Statewide estimated to have exceeded the standards; and recommendations for changes in the school facilities construction program established pursuant to this act which have been formulated as a result of its experience with the program or through collaboration with program stakeholders.

In addition, the biannual report shall include a comparison of the costs of school facilities projects undertaken and funded by the development authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The development authority shall include in the report an explanation of the methodology used in making the comparison.

L.2000, c.72, s.24; amended 2007, c.137, s.35.

18A:7G-25 Appropriation of unexpended balance.

25. Notwithstanding the provisions of the annual appropriations act to the contrary concerning the conditions on the appropriation and reappropriation of the balance in the School Construction and Renovation Fund, the unexpended balance in the School Construction and Renovation Fund on the effective date of this act is appropriated to the authority to be used to pay for school facilities projects and the administrative, insurance, and other operating costs of the authority incurred in connection with school facilities projects. In addition, there is appropriated from the General Fund to the Department of Law and Public Safety, Office of the Attorney General, an amount not to exceed \$1,000,000, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury, for the Unit of Fiscal Integrity in School Construction, established pursuant to section 70 of this act, and any additional amounts as may be required by the unit, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

L.2000, c.72, s.25.

18A:7G-26 Rules, regulations.

26. a. The commissioner 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 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72 (C.18A:7G-

1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.); except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of sections 1 through 12 and 57 and 58 and 64 of this act which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to this act and the rules and regulations adopted by the commissioner to implement this act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or re-adopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The development authority 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 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) that apply to the development authority; except that notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the development authority may adopt immediately upon filing with the Office of Administrative Law, such rules and regulations as the development authority deems necessary which shall be effective for a period not to exceed 12 months and shall thereafter be amended, adopted or re-adopted by the authority, in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

The rules and regulations promulgated by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

c. Any regulations adopted to implement this act shall include provisions to ensure that all programs necessary to comply with *Abbott v. Burke*, 153 N.J. 480 (1998) (*Abbott V*), are approved.

L.2000, c.72, s.26; amended 2007, c.137, s.36.

18A:7G-27 Development or financing authority property exempt from levy, sale.

27. All property of the development authority and the financing authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the development authority or the financing authority be a charge or lien upon its property; provided that nothing herein contained shall apply to or limit the rights of the holder of any bonds, notes or other obligations to pursue any remedy for the enforcement of any pledge or lien given by the development authority or the financing authority on or with respect to any project, school facilities project, or any revenues or other moneys.

L.2000, c.72, s.27; amended 2007, c.137, s.37.

18A:7G-28 Severability.

28. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

L.2000, c.72, s.28.

18A:7G-29 Liberal construction.

29. This act shall be construed liberally to effectuate the legislative intent and the purposes of this act as complete and independent authority for the performance of each act and thing herein authorized and all powers herein granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

L.2000, c.72, s.29.

18A:7G-30 Annual appropriation from tobacco settlement.

30. There shall be appropriated annually for the purposes of this act up to \$100,000,000 from moneys made available to the State from tobacco companies under the nationwide settlement of the respective actions by the various states against those companies, entered into by this State in the Master Settlement Agreement in *State of New Jersey v. R.J. Reynolds Tobacco Company, et al.*, Superior Court, Chancery Division, Middlesex County, No.C.254-96.

L.2000, c.72, s.30.

18A:7G-31 Establishment of capital reserve account.

57. a. Notwithstanding any provision of this act or any other law or regulation to the contrary, a board of education or a board of school estimate, as appropriate, may, through the adoption of a board resolution, establish a capital reserve account. The

account shall be established and held in accordance with GAAP and shall be subject to annual audit. The funds in the capital reserve account shall be used to finance the district's long-range facilities plan required pursuant to subsection a. of section 4 of this act and the amount in the account shall not exceed the total amount of local funds required to implement the plan.

b. A board of education or a board of school estimate, as appropriate, may appropriate funds in the district's annual budget for the establishment of the capital reserve account pursuant to subsection a. of this section or to supplement the funds in the account as required to meet the needs of the long-range facilities plan.

c. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects as contained in the district's long-range facilities plan; and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects which are included in the district's long-range facilities plan.

L.2000,c.72,s.57; amended 2004, c.73, s.5.

18A:7G-32 "County Vocational School District Facilities Rehabilitation Fund."

58. a. There is hereby created a special fund in the Department of Education which shall be entitled the "County Vocational School District Facilities Rehabilitation Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this section. The fund shall consist of all moneys appropriated by the State for the purposes of the fund and all interest and investment earnings received on moneys in the fund.

b. A county vocational school district may apply to the commissioner for a grant in the maximum amount of \$500,000 to be matched by the district for the purposes of funding health and safety school facilities rehabilitation projects. The grant and matching district funds shall be maintained by the district in a special revenue fund as certified by the district's board of education and its chief financial officer and shall be subject to annual audit. A project funded through the grant fund shall not require the approval of the commissioner pursuant to section 5 of this act.

c. Any county vocational school district which receives grant funding pursuant to subsection b. of this section shall not be eligible to receive school facilities aid pursuant to any other provision of this act for a period of five years from the district's receipt of the grant, except that the district may receive debt service aid pursuant to section 10 of this act; and any county vocational school district which receives aid under any provision of this act other than section 10, shall not receive a grant pursuant to subsection b. of this section for five years after approval of a project which is otherwise funded under this act.

L.2000,c.72,s.58.

18A:7G-33 Process for prequalification of contractors.

59. The development authority shall establish a process for the prequalification of contractors that desire to bid on school facilities projects. A contractor shall not be permitted to bid on such a school facilities project unless the contractor has been prequalified pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

The prequalification process shall apply to general contractors, construction managers, and contractors including those in the following areas:

- (1) plumbing and gas fitting and all work and materials kindred thereto;
- (2) steam and hot water heating and ventilating apparatus, steam power plants and all work and materials kindred thereto;
- (3) electrical work; and
- (4) structural steel and miscellaneous iron work and materials.

The prequalification process established by the New Jersey Schools Construction Corporation pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and effect unless subsequently revised by the development authority following the enactment of P.L.2007, c.137 (C.52:18A-235 et al.).

L.2000, c.72, s.59; amended 2007, c.137, s.38.

18A:7G-34 Prequalification process, submission requirements.

60. a. The prequalification process shall include a requirement that the contractor proposing to submit bids on a school facilities project submit a statement under oath on a form designated by the development authority. The form shall fully describe and establish the financial ability, responsibility, plant and equipment, organization, ownership, relationships and prior experience of the prospective bidder and any other

pertinent and material facts as may be deemed necessary by the development authority. The submission shall include:

- (1) A certified, audited financial statement or compilation of financial statements or other documentation of financial status acceptable to the development authority;
- (2) Proof of any contractor or trade license required by law for any trade or specialty area in which the contractor is seeking prequalification and a statement as to whether any contractor or trade license has been revoked;
- (3) A statement as to bonding capacity, which shall be from a surety authorized to issue bid, performance and payment bonds in the State of New Jersey in accordance with N.J.S.2A:44-143 through N.J.S.2A:44-147 to the contractor, and shall indicate aggregate bonding limits;
- (4) A list of the names and titles of all individuals who own 10% or more of any class of stock in the corporation or are a 10% or more partner in the firm. If any of the aforementioned stockholders or partners is itself a corporation, or a partnership, that entity shall also provide the information specified herein;
- (5) Disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law;
- (6) Disclosure of any unsatisfied judgments, injunctions or liens obtained by a governmental agency including, but not limited to, judgments based on taxes owed and fines and penalties assessed by any government agency;
- (7) Disclosure of any determination for violations of federal, State or local laws, rules or regulations, including health laws, unemployment insurance or workers' compensation coverage or claim requirements, the "Employee Retirement Income Security Act of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws, environmental laws, safety laws, licensing laws, tax laws and antitrust laws;
- (8) Disclosure of any federal, State or local debarments, non-responsibility findings or denials of prequalification;
- (9) Disclosure of any bankruptcy filings or proceedings;
- (10) A statement as to past performance, which shall give an accurate and complete record of work completed in the past five years by the contractor giving the names of the projects, type of work, location, contract price, bid and final contract amount paid and the names of the owner and of the architect or engineer in charge for the owner. This statement shall also disclose any labor problems experienced, any failure to complete a contract on schedule, any penalties, judgments, orders or liens imposed by reason of any contract undertaken within the five-year period and whether the contractor has been defaulted for cause on any project as determined by an unappealed or nonappealable decision. This statement shall also indicate the status of any litigation pending against the potential bidder. The contractor shall be required to attach to this statement all performance evaluations in his possession for any work performed by the contractor on any public or private projects;
- (11) A statement as to organization, which shall demonstrate the adequacy of such organization to undertake a school facilities project. This statement shall include the resumes of the management and professional staff;
- (12) A statement setting forth the contractor's equipment inventory and technical resources; and
- (13) A statement on staffing capabilities, including labor sources, staffing plans, turnover rates, and any use of registered apprenticeship programs and journeyman training programs.

b. After the receipt of the submission provided for in subsection a. of this section, the development authority may verify information provided in the contractor's submission, including applicable license and certificate requirements, federal or State debarments and violations of law. The development authority may also conduct random inquiries or surveys of the contractor's prior customers.

c. Based upon the submission provided for in subsection a. of this section the development authority shall assign a contractor the following classification and limits for the purpose of determining the types of projects for which a contractor is entitled to bid:

- (1) a trade or work classification; and
- (2) an aggregate rating limit.

To effectuate these requirements of the prequalification process, the development authority shall develop rules and regulations for assigning classifications and aggregate limits.

d. The classification shall be made and an immediate notice thereof shall be sent to the contractor by registered or certified mail or other legally valid methods.

e. The development authority shall establish procedures to permit contractors to challenge a classification made pursuant to this section.

f. The prequalification submission shall include an affidavit which acknowledges receipt of information regarding the appropriate federal Bureau of Apprenticeship and Training apprenticeship laws and regulations as adopted by the State and information regarding the county apprenticeship coordinators and the federal Bureau of Apprenticeship and Training.

g. The development authority shall maintain a registry of all contractors prequalified to bid on school facilities projects. The registry shall include the classification of the bidder and aggregate building limit.

L.2000, c.72, s.60; amended 2007, c.137, s.39.

18A:7G-35 Validity of contractor's prequalification classification.

61. a. A contractor's prequalification classification shall be valid for 24 months. A contractor shall be reclassified after the 24-month period in order to remain eligible to bid on school facilities projects.

b. Any material changes relevant to the prequalification process shall be reported by the contractor to the development authority in writing within 10 days. Based on the information provided, the development authority may change the classification or revoke prequalification for cause.

L.2000, c.72, s.61; amended 2007, c.137, s.40.

18A:7G-36 Mandatory uniform performance evaluation of contractors.

62. a. A mandatory uniform performance evaluation shall be conducted on all school facilities projects undertaken by the development authority. The evaluation shall, at a minimum, include cost, schedule adherence and quality.

b. A contractor shall be notified of a performance evaluation. The contractor shall be afforded an opportunity to respond to an adverse evaluation.

c. The contractor performance evaluations shall be utilized in reviewing bid submissions.

L.2000, c.72, s.62; amended 2007, c.137, s.41.

18A:7G-37 Submission of sworn contractor certification; requirements.

63. a. A prequalified contractor seeking to bid school facilities projects, and any subcontractors required to be named under P.L.2000, c.72 (C.18A:7G-1 et al.) shall, as a condition of bidding, submit a sworn contractor certification regarding qualifications and credentials.

b. In the contractor certification form, a principal owner or officer of the company shall certify that the firm has the following qualifications and credentials:

(1) A current, valid certificate of registration issued pursuant to "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.), a copy of which shall be attached to the certification form, if applicable;

(2) A current, valid "Certificate of Authority to perform work in New Jersey" issued by the Department of the Treasury, a copy of which shall be attached to the certification form;

(3) Any current, valid contractor or trade license required under applicable New Jersey law for any trade or specialty area in which the firm seeks to perform work, a copy of which shall be attached to the certification;

(4) During the term of construction of the school facilities project, the contractor will have in place a suitable quality control and quality insurance program and an appropriate safety and health plan.

c. The contractor certification form shall further require that a principal owner or officer of the company certify that, at the time that the firm is bidding a project, the amount of its bid proposal and the value of all of its outstanding incomplete contracts does not exceed the firm's existing aggregate rating limit.

L.2000, c.72, s.63.

18A:7G-38 Program to provide additional funding for apprenticeship programs.

64. a. The Commissioner of Education, in conjunction with the Commissioner of Labor and Workforce Development, shall establish a program to provide additional funding for

apprenticeship programs registered by the federal Bureau of Apprenticeship and Training in the United States Department of Labor. There shall be appropriated annually in fiscal year 2001 through fiscal year 2005 the sum of \$3,000,000 to accomplish this purpose.

b. The commissioners of the Department of Education and the Department of Labor and Workforce Development shall establish guidelines for the distribution of funds under the program, including a provision that requires a majority of the funding to assist apprenticeship programs in urban areas. The guidelines shall also include a list of those types of entities eligible for funding including, but not limited to, county colleges, county vocational schools, unions and other sponsors of apprenticeship programs deemed appropriate. Eligible entities shall be permitted to use the funding provided pursuant to the program to fund student grants. Pursuant to established guidelines, the commissioners of the Department of Education and the Department of Labor and Workforce Development shall be responsible for the distribution of funds under the program.

L.2000, c.72, s.64; amended 2007, c.39, s.12.

18A:7G-39 False, deceptive, fraudulent statement by contractor in certifications, penalty.

65. Any contractor who willfully makes, or causes to be made, a false, deceptive or fraudulent statement in the certifications required pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.), shall be guilty of a crime of the fourth degree and shall be permanently disqualified from bidding on all school facilities projects; and , in the case of an individual or the officer or employee charged with the duty of making the submission for a contractor , he shall be guilty of a disorderly persons offense.

L.2000,c.72,s.65.

18A:7G-40 Prequalified contractors exempt from other prequalifying process.

66. A contractor who has been prequalified as a bidder on school facilities projects in accordance with the process established by the development authority pursuant to section 59 of P.L.2000, c.72 (C.18A:7G-33) shall not be required to undergo any other prequalification process to bid on a school facilities project.

L.2000, c.72, s.66; amended 2007, c.137, s.42.

18A:7G-41 Procedure for obtaining prequalified status; short-form application.

68. If a contractor on the effective date of this act has a current, valid classification from the Division of Property Management and Construction, it may obtain prequalified status under this act by submitting a short-form application developed by the authority. A short-form application submitted under this section must include verification of the contractor's current classification and aggregate rating limit by the Division of Property Management and Construction.

Upon such application, the authority shall prequalify the contractor for the same trade or work classification and same aggregate rating limit issued by the Division of Property Management and Construction, provided the authority does not obtain or receive information indicating the contractor has experienced recent performance deficiencies, or otherwise fails to meet the qualification and responsibility standards established by this act. Prequalification pursuant to this section shall be valid for such time as determined by the authority.

L.2000,c.72,s.68.

18A:7G-42 Registration of apprentices.

69. All apprentices shall be registered through the approved federal Bureau of Apprenticeship and Training program.

L.2000,c.72,s.69.

18A:7G-43 Office of Fiscal Integrity in School Construction.

70. There is established in the Office of the Attorney General the Office of Fiscal Integrity in School Construction. The office shall perform its duties under the direction of the Attorney General and shall cooperate and coordinate the performance of its duties with the Office of the State Comptroller. The Attorney General or his representative, in cooperation and coordination with the State Comptroller or his representatives, may investigate, examine, and inspect the activities of the authority and districts related to the financing and construction of school facilities and the implementation of the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). The Attorney General and the State Comptroller may require the submission of duly verified reports from the authority and districts, which include such information in such form as the Attorney General and the State Comptroller may require. The Attorney General or the State Comptroller or a representative of either, may also consult with the authority on issues and procedures related to the exercise of its duties and responsibilities under P.L.2000, c.72 (C.18A:7G-1 et al.). The Legislature shall annually appropriate such funds as may be necessary to finance the operations of the office.

L.2000, c.72, s.70; amended 2005, c.155, s.105; 2007, c.52, s.20.

18A:7G-44 Requirement for "wrap-up insurance coverage."

71. a. In the case of any school facilities project which has a State share of 100%, the development authority may require the use of wrap-up insurance coverage for the project and shall establish the terms and requirements for any such coverage.

b. For any school facilities project which has a State share of less than 100%, the district may elect to purchase wrap-up insurance coverage for the school facilities project. A district may purchase the coverage on its own or may enter into a joint purchasing agreement with one or more other districts to purchase coverage.

c. As used in this section, "wrap-up insurance coverage" means a single insurance and loss control program for all parties involved in the school facilities project, including the owners, administrators, contractors and all tiers of subcontractors, which is controlled and authorized by the owner or financing administrator and applicable to defined construction work sites. Wrap-up insurance coverage may include, but not be limited to, workers' compensation and employers' liability, commercial general liability, umbrella/excess liability, builder's risk, architects' and engineers' errors and omissions, liability, environmental liability, and force majeure.

L.2000, c.72, s.71; amended 2007, c.137, s.43.

18A:7G-45 Conveyance of certain school buildings and land to New Jersey Schools Development Authority; conditions.

14. a. In the event that the development authority funds 100% of the cost of the acquisition of land for the construction of a school facilities project and as a result of the construction of that project a school building located in the district and the land upon which the school building is situate are no longer necessary for educational purposes, title to the land together with the school building on the land shall be conveyed to and shall vest in the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237) when it is determined by the development authority that such conveyance is in the best interest of the development authority. The district shall execute any documents including, but not limited to, a deed of conveyance necessary to accomplish the transfer of title.

b. The development authority may retain or sell the land and buildings on that land acquired pursuant to subsection a. of this section. In the event the development authority elects to sell, it shall use a competitive process. The proceeds of that sale shall be applied to the costs of school facilities projects of the district.

c. The transfer of title pursuant to subsection a. of this section shall occur in accordance with a schedule determined by the development authority. The schedule may provide that the transfer occur prior to the completion of the construction of the new school facilities project if the development authority deems it necessary in order to complete additional school facilities projects within the district.

L.2007, c.137, s.14.

18A:7G-46 Acquisition of land in SDA district; submission of land inventory.

15. If land is necessary to be acquired in connection with a school facilities project in an SDA district, the board of education of the district and the governing body of the municipality in which the district is situate shall jointly submit to the commissioner and to the development authority a complete inventory of all district- and municipal-owned land located in the municipality. The inventory shall include a map of the district showing the location of each of the identified parcels of land. The board of education and the governing body of the municipality shall provide an analysis of why any district- or municipal-owned land is not suitable as a site for a school facilities project identified in the district's long-range facilities plan. The inventory shall be updated as needed in connection with any subsequent school facilities projects for which it is necessary to acquire land.

L.2007, c.137, s.15; amended 2007, c.260, s.48.

18A:7G-47 Approval of site plan in SDA district; procedure.

16. a. Whenever the board of education of an SDA district submits to the New Jersey Schools Development Authority established pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) information on a proposed preferred site for the construction of a school facilities project, the development authority shall file a copy of a map, plan or report indicating the proposed preferred site with the county clerk of the county within which the site is located and with the municipal clerk, planning board, and building inspector of the municipality within which the site is located.

b. Whenever a map, plan, or report indicating a proposed preferred site for the construction of an SDA district school facilities project is filed by the development

authority pursuant to subsection a. of this section, any municipal approving authority before granting any site plan approval, building permit, or approval of a subdivision plat, or exercising any other approval power with respect to the development or improvement of any lot, tract, or parcel of land which is located wholly or partially within the proposed preferred site shall refer the site plan, application for a building permit or subdivision plat or any other application for proposed development or improvement to the development authority for review and recommendation as to the effect of the proposed development or improvement upon the construction of the school facilities project.

c. A municipal approving authority shall not issue any site plan approval or building permit or approve a subdivision plat or exercise any other approval power with respect to the development or improvement of the lot, tract, or parcel of land without the recommendation of the development authority until 45 days following referral to the development authority pursuant to subsection b. of this section. Within that 45-day period, the development authority may:

(1) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land of probable intention to acquire the whole or any part thereof, and no further action shall be taken by the approving authority for a further period of 180 days following receipt of notice from the development authority. If within the 180-day period the development authority has not acquired, agreed to acquire, or commenced an action to condemn the property, the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law; or

(2) give notice to the municipal approving authority and to the owner of the lot, tract, or parcel of land that the development authority has no objection to the granting of the permit or approval for which application has been made. Upon receipt of the notice the municipal approving authority shall be free to act upon the pending application in such manner as may be provided by law.

L.2007, c.137, s.16; amended 2007, c.260, s.49.

18A:7G-48 Projects in certain districts with prior approval; construction, financing under prior law.

17. Notwithstanding any provision of P.L.2007, c.137 (C.52:18A-235 et al.) to the contrary, a school facilities project of a district, other than an Abbott district, with a district aid percentage equal to or greater than 55% or of a district, other than an Abbott district, with a district aid percentage of less than 55% that had been approved by the Commissioner of Education and the New Jersey Schools Construction Corporation prior to the effective date of P.L.2007, c.137 (C.52:18A-235 et al.) to be constructed by the corporation, shall be constructed and financed in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) as the same read before the effective date of P.L.2007, c.137 (C.52:18A-235 et al.).

L.2007, c.137, s.17.

18A:8-1. Municipalities as separate school districts; exceptions

Each municipality shall be a separate local school district except as otherwise provided in this chapter and except that each incorporated village shall remain a part of the district in which it is situated at the time of its incorporation.

L.1967, c.271.

18A:8-2. Certain new municipalities as type II districts

Whenever a new municipality other than a city is created from parts of two or more municipalities, such municipality shall be a separate type II school district from the time of appointment of the board of education for the new school district.

L.1967, c.271.

18A:8-3. First board of education; first elected board

The first board of education of the new school district shall consist of nine persons, who are legal residents of the district possessing the qualifications requisite for board membership in other school districts, except the two-year residence requirement, which shall not be effective until the fourth annual school election of the newly created district. They shall be appointed by the county superintendent as soon after the creation of the new municipality as possible, and they shall continue in office until the qualification in office of their successors, who shall be elected at the ensuing annual school election for terms to be so arranged by the appointed board that, as soon as possible, the term of each member of the board shall be three years and the terms of three members shall expire in each year.

L.1967, c.271.

18A:8-3.1. Assumption of indebtedness for money or property upon annexation

When a municipality or a part thereof is annexed to another municipality and there is within the limits of the municipality or part thereof which is annexed, a schoolhouse or property formerly belonging to the board of education of the school district situated in such municipality, any indebtedness of such board of education for the erection, purchase, furnishing or repair of such schoolhouse or property shall be assumed by and

become the obligation of the board of education of the school district of the annexing municipality.

L.1967, c.271.

18A:8-3.2. Repayment of indebtedness paid by original district notwithstanding its assumption

When the board of education of a school district situated in any municipality pays any portion of an indebtedness which existed at the time of the formation of a new municipality or part thereof, or at the time of the annexation of such municipality to another and which was assumed by and became the obligation of the board of education of the school district situated in the new municipality, the amount of such payment with interest shall be repaid by the last mentioned board.

L.1967, c.271

18A:8-3.3. Apportionment of school tax on annexation; action by commissioner

When a municipality or part of a municipality has heretofore been annexed or shall be hereafter annexed to another municipality or municipalities and the school taxes for the school year during which such annexation was or shall be effected have been or shall have been levied and collected by the municipality or municipalities as constituted prior to such annexation and paid to the board of education in such municipality or regional board of education comprising in part said municipality, the school tax for the said school year shall be apportioned by the commissioner after a hearing upon notice to the municipalities and boards of education to be affected, and, in making any such apportionment, the commissioner shall take into consideration the number of pupils, the tax ratables and the effect of the transfer resulting from such annexation upon the educational program of the school district. The commissioner shall direct the board of education or the regional board of education, as the case may be, of the municipality from which the said transfer was made to pay to the board of education or regional board of education of the municipality or municipalities to which the annexation was made, such sums as he shall determine to be payable under this section. Any board of education or regional board of education aggrieved by any such order of the commissioner shall be entitled to have such order and the determination of the commissioner, upon which any such order shall be made, reviewed by the state board, upon an appeal to it, and upon any such review, the state board may affirm, reverse or modify the order and determination appealed from and may make any determination and order that should have been made by the commissioner.

L.1967, c.271.

18A:8-4. Single school district in certain divided municipalities

Whenever a municipality is divided into two or more municipalities, the school district shall continue as a single school district unless and until the same shall be divided as provided in this article.

L.1967, c.271.

18A:8-5. Application for investigation of advisability of separate school districts in divided municipalities

The governing body of any such municipality may, by resolution, apply to the county superintendent to make an investigation as to the advisability of constituting that municipality a separate school district.

L.1967, c.271.

18A:8-6. Report of county superintendent

The county superintendent shall, within 30 days after such request, file with the governing bodies of all of such municipalities and the board of education of the school district a report containing such financial, educational and other information as he may deem necessary to enable said governing bodies and board of education to form an intelligent judgment as to the advisability of the proposed separation and the effect thereof upon the educational and financial condition of the new district and the remaining district and setting forth the amount of indebtedness, if any, to be assumed by the new and remaining districts calculated as hereinafter provided.

L.1967, c.271.

18A:8-7. Amount of indebtedness to be assumed by proposed new district

The amount of indebtedness so to be assumed shall be calculated on the basis of the proportion which the original cost of the buildings, grounds, furnishings, equipment, and additions thereto, situate in the proposed new district, bears to the original cost of the buildings, grounds, furnishings, equipment and additions thereto, situated in the original district. Said original cost shall be determined according to rules prescribed by the commissioner with the approval of the state board and in accordance with recognized accounting practices.

L.1967, c.271.

18A:8-8. Calculation of amount of indebtedness to be assumed

In calculating the amount of indebtedness to be assumed, any indebtedness authorized for the purchase or improvement of land or the erection, alteration, repair or

furnishing of schoolhouses shall be included, whether incurred or not, and shall be treated as if the bonds or notes authorized to be issued to provide funds therefor had actually been issued, and the original cost of the acquisition or improvement so to be made shall be deemed to be the amount of indebtedness authorized for the making thereof.

L.1967, c.271

18A:8-9. Petition by municipality for permission to submit question of separate school district

The governing body of the applying municipality may, within 30 days after the filing of the report, petition the commissioner for permission to submit to the legal voters of the municipality the question whether or not the municipality shall be constituted a separate school district, and in such petition may request any specific reduction or increase in the amount of indebtedness to be assumed. Proof of the service of a copy of the petition upon each municipality in the original school district, the board of education thereof, and the county superintendent, prior to the filing of the petition, shall accompany the petition.

L.1967, c.271.

18A:8-10. Answer to petition by other municipalities and board of education

The governing body of any other municipality in the school district and the board of education thereof shall, within 15 days after service of a copy of the petition upon it, file an answer thereto with the commissioner and serve a copy of such answer upon every other municipality included in the original district, the board of education thereof and the county superintendent.

L.1967, c.271.

18A:8-11. Contents of answer to petition

In such answer said municipality may:

- a. Consent to the granting of the application; or
- b. Oppose the same because, if the same be granted--

1. An excessive debt burden will be imposed upon the remaining district,
2. An efficient school system cannot be maintained in the remaining district without excessive costs,
3. Insufficient pupils will be left in the remaining district to maintain a properly graded school system, or

4. Of any other reason, which it may deem to be sufficient; or

c. Request that if the petition be granted, the amount of debt which the remaining district would be required to assume, calculated as hereinbefore provided, be reduced for the reason that--

1. Such amount of indebtedness, together with all other indebtedness of the municipality would be excessive,
2. The amount of expenditure for debt service which would be required would be so great that sufficient funds would not be available for current expenses without excessive taxation, or
3. Such amount of indebtedness is inequitable in relation to the value of the property to be acquired by the remaining district and would materially impair the credit of the municipality or such districts and the ability to pay punctually the principal and interest of their debt and to supply such essential educational facilities and public improvements and services as might reasonably be anticipated would be required of them.

L.1967, c.271.

18A:8-12. Consideration of and hearing upon petition and answers by board of review

Within 15 days after the filing of the answers to the petition, the commissioner of education shall submit the petition and answers to a board of review consisting of the commissioner of education, as chairman, the commissioner of conservation and economic development and the director of the division of local government in the department of the treasury, which shall hold a hearing thereon at the request of any interested party and shall consider the effect of the proposed separation upon the educational and financial condition of both the new and remaining districts on the basis of the allegations of the petition and answers and of any other factors which might have been alleged in the answers as hereinbefore provided.

L.1967, c.271.

18A:8-13. Grant or denial of petition by board of review

Within 60 days after the receipt of the petition and answers, the board of review shall, by a recorded roll call majority vote of the full membership of such board, grant

the application and determine the amount of indebtedness, if any, to be assumed by the remaining and new districts, respectively, or deny the same.

L.1967, c.271.

18A:8-14. Submission of question at special election

If the application be granted, the county superintendent shall, within 30 days thereafter, fix a day, between the first day of April next ensuing and the first day of December next occurring after said first day of April, and a time on said day for holding a special school election, at which time the question whether or not the municipality shall be constituted a separate school district shall be submitted to the legal voters of the municipality.

L.1967, c.271.

18A:8-15. Notices, advertisements and conduct of election; certification of results

The amount of indebtedness to be assumed by the proposed new district and the effect of such indebtedness upon the borrowing margin of the municipality and the proposed new district shall be stated in the notices and advertisements of the special school election and in the ballots to be used therein, and said election shall be conducted and the results thereof determined in the manner prescribed by law for special school elections in type II districts. The result shall be certified within five days after the holding of the election to the county superintendent and the board of education.

L.1967, c.271.

18A:8-16. Effective date of creation of new district after adoption of question

If the question is adopted at said election, the municipality initiating the proceeding shall be created a separate type II school district upon the beginning of the next ensuing school year.

L.1967, c.271.

18A:8-17. Name of new and remaining districts

The name of the new district shall be the board of education of the (name of municipality) in the county of and the name of the remaining district shall be the board of education (name of municipality) in the county of .

L.1967, c.271.

18A:8-17.1. Board may adopt new title for district

In any district composed of two or more municipalities one at least of which has changed its name, the board of education, by resolution passed by a two-thirds vote of its members and with the approval of the commissioner, may adopt a new corporate title for the school district. Such title shall contain the names of at least two of the municipalities in the district but shall not contain the type of the municipalities such as township, town or borough.

L.1967, c.271.

18A:8-18. Board of new district

18A:8-18. The members of the board of education of the original district shall continue in office as members of such district until the creation of the new district and the members of said board who reside in the new district shall also be members of the first board of education of the new district and those who do not reside therein shall also be members of the first board of education of the remaining district. They shall continue to serve as members of the board of education of the new and remaining districts respectively until the expiration of the respective terms for which they were elected as members of the board of education of the original district. Such number of additional members of the first board of education of the new district and of the remaining district as shall be required to complete full membership thereof, shall be appointed by the county superintendent and their successors shall be elected at school elections of the districts, which shall be held at the same time as that on which the annual election of the original district would have been held in the next school year. The elected members of said boards shall take office at the organization meeting succeeding their election and the appointed members shall continue in office until said date.

L. 1967, c. 271; amended by L. 1987, c. 289, s. 1.

18A:8-19. Date of constitution of first boards of education of new and remaining districts

The first boards of education of the new district and the remaining district shall be constituted as of the tenth day following the election.

L.1967, c.271.

18A:8-20. Powers, duties of first boards of education of new, remaining districts

18A:8-20. The first board of education of the new district and the first board of education of the remaining district shall each prepare and submit, to the voters of the district, as required by law, the first budgets for said district and they shall make proper provision for an election to be conducted, in accordance with the provisions of P.L.1995, c.278 (C.19:60-1 et al.), for the members of the board of education of the

district to replace the appointed members of the board, for such terms that three members of the board of the district, as thereafter constituted, will be elected each year, at an annual election to be held in the district at the same time as that on which the next annual election for the original district would have been held.

L.1967, c.271; amended 1995,c.278,s.26.

18A:8-21. Boards of education of new and remaining districts with elected members; powers, etc.

The board of education of the new district, and the board of education of the remaining district, to which members are first elected shall not take charge and control of the schools of their respective districts until the beginning of the next school year, but each may in the meantime exercise any powers which may be necessary for the proper organization and functioning of the public schools of the district when the same shall be created, and any expenses incurred in connection therewith may be paid from appropriations of said districts, when created, if items therefor are included in the budgets of the district, notwithstanding that said expenses were incurred prior to the creation of said district, and they may call special elections for the purchase of land and the construction, alteration or repair of school buildings, and for the making of special appropriations or the issuance of bonds for any lawful purpose.

L.1967, c.271.

18A:8-22. Title to school grounds, buildings and equipment; assumption and payment of indebtedness

Upon the creation of the new district, title to all school grounds and buildings and the furnishings and equipment thereof situate therein shall vest in the board of education of that district, and such board shall thereupon assume such amount of the indebtedness of the original school district as shall have been determined upon by the board of review and shall pay to the board of the remaining district, at least five days before the same shall become due, the amount of the principal and interest of the indebtedness so assumed, and said principal and interest shall be paid by the board of the remaining district as and when the same becomes due and payable.

L.1967, c.271.

18A:8-23. Books, documents and records of original district

Upon the creation of the new district, all books, documents and records of the original school district shall be turned over to the board of education of the new district or the board of education of the remaining district, whichever district has the larger or largest amount of ratables as ascertained from the last published report of the director of the division of taxation in the department of the treasury.

L.1967, c.271.

18A:8-24. Division of assets and liabilities of original district

The county superintendent in a written report filed by him at the end of the school year preceding that in which the new district is created shall make a division of the assets, except school buildings, grounds, furnishings and equipment, and of the liabilities, other than the bonded indebtedness of the original district, between the new district and the remaining district on the basis of the amount of the ratables in the respective districts on which the last school tax was levied, and in determining the amount of assets to be divided, he shall take into account the present value of the school books, supplies, fuel, motor vehicles and all personal property other than furnishings and equipment. In the case of any vehicle used for the transportation of school children, the original cost of the vehicle, less any state aid appropriated therefor, shall be deemed to be the present value.

L.1967, c.271.

18A:8-25. Application of chapter

The provisions of this chapter shall be applicable to all consolidated local school districts heretofore created.

L.1967, c.271.

18A:8-26. Name of consolidated district board

The board of education of each consolidated district shall be called "The board of education of the _____ of _____ (here insert the name of the municipality included within the consolidated district which has the larger or largest amount of taxable property as ascertained from the last published report of the director of taxation in the department of the treasury,) in the county of _____."

L.1967, c.271.

18A:8-27. Adoption of different name for board

If a shorter or different name for the board of education of a consolidated district, heretofore created, appears to be desirable to the board, another title may be adopted by it with the approval of the state board, which approved title shall be certified by the state board under the hand of its secretary to the secretary of state, and the new title so approved and certified shall become the corporate title of the district.

L.1967, c.271.

18A:8-28. Powers, duties and succession to property and obligations by board

The board of education of each consolidated district shall be a body corporate and shall have all the powers and duties and be subject to the same restrictions as a board of education in a type II school district, except as otherwise provided in this chapter, and from and after the effective date of consolidation, all of the property and assets of the consolidating districts and of any regional school district or districts dissolved by reason of such consolidation shall vest in the board of education of the consolidated district and the board of the consolidated district shall be subject to the contracts, debts, and other obligations of the consolidating districts and of such regional district or districts.

L.1967, c.271.

18A:8-29. Apportionment of membership of board

The membership of the board shall, except as otherwise provided by this chapter, be apportioned by the county superintendent or county superintendents among the several consolidating school districts as nearly as may be according to the number of their inhabitants, as shown by the last published federal census report, but each district shall have at least one member. The apportionment of membership shall continue until changed by reapportionment by the county superintendent or county superintendents, which shall be made, when required, immediately succeeding each published federal census report, but the members of the board in office at the time of any reapportionment shall continue in office for their unexpired terms.

L.1967, c.271.

18A:8-30. Apportionment of members of boards in unapportioned districts

The membership of the board of any consolidated school district heretofore created, in which such membership has not been determined by apportionment, shall be selected as heretofore, but in any such district there may be adopted the apportionment provisions of this chapter at any annual school election by approval of a majority of the votes cast on such proposition.

The proposition shall be placed on the ballots to be used at such election whenever a petition requesting the submission of such proposition, signed by not less than five per cent of the registered voters of the consolidated district, shall have been filed with the secretary at least 20 days prior to the date fixed for the holding thereof.

If such proposition shall be adopted, the county superintendent or county superintendents of the county or counties, in which the district is situate, shall apportion the membership of the board of the consolidated district in accordance with this chapter, beginning with the next annual election, and as the terms of the respective members of the board in office shall expire, and thereafter the members of said board shall be elected accordingly.

L.1967, c.271.

18A:8-31. Number and annual election of members of boards; terms

The board shall consist of nine members and the members shall serve for terms of three years and vacancies for the unexpired terms shall be filled in the same manner as in other type II districts.

The board shall provide annually for election of members from the former constituent districts to succeed the members selected therefrom as their terms expire.

L.1967, c.271.

18A:8-32. Organization of board

The board shall organize annually in the manner prescribed for other type II districts.

L.1967, c.271.

18A:8-33. Custodian of school moneys

The board shall appoint a suitable person, who may be a member of the board, as custodian of school moneys and may fix his salary, and he shall give bond in such amount, according to such terms, as are required by law, of custodians of school moneys of school districts, and with such surety as the board shall direct. The board in its determination of the amount shall be guided by a schedule of minimum limits to be promulgated by the state board.

L.1967, c.271.

18A:8-34. Principals, teachers and employees of constituent districts; tenure, etc.

All principals, teachers and employees in the public schools of the consolidating school districts and of any regional district or districts abolished by the consolidation shall, when the consolidation became effective, be principals, teachers and employees, respectively, in the public schools of the consolidated district, and their tenure,

pension and accumulative sick leave rights under the state laws shall not be affected by consolidation or abolition or by any of the provisions of this chapter.

L.1967, c.271.

18A:8-35. Supervision of consolidated districts

The schools under each consolidated board of education shall be under the supervision of the county superintendent of the county including the constituent district or districts having the larger or largest amount of ratables, as ascertained from the last published report of the director of the division of taxation in the department of the treasury.

L.1967, c.271.

18A:8-36. Appropriations authorized by majority of votes cast

18A:8-36. At all elections any appropriation must be authorized by a majority of the total votes cast thereon in all of the territory of the consolidated school district.

L.1967, c.271; amended 1995,c.278,s.27.

18A:8-37. Apportionment; collection and payment of appropriations

The amounts authorized to be raised for annual or special appropriations, or for interest, or for the redemption of bonds shall be certified by the board of education of the consolidated school district to the county board of taxation, which shall apportion such amounts among the taxing districts, comprising the former constituent school districts from which the consolidated district was constituted in the proportion that the apportionment valuation, as defined in section 54:4-49 of the Revised Statutes, of each taxing district bears to the total apportionment valuations within the consolidated school district and the amount thus apportioned to each taxing district shall be assessed, levied and collected in the same manner and at the same time as other taxes are assessed, levied and collected therein and shall be paid upon requisitions, as in other type II districts.

Where the constituent school districts are located in more than one county, county board of taxation shall, for the purposes of this section, mean the county board of taxation of the county in which the constituent school districts having the largest aggregate apportionment valuations are located, as established by the last published county abstracts of ratables, and the county board or county boards of taxation in which the other constituent school districts are located shall certify to the county board of taxation charged with the duty of apportioning moneys hereunder the apportionment valuations of the constituent school districts within their respective jurisdictions.

L.1967, c.271

18A:8-38. Certification of apportionment to county boards of taxation

The county board of taxation making the apportionment shall certify to the other county board or boards of taxation the amounts apportioned to the constituent school districts within their respective jurisdictions.

L.1967, c.271

18A:8-39. Continuation of certain consolidated school districts saved

R.S. 18:5-18 is saved from repeal. [This act provides that certain school districts consolidated prior to October 19, 1903 shall continue to exist as a consolidated school district as though it had been established as such by election held pursuant to section 18:5-14 of the Revised Statutes.]

L.1967, c.271.

18A:8-40. Continuation as liens of certain bonds issued, saved

R.S. 18:5-19 is saved from repeal. [This act provides that bonds issued prior to October 19, 1903, for the erection of a grade or high school building, by a school district comprised of the territories of two adjoining municipalities, by authority of the voters of both municipalities, shall continue to be liens and the district shall be governed as a consolidated district in the same manner as though the consolidation had been effected under R.S. 18:5-14.]

L.1967, c.271

18A:8-41. Repealers as to consolidated school districts saved

L.1947, c. 86; p. 477, s. 29 is saved from repeal. [This act repeals certain preexisting statutes relating to consolidated school districts.]

L.1967, c.271.

18A:8-42. Composition of regional school districts

Each regional school district shall be composed as is provided in chapter 13 of this title.

L.1967, c.271

18A:9-1. Classification of school districts

18A:9-1. School districts shall be classified as type I and type II school districts, except that the State board may, by administrative order pursuant to its authority under section 15 of P.L. 1975, c. 212 (C. 18A:7A-15), create a State-operated school district.

L.1967, c.271; amended 1987,c.399,s.20.

18A:9-2. Districts included in type I districts
Type I districts shall include--

a. Every local school district hereafter established in a city, or in a municipality other than a city which shall become a city, except a municipality in which the provisions of section 18A:9-3 shall be accepted;

b. Every local school district which was governed, immediately preceding the effective date of this title, by chapter 6 of Title 18 of the Revised Statutes; and

c. Every local school district in which the provisions of this section shall be accepted;

and such district shall be subject to the provisions of this title relating to type I districts.

L.1967, c.271.

18A:9-3. Districts included in type II districts
Type II school districts shall include--

a. Local school districts as follows:

1. Every local school district hereafter established in a municipality other than a city, or in a city which shall become a municipality other than a city, except a municipality in which the provisions of section 18A:9-2 shall be accepted;

2. Every local school district which was governed, immediately preceding the effective date of this title, by chapter 7 of Title 18 of the Revised Statutes;

3. Every local school district in which the provisions of this section shall be accepted; and

4. Every consolidated local school district.

b. Every regional school district;

and such district shall be subject to the provisions of this title relating to type II districts except as otherwise so provided in the case of regional districts.

L.1967, c.271.

18A:9-4 Type I districts; reclassification; resolution or petition for submission; frequency.

18A:9-4. The question of the acceptance of section 18A:9-2 of this title, in any local school district governed by section 18A:9-3 of this title, except a consolidated school district, or of the acceptance of section 18A:9-3 of this title in any local school district governed by section 18A:9-2 of this title, shall be submitted to the legal voters of such district whenever the governing body of the municipality constituting such district or the board of education of any type I districts, shall by resolution so direct, or whenever a petition, signed by not less than 15% of the number of legally qualified voters who voted in such district at the last preceding general election held for the election of all of the members of the general assembly, shall be filed with the clerk of such municipality. No resolution may be adopted and no petition may be filed for the submission of the question of acceptance of N.J.S.18A:9-2 or N.J.S.18A:9-3, as the case may be, within four years after an election shall have been held pursuant to any resolution adopted, or petition filed, pursuant to this section or N.J.S.18A:9-6.

L.1967, c.271; amended 2003, c.102, s.1.

18A:9-5 Type I districts; submission of reclassification question; frequency.

18A:9-5. The clerk of the municipality shall in either case cause said question to be submitted at the next municipal or general election which will be held in the municipality following the expiration of 35 days from the date of the adoption of the resolution or the filing of the petition, whichever shall first occur, except that the clerk shall not cause the question to be submitted if a similar question was submitted at an election within the previous four years.

L.1967, c.271; amended 2003, c.102, s.2.

18A:9-6 Type II districts; reclassification; resolution or petition; submission; frequency.

18A:9-6. Except as provided below, if the board of education of a type II local school district shall so determine by resolution, or if a petition is filed with the board requesting the submission of the question to the voters, signed by 15% or more of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of all of the members of the general assembly, the question shall be submitted to the voters of the district at the next annual school election of the district which will be held at least 15 days after the adoption of the resolution or the filing of the petition but if in the petition it is requested that the question be submitted at a special school election and the first annual school election to be held in the district after the petition is filed will be held less than 20 days or more than 50 days thereafter, the board shall forthwith call a special school election in the district, for the submission of the question, to be held not more than 50 days after the filing of the petition. No resolution may be adopted and no petition may be filed for the submission of the question of acceptance of N.J.S.18A:9-2 within four years after an election shall have been held pursuant to any resolution adopted, or petition filed, pursuant to this section or N.J.S.18A:9-4.

L.1967, c.271; amended 2003, c.102, s.3.

18A:9-7. Vote for adoption of question

If a majority of the votes cast for and against the adoption of the question are cast for the adoption of the question, the district shall be governed by the provisions of the section of this title named in the question as hereinafter provided.

L.1967, c.271.

18A:9-8. Type I districts; effective date of change

If the voters of the district shall so elect that the district shall become a type I district, the district shall be governed by the provisions of this title relating to type I districts after January 31 next ensuing, unless the district be established in a city of the first class, in which case it shall be so governed after June 30 next ensuing, and the terms of the members of the board of education in office at the time of said election shall continue to and cease upon such January 31 or such June 30, as the case may be.

L.1967, c.271.

18A:9-9. Type II districts; effective date of change

If the voters of the district shall so elect that the district shall become a type II district, it shall thereafter be governed by the provisions of this title relating to type II districts, and the members of the board of education in office at the time of the election shall continue in office until the expiration of their respective terms and the qualification in office of their respective successors.

L.1967, c.271.

18A:9-10. Electing additional board members

18A:9-10. If the membership of the board in any such district so becoming a type II district is less than nine, it shall be increased to nine by the election of added members at the next annual school election, unless the adopting election shall have been held more than 130 days or less than 60 days before the date fixed for such annual school election, in which case they shall be elected at a special school election which shall be called by the members of the board so holding over, if the adopting election was held more than 130 days before the annual school election, then not less than 60 or more than 70 days after the adopting election, or if the adopting election was held less than 60 days before the annual school election, then not less than 60 or more than 70 days after such annual school election, excluding in each instance from the calculation of the period which will elapse between such 60 and 70 days any period which would elapse between the twenty-first day before and the twenty-first day after any day fixed according to law for the holding of any primary election for the general election or general election or municipal election held within the district.

L.1967, c.271; amended 1985,c.92,s.1; 1995,c.278,s.28.

18A:9-11. Type II districts; terms of additional board members

The terms of the members so to be elected shall be so arranged by the members of the board holding over that as soon as possible the term of each member of the board shall be three years and the terms of three members shall expire in each year.

L.1967, c.271.

18A:10-1. Conduct of districts

18A:10-1. The schools of each school district shall be conducted, by and under the supervision of a board of education, which shall be a body corporate and which shall be constituted and governed, as provided by this title, for a type I, type II or regional school district, as the case may be, but the State board pursuant to an administrative order issued by authority of section 15 of P.L. 1975, c. 212 (C. 18A:7A-15) may create a State-operated school district which shall be conducted by a State district superintendent.

L.1967, c.271; amended 1987,c.399,s.21.

18A:10-2. Name

Each board of education of a local district shall be known as the board of education of (naming the municipality) in the county of and each board of education of a regional district shall be known as provided in chapter 13 of this title.

L.1967, c.271.

18A:10-3. Annual organization

18A:10-3. Each board of education shall organize annually at a regular meeting held not later than at 8 p.m. at which time new members shall take office:

a. In type I districts on May 16, or on the following day if that day be Sunday;

b. In all type II districts on any day of the first or second week following the annual school election.

If the organization meeting cannot take place on that day by reason of lack of a quorum or for any other reason, said meeting shall be held within three days thereafter.

L. 1967, c. 271; amended by L. 1970, c. 3, s. 1; 1974, c. 105, s. 1; 1978, c. 136, s. 27; 1979, c. 23, s. 11; 1980, c. 140; 1987, c. 289, s. 2.

18A:10-4. Secretary to give notice of meeting

It shall be the duty of the secretary of the board to give notice of the first regular meeting accordingly.

L.1967, c.271.

18A:10-5. Organization meeting as business meeting

The organization meeting shall constitute a regular meeting of the board for the transaction of business.

L.1967, c.271.

18A:10-6. Board meetings public; frequency; hours of commencement; adjournment, etc., for lack of quorum

All board meetings shall be public and each board shall hold a meeting at least once every two months during the period in which the schools in the district are in session.

All meetings shall be called to commence not later than eight P.M. of the designated day but, if a quorum be not present at the time for which the meeting is called, the member or members present may recess the meeting to a time not later than nine P.M. of said day and, if no quorum be present at that time, the member or members present may adjourn the meeting to commence not later than eight P.M. of another day, not more than seven days following the date for which the original meeting was called, but no further recess or adjournment of the meeting shall be made.

Public announcements of time and day to which any meeting is so recessed or adjourned shall be made at the time of the recess or adjournment.

L.1967, c.271.

18A:10-7. Semiannual meetings of boards in county

The boards of education of each county shall meet together semiannually at times and places fixed by the county superintendent.

L.1967, c.271.

18A:11-1. General mandatory powers and duties

The board shall--

a. Adopt an official seal;

b. Enforce the rules of the state board;

c. Make, amend and repeal rules, not inconsistent with this title or with the rules of the state board, for its own government and the transaction of its business and for the government and management of the public schools and public school property of the district and for the employment, regulation of conduct and discharge of its employees, subject, where applicable, to the provisions of Title 11, Civil Service, of the Revised Statutes; and

d. Perform all acts and do all things, consistent with law and the rules of the state board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district.

L.1967, c.271.

18A:11-2. Power to sue and be sued; reports; census of school children

The board may--

a. Sue or be sued by its corporate name and likewise submit to arbitration and determination disputes and controversies in the manner provided by law;

b. Cause a report of the condition of the public schools and the public school property under its control and an itemized account of the condition of the finances of the district to be printed and published as soon as practicable after the close of each school year;

c. Cause an exact census to be taken annually of all children residing in the district between the ages of five and 18 years, including such other information as the board may deem necessary or proper and, appoint for the purpose of taking said census, as many suitable persons as may be necessary to act as enumerators and fix their compensation, which compensation shall be paid as a current expense.

L.1967, c.271.

18A:11-3. Voluntary associations regulating conduct of student activities; membership; rules and regulations; appeals

A board of education may join one or more voluntary associations which regulate the conduct of student activities between and among their members, whose membership may include private and public schools. Any such membership shall be by resolution of the board of education, adopted annually. No such voluntary association shall be operative without approval of its charter, constitution, bylaws, and rules and regulations by the Commissioner of Education. Upon the adoption of said resolution the board, its faculty, and students shall be governed by the rules and regulations of that association. The said rules and regulations shall be deemed to be the policy of the board of education and enforced first by the internal procedures of the association. In matters involving only public school districts and students, faculty, administrators and boards thereof, appeals shall be to the commissioner and thereafter the Superior Court. In all other matters, appeals shall be made directly to the Superior Court. The commissioner shall have authority to direct the association to conduct an inquiry by hearing or otherwise on a particular matter or alternatively, direct that particular matter be heard directly by him. The association shall be a party to any proceeding before the commissioner or in any court.

L.1979, c. 172, s. 1, eff. Aug. 26, 1979.

18A:11-3.1 Definitions relative to public school district participation in certain voluntary associations which oversee sports activities.

1. a. As used in this section:

"CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

b. A public school district shall not join pursuant to section 1 of P.L.1979, c.172 (C.18A:11-3), any voluntary association which oversees activities associated with Statewide interscholastic sports programs if:

(1) the association charges a cable television company an increased licensing fee, rate, assessment or other consideration for the broadcast of playoff games over local access or local originating channels, or both, compared to the licensing fee, rate, assessment or other consideration charged by the district for the broadcast of regular season games over local access or local originating channels, or both;

(2) the association requires increased ticket prices for attendance at playoff games compared to regular season games, unless the playoff game is held at a location other than a public school and the increased ticket prices are deemed necessary by the Commissioner of Education. In the event that the playoff game is held at a location other than a public school and the commissioner deems an increase in playoff ticket prices is necessary, a public school district shall not join an association that increases adult ticket prices by more than 200% of the cost of the highest adult ticket prices for the regular season games charged by any of the member teams of the athletic conference that is located in closest proximity to the playoff game location, regardless of whether or not any of the playoff teams are members of that athletic conference; and in the event that two or more athletic conferences are equal in distance to the playoff game location, by not more than 200% of the cost of the highest adult ticket prices for regular season games charged by any of the member teams of those athletic conferences. Notwithstanding the provisions of this paragraph to the contrary, the commissioner may allow a public school district to join an association that charges in excess of the amount herein provided if the association demonstrates to the commissioner that the increased ticket prices are required to offset rental, staffing, security, or insurance costs specific to the location site.

In no event shall the commissioner deem an increase in ticket prices for senior citizens or children to be necessary;

(3) the association charges a membership fee for the 2009-2010 school year which exceeds the membership fee for the 2008-2009 school year multiplied by 1 plus the CPI, and in any subsequent school year charges a membership fee that exceeds the prior school

year fee multiplied by 1 plus the CPI, unless the Commissioner of Education deems a greater increase in the membership fee is necessary;

(4) the association charges members an entry fee for teams or individuals competing in playoff games for the 2009-2010 school year which exceeds the entry fee for the 2008-2009 school year multiplied by 1 plus the CPI, and in any subsequent school year charges members an entry fee that exceeds the prior school year fee multiplied by 1 plus the CPI, unless the Commissioner of Education deems a greater increase in the entry fee is necessary; or

(5) the association charges members any assessment in addition to the membership fee, unless the Commissioner of Education deems an additional assessment is necessary.

c. If any provision of this section is determined by the Commissioner of Education to jeopardize the amateur status of the student-athlete, that provision shall be null and void.

L.2007, c.41, s.1.

18A:11-4. Minutes of meetings of associations overseeing interscholastic sports programs; report

The minutes of every meeting of any association functioning under this act which shall oversee activities associated with statewide interscholastic sports programs in this State shall be transmitted by and under certification thereof to the commissioner or his designee who shall acknowledge the receipt of the minutes by his signature. The commissioner or his designee shall prepare a report detailing all programs and fiscal activities of the Statewide associations and such other associations functioning under this act as he feels may be necessary. This report shall be based upon annual reports submitted to him by the associations operating under this act and shall detail any developments contrary to the public interest and shall indicate whether or not the intent of the Legislature in its grant of statutory authority to boards of education to join such associations is faithfully being executed.

L.1979, c. 172, s. 2, eff. Aug. 26, 1979.

18A:11-5. Effective date of amendments to charter, constitution, bylaws, rules or regulations of association; disapproval of amendments

Any amendment to the charter, constitution, bylaws, rules or regulations of the association shall be effective not less than 20 days after its submission to the commissioner. No such amendment shall take effect if the commissioner in said 20-day period returns to the secretary of the association his disapproval of the amendment.

L.1979, c. 172, s. 4, eff. Aug. 23, 1979.

18A:11-6. Liability of association, conference, employee

Notwithstanding the provisions of P.L.1952, c. 335 (C. 2A:53A-1 et seq.), P.L.1973, c. 146 (C. 2A:15-5.1 et seq.) or any other law to the contrary, in any case where a voluntary association as provided by P.L.1979, c. 172 (C. 18A:11-3 et seq.), any athletic conference operating under the jurisdiction of that association or any employee of the association or conference acting within the scope of his employment is determined to be a tortfeasor in any cause of action along with one or more other tortfeasors, the association, conference or employee shall be liable for no more than that percentage share of the damages which is equal to the percentage of the negligence attributable to that association, conference or employee. In any case where the voluntary association, conference or employee is determined to be a joint tortfeasor, the voluntary association, conference or employee shall be required to contribute to a joint tortfeasor only to the extent of the recovery provided for under this section.

L. 1987,c.324,s.3.

18A:11-7. Findings, declarations relative to school dress codes

1. The Legislature finds and declares that many educators believe that school dress can significantly influence pupil behavior and that schools that have adopted dress codes, including dress codes which require school uniforms and which prohibit clothing indicating membership in certain gangs, experience greater school pride and improved behavior in and out of the classroom. The Legislature further finds that to assist in controlling the environment in public schools, to facilitate and maintain an effective learning environment, and to keep the focus of the classroom on learning, school districts should be specifically authorized to implement uniform clothing requirements for their students.

L.1996,c.93,s.1.

18A:11-8. Adoption of dress code policy for schools permitted

2. a. A board of education may adopt a dress code policy to require that students wear a school uniform if the policy is requested by the principal, staff and parents of an individual school and if the board determines that the policy will enhance the school learning environment. Any policy adopted which requires the wearing of a uniform shall include a provision to assist economically disadvantaged students. The board shall hold a public hearing prior to the adoption of the policy and shall not implement the policy with less than three months' notice to the parents or guardians of

the students. The specific uniform selected shall be determined by the principal, staff, and parents of the individual school.

b. The board of education may provide a method whereby parents may choose not to comply with an adopted school uniform policy. If the board provides such a method, a student shall not be penalized academically or otherwise discriminated against nor denied admittance to school if the student's parents choose not to comply with the school uniform policy.

c. A dress code policy adopted pursuant to this section shall not preclude students who participate in a nationally recognized youth organization which is approved by the board of education from wearing organization uniforms to school on days that the organization has scheduled a meeting.

L.1996,c.93,s.2

18A:11-9 Prohibition of gang-related apparel.

3. A board of education may adopt a dress code policy to prohibit students from wearing, while on school property, any type of clothing, apparel or accessory which indicates that the student has membership in, or affiliation with, any gang associated with criminal activities. The local law enforcement agency shall advise the board, upon its request, of gangs which are associated with criminal activities.

L.1996,c.93,s.3.

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.

L.1999,c.46,s.2.

18A:11-11 Public notice required for alteration of contract terms of certain employees.

5. A board of education shall not renegotiate, extend, amend, or otherwise alter the terms of a contract with a superintendent of schools, assistant superintendent of schools, or school business administrator, unless notice is provided to the public at least 30 days prior to the scheduled action by the board. The board shall also hold a public hearing and shall not take any action on the matter until the hearing has been held. The board shall provide the public with at least 10 days' notice of the public hearing.

L.2007, c.53, s.5.

18A:11-12 Definitions relative to travel; travel policy; procedures; compliance.

15. a. As used in this section:

(1) "Travel expenditures" means those costs paid by the school district using local, State, or federal funds, whether directly by the school district or by employee reimbursement, for travel by school district employees and district board of education members, to the following four types of travel events:

(a) "training and seminars" which means all regularly scheduled, formal residential or non-residential training functions, conducted at a hotel, motel, convention center, residential facility, or at any educational institution or facility;

(b) "conventions and conferences" which means general programs, sponsored by professional associations on a regular basis, which address subjects of particular interest to a school district or are convened to conduct association business. The primary purpose of employee attendance at conferences and conventions is the development of new skills and knowledge or the reinforcement of those skills and knowledge in a particular field related to school district operations. These are distinct from formal staff training and seminars, although some training may take place at such events;

(c) "regular school district business" which means all regular official business travel, including attendance at meetings, conferences and any other gatherings which are not covered by the definitions included in subparagraphs (a) and (b) of this paragraph;

(d) "retreats" which mean meetings with school district employees and school board members, held away from the normal work environment at which organizational goals and objectives are discussed. If available, school district facilities shall be utilized for this type of event.

(2) School district travel expenditures include, but are not limited to, all costs for transportation, meals, lodging, and registration or conference fees to and for the travel event.

(3) School district travel expenditures include costs for all required training and all travel authorized in existing school district employee contracts and school board policies. This includes, but is not limited to, required professional development and other staff training, required training for new school board members, and attendance at specific conferences authorized in existing employee contracts.

(4) A school district shall not bear costs for car rentals, limousine services, and chauffeuring costs to or during the event, as well as costs for employee attendance for coordinating other attendees' accommodations at the travel event.

b. A board of education shall implement a policy and procedures pertaining to travel expenditures for its employees and school board members that are in accordance with the provisions of this section.

c. A board of education shall ensure through its policy and procedures that all travel by its employees and board members is educationally necessary and fiscally prudent, and shall include the requirement that all school district travel expenditures are:

(1) directly related to and within the scope of the employee's or board member's current responsibilities and, for school district employees, the school district's professional development plan;

(2) for travel that is critical to the instructional needs of the school district or furthers the efficient operation of the school district; and

(3) in compliance with State travel payment guidelines as established by the Department of the Treasury and with guidelines established by the federal Office of Management and Budget; except that those guidelines that conflict with the provisions of Title 18A of the New Jersey Statutes shall not be applicable, including, but not limited to, the authority to issue travel charge cards. The board of education shall specify in its travel policy the applicable restrictions and requirements set forth in the State and federal guidelines including, but not limited to, types of travel, methods of transportation, mileage allowance, subsistence allowance, and submission of supporting documentation including receipts, checks or vouchers.

d. A board of education shall include in its travel policy a requirement for the employee or board member to submit to an appropriate party as designated, and within a timeframe specified by the board's policy, a brief report that includes the primary purpose for the travel and the key issues that were addressed at the event and their relevance to improving instruction or the operation of the school district.

e. A board of education shall require in its travel policy that detailed documentation be maintained on file in the school district which demonstrates compliance with the school board's travel policy including travel approvals, reports, and receipts for all school district funded expenditures, as appropriate.

f. For employees, a board of education shall require in its policy that travel occur only upon prior written approval of the chief school administrator and prior approval by a majority of the full voting membership of the board.

For regular business travel only, a school board may authorize in its travel policy an annual maximum amount per employee for regular business travel for which school board approval is not required.

g. For board members, a board of education shall require in its policy that travel occur only upon prior approval by a majority of the full voting membership of the board and that the travel be in compliance with section 4 of P.L.1991, c.393 (C.18A:12-24) and section 5 of P.L.2001, c.178 (C.18A:12-24.1).

h. A school board may also approve, at any time prior to the event, travel for multiple months as long as the school board approval, as detailed in school board minutes, itemizes the approval by event, total cost, and number of employees and school board members attending the event. General or blanket pre-approval for travel is not authorized. Approval shall be itemized by event, event total cost, and number of employees and school board members attending the event.

i. A board of education shall state in its policy that travel payments will be paid only upon compliance with this section and the school board's policy provisions and approval requirements. The policy shall state that the school board will not ratify or approve payments or reimbursements for travel after completion of the travel event.

j. An employee of the school board, a school board member, or organization, shall not receive an amount for travel and travel-related expenses in advance of the travel pursuant to N.J.S.18A:19-1 et seq.

k. A board of education shall require in its policy that a board member recuse himself from voting on travel if the board member, a member of his immediate family, or a

business organization in which he has an interest, has a direct or indirect financial involvement that may reasonably be expected to impair his objectivity or independence of judgment.

1. A board of education shall require in its policy that a board member shall not: act in his official capacity in any matter in which he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family; or undertake any employment or service, whether compensated or not, which may reasonably be expected to prejudice his independence of judgment in the execution of his official duties.

m. A board of education may, in its policy, exclude from the requirements of prior school board approval pursuant to subsection f. of this section any travel caused by or subject to contractual provisions, other statutory requirements, or federal regulatory requirements. The school board may not exclude such travel from the subsistence requirements pursuant to subsections n. and o. of this section and the annual maximum travel expenditure amount pursuant to subsection p. of this section.

n. A board of education shall provide in its policy that one-day trips that do not involve overnight lodging are not eligible for a subsistence payment or reimbursement except in limited circumstances authorized in Department of the Treasury guidelines.

o. A board of education shall provide in its policy that overnight travel is eligible for a subsistence payment or reimbursement as authorized in Department of the Treasury guidelines, except as otherwise superseded by the following:

(1) per diem payment or reimbursement for lodging and meals will be actual reasonable costs, not to exceed the federal per diem rates as established in the federal register for the current year;

(2) lodging expenses may exceed the federal per diem rates if the hotel is the site of the convention, conference, seminar or meeting and the going rate of the hotel is in excess of the federal per diem rates. If the hotel at the site of the convention, conference, seminar, or meeting is no longer available, lodging may be paid for similar accommodations at a rate not to exceed the hotel rate for the event;

(3) receipts are required for hotel expenses. Meal expenses under the federal per diem allowance limits do not require receipts;

(4) in any case in which the total per diem reimbursement is greater than the federal per diem rate, except as stated in paragraph (2) of this subsection, the costs will be considered to be excessive and shall not be paid by school district funds;

(5) school districts shall patronize hotels and motels that offer special rates to government employees unless alternative lodging offers greater cost benefits; and

(6) payment or reimbursement is approved for the full cost of an official convention meal that the employee or school board member attends, when the meal is scheduled as an integral part of the convention or conference proceedings. If a meal is included in the registration fee, the allowance for the meal is not eligible for reimbursement.

p. Annually in the prebudget year, each district board of education shall establish by school board resolution, a maximum travel expenditure amount for the budget year, which the school district shall not exceed in that budget year. The school board resolution shall also include the maximum amount established for the prebudget year and the amount spent to date.

(1) The maximum school district travel expenditure amount shall include all travel in accordance with this section supported by local and State funds.

(2) A district board of education may elect to exclude travel expenditures to be supported by federal funds in the maximum travel expenditure amount. If federal funds are excluded from the established maximum school district travel expenditure amount, the board of education shall include in the board resolution, the total amount of travel supported by federal funds from the prior year, prebudget year, and projected for the budget year.

q. Each district board of education shall maintain separate accounting for school district travel expenditures as necessary, to ensure compliance with the school district's maximum travel expenditure amount. This may include, but need not be limited to, a separate or offline accounting of such expenditures or expanding the school district's accounting system. The tracking system shall be sufficient to demonstrate compliance with the board's policy and this section, and shall provide auditable information.

r. Any district board of education that violates its established maximum travel expenditure as set forth in subsection p. of this section, or that otherwise is not in compliance with the travel limitations set forth in this section may be subject to sanctions by the commissioner as authorized pursuant to N.J.S.18A:4-23 and N.J.S.18A:4-24, including reduction of State aid in an amount equal to any excess expenditure.

s. A person who approves any travel in violation of the school district's policy or this section shall be required to reimburse the school district in an amount equal to three times the cost associated with attending the event.

An employee or member of the board of education who travels in violation of the school district's policy or this section shall be required to reimburse the school district in an amount equal to three times the cost associated with attending the event.

t. The provisions of this section shall apply to the boards of trustees and employees of charter schools.

L.2007, c.53, s.15.

18A:11-13 Rules, regulations to effectuate the purposes of C.18A:55-3 et al.

6. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to effectuate the purposes of P.L.2007, c.53 (C.18A:55-3 et al.) which shall be effective for a period not to exceed 12 months following the effective date of P.L.2008, c.37 (C.18A:11-13 et al.). The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

L.2007, c.37, s.6.

18A:12-1. Qualifications

18A:12-1. Each member of any board of education shall be a citizen and resident of the district, or of such constituent district of a consolidated or regional district as may be required by law, and shall have been such for at least one year immediately preceding his appointment or election, he shall be able to read and write, shall be registered to vote in the district, and, notwithstanding the provisions of N.J.S. 2C:51-1 or any other law to the contrary, he is not disqualified as a voter pursuant to R.S. 19:4-1.

L.1967, c.271; amended by L. 1986,c.98,s.1; 1987,c.328,s.1.

18A:12-1.1. Ineligibility for appointment to paid office or position filled by board
No member of a board of education shall, during the term for which he is elected or appointed, be eligible for appointment to any paid office or position required to be filled by the board unless he shall resign or cease to be a member at least 6 months prior to his appointment, except in cases where the office or position is by law required or permitted to be filled by a member of the board.

L.1981, c. 418, s. 1, eff. Jan. 9, 1982.

18A:12-2. Inconsistent interests or office prohibited

No member of any board of education shall be interested directly or indirectly in any contract with or claim against the board, nor, in the case of local and regional school districts, shall he hold office as mayor or as a member of the governing body of a municipality, nor, in the case of county special services school districts and county vocational school districts, shall he hold office as a member of the governing body of a county.

L.1967, c.271; amended by L.1981, c. 23, s. 1, eff. Feb. 6, 1981.

18A:12-2.1. Oaths

18A:12-2.1. Each member of a board of education shall, before entering upon the duties of his office, take and subscribe:

(1) An oath that he possesses the qualifications of membership prescribed by law, including a specific declaration that he is not disqualified as a voter pursuant to R.S. 19:4-1, and that he will faithfully discharge the duties of this office, and also

(2) The oath prescribed by R.S. 41:1-3 of the Revised Statutes.

In the case of a Type I school district the oath shall be filed with the clerk of the municipality and in all other cases it shall be filed with the secretary of the board of education of the district.

L.1967, c.271; amended by L. 1987,c.328,s.2.

18A:12-2.2 False affirmation, disqualification, fourth degree crime.

5. Any member of a board of education who falsely affirms or declares that he is not disqualified as a voter pursuant to R.S.19:4-1 is, in addition to immediate disqualification for office, guilty of a crime of the fourth degree.

L.1987,c.328,s.5; amended 2005, c.154, s.1.

18A:12-3. Cessation of membership

18A:12-3. Whenever a member of a local or regional board of education shall cease to be a bona fide resident of the district, or of any constituent district of a consolidated or regional district which he represents, or shall become mayor or a member of the governing body of a municipality, his membership in the board shall immediately cease; and, any member who fails to attend three consecutive meetings of the board without good cause may be removed by it. Whenever a member of a county special service school district or a member of a county vocational school district shall cease to be a bona fide resident of the district, or shall hold office as a member of the governing body of a county, his membership on the board shall immediately cease.

Notwithstanding the provisions of N.J.S. 2C:51-1 or any other law to the contrary, whenever a member of a board of education is disqualified as a voter pursuant to R.S. 19:4-1, or is convicted of false swearing as provided in section 5 of P.L.1987, c. 328 (C. 18A:12-2.2), his membership on the board shall immediately cease.

L.1967, c.271; amended by L. 1981, c.23, s.2; 1987,c.328,s.3.

18A:12-4. Compensation of members

A member of a board of education shall receive no compensation for his services.

L.1967, c.271.

18A:12-5. Application of subarticle

The provisions of this subarticle shall apply to type I school districts.

L.1967, c.271.

18A:12-6. Boards; number of members

The board shall consist of 5 or 7 members as provided by ordinance of the municipal governing body, except that it shall consist of 9 members in districts in cities of the first class, and in districts in which it has been so determined by referendum held pursuant to law.

L.1967, c.271; amended by L.1969, c. 153, s. 1, eff. Sept. 4, 1969.

18A:12-7. Boards; appointments; vacancies

The boards of education shall be appointed by the mayor or other chief executive officer of the municipality constituting the district. Any vacancy occurring in the membership of the board shall be reported forthwith by the secretary of the board to the mayor or other chief executive officer of the municipality, who shall within 30 days thereafter appoint a qualified person to fill the vacancy for the unexpired term.

L.1967, c.271.

18A:12-8. When appointed; commencement of terms

In districts, other than those in cities of the first class, the members of the board shall be appointed between April 1 and April 15 and their terms of office shall begin on May 16, next succeeding, and in districts in cities of the first class they shall be appointed during the month of June and their terms of office shall begin on July 1, next succeeding.

L.1967, c.271; amended by L.1969, c. 304, s. 1, eff. Jan. 19, 1970; L.1979, c. 23, s. 7, eff. Feb. 8, 1979; L.1979, c. 284, s. 1, eff. Jan. 10, 1980.

18A:12-9. Terms of members of boards

Of boards consisting of 5 members, one shall be appointed each year for a term of 5 years, of boards consisting of 9 members, 3 shall be appointed each year for terms of 3 years, and of boards consisting of 7 members, 3 shall be appointed in the first year and 2 shall be appointed in each of the 2 following years of each 3-year period, each for a term of 3 years, except the members of the first board of any such district, who shall be appointed for such terms, as shall, as soon as possible, result in all members of a 5-man board being appointed for terms of 5 years and the terms of one member expiring each year, or all members of a 9-man board being appointed for terms of 3 years and the terms of 3 members expiring each year, or all members of a 7-man board being appointed for terms of 3 years and the terms of either 3 or 2 members expiring in each 3-year period. All members shall serve after the expiration of their respective terms until the appointment and qualification of their successors.

L.1967, c.271; amended by L.1969, c. 153, s. 2, eff. Sept. 4, 1969.

18A:12-10. Application of subarticle

The provisions of this subarticle shall apply to all type II school districts except as otherwise provided in this title for regional districts and except those districts in which the members of the boards of education are appointed pursuant to subarticle C of this article.

L.1967, c.271.

18A:12-11. Election and number of board members; terms

The board of education shall consist of nine members, or it shall consist of three, five or seven members as, and if, it has been so determined pursuant to law or shall be so determined by referendum as provided in this chapter, who shall be elected at annual school elections in the district for terms of three years except as otherwise herein provided.

L.1967, c.271.

18A:12-11.1. New district may elect three, five, seven or nine members

Whenever a new school district, except a regional school district, or a consolidated school district or a new district created under the terms of article 4 of chapter 8 of this title is created, there shall be placed upon the official ballot to be voted upon, at the first annual school election, the question whether the board shall consist of three, five, seven or nine members.

The balloting for board members shall take place as if nine members were to be elected, three for terms of three years, three for terms of two years, and three for terms of one year.

If it shall be determined as a result of the balloting that the board shall consist of nine members, the three candidates receiving the highest number of votes for each of said terms shall be declared elected.

If it shall be determined that the board shall consist of seven members, the three candidates receiving the highest number of votes for the three-year terms, the two candidates receiving the highest number of votes for the two-year terms, and the two candidates receiving the highest number of votes for the one-year term shall be declared elected.

If it shall be determined that the board shall consist of five members, the two candidates receiving the highest number of votes for the three-year terms, the two candidates receiving the highest number of votes for the two-year terms, and the candidate receiving the highest number of votes for the one-year term shall be declared elected.

If it shall be determined that the board shall consist of three members, each candidate receiving the highest number of votes for each of the terms shall be declared elected.

Annually thereafter there shall be elected a person or persons for the term of three years in the place of the member or members whose terms shall have expired.

L.1967, c.271.

18A:12-12. Increase or reduction in membership; resolution; submission of question

If the board of any district shall determine by resolution that it is for the best interest of the schools that the membership of the board shall be increased from whatever number of members then composes it to five, seven or nine members, or reduced from said number to seven, five or three members, the question of such increase or reduction shall be submitted to the voters of the district at the next annual school election and the question shall be stated in the notice of the election.

L.1967, c.271.

18A:12-13. Membership increase

18A:12-13. If at the election the question of increasing the membership of the board shall be adopted, the membership of the board shall be increased accordingly as of the organization meeting next following the next annual school election and the additional members shall be elected at such annual school election, for terms as follows:

- a. If the increase is from three to five, two for three years and one for two years;
- b. If the increase is from three to seven, two for three years, one for two years and one for one year;
- c. If the increase is from five to seven, one for three years and one for a term of either one or two years, whichever is necessary to cause the terms of two members to expire at each of the next two annual school elections;
- d. If the increase is from any other number to nine, for such terms not over three years, as will as soon as possible constitute a board of nine, with three-year terms expiring, three each year.

Each year thereafter successors to the members whose terms expire shall be elected for three years.

L. 1967, c. 271; amended by L. 1987, c. 289, s. 3.

18A:12-14. Reduction of membership; reduced number of members

If at the election the question of reducing the membership of the board shall be adopted, the members in office at the next annual school election shall continue in

office until the expiration of their respective terms, and members shall be elected as follows:

a. If the reduction is from nine to seven, two shall be elected at such election and two at the next annual school election thereafter;

b. If the reduction is from nine to five, one shall be elected at such election, two at the first annual school election thereafter, and two at the second annual school election thereafter;

c. If the reduction is from seven to five, one shall be elected at the first annual school election at which three would have been elected; and

d. If the reduction is from any other number to three, one member shall be elected at such election and at each annual school election thereafter.

All members so elected shall be elected for terms of three years.

L.1967, c.271.

18A:12-15. Filling vacancies

18A:12-15. Vacancies in the membership of the board shall be filled as follows:

a. By the county superintendent, if the vacancy is caused by the absence of candidates for election to the school board or by the removal of a member because of lack of qualifications, or is not filled within 65 days following its occurrence;

b. By the county superintendent, to a number sufficient to make up a quorum of the board if, by reason of vacancies, a quorum is lacking;

c. By special election, if in the annual school election two or more candidates qualified by law for membership on the school board receive an equal number of votes. Such special election shall be held only upon recount and certification by the county board of elections of such election result, shall be restricted to such candidates, shall be held within 60 days of the annual school election, and shall be conducted in accordance with procedures for annual and special school elections set forth in Title 19 of the Revised Statutes. The vacancy shall be filled by the county superintendent if in such special election two or more candidates qualified by law for membership on the school board receive an equal number of votes;

d. By special election if there is a failure to elect a member at the annual school election due to improper election procedures. Such special election shall be restricted to those persons who were candidates at such annual school election, shall be held within 60 days of such annual school election, and shall be conducted in accordance with the procedures for annual and special school elections set forth in Title 19 of the Revised Statutes;

e. By the commissioner if there is a failure to elect a member at the annual school election due to improper campaign practices; or

f. By a majority vote of the remaining members of the board after the vacancy occurs in all other cases.

Each member so appointed shall serve until the organizational meeting following the next annual election unless he is appointed to fill a vacancy occurring within the 60 days immediately preceding such election to fill a term extending beyond such election, in which case he shall serve until the organizational meeting following the second annual election next succeeding the occurrence of the vacancy, and any vacancy for the remainder of the term shall be filled at the annual election or the second annual election next succeeding the occurrence of the vacancy as the case may be.

L.1967, c.271; amended 1977, c.324; 1978, c.136, s.28; 1995, c.278, s.29; 1996, c.153.

18A:12-16. Application of subarticle

The provisions of this subarticle shall apply to type II school districts in towns having a population of more than 10,000, in which the members of the board of education are now appointed by the mayor or other chief executive officer of the municipality.

L.1967, c.271.

18A:12-17. Appointments; terms; vacancies

The mayor or other chief executive officer of the municipality shall, between April 1 and April 15 in each year, appoint one member of the board to serve for a term of 5 years beginning on May 15 next succeeding his appointment, to take the place of the member whose term shall expire in that year, and any vacancy occurring in the membership of the board shall be reported forthwith by the secretary of the board to the mayor or other chief executive officer of the municipality, who shall within 30 days thereafter appoint a qualified person to fill the vacancy for the unexpired term.

L.1967, c.271; amended by L.1970, c. 3, s. 2, eff. Feb. 4, 1970; L.1979, c. 23, s. 8, eff. Feb. 8, 1979; L.1979, c. 284, s. 2, eff. Jan. 10, 1980.

18A:12-18. Resolution or petition for election of members; submission

In every such district the question whether or not the members of the board shall thereafter be elected by the voters of the district at annual school elections shall be submitted to the legal voters of the district at the next general or municipal election, following the expiration of 40 days after the adoption by the governing body of the municipality of a resolution, or after the filing with the clerk of the municipality of a petition signed by not less than 15% of the number of legally qualified voters who voted in the municipality at the last preceding general election held for the election of all of the members of the general assembly, directing such submission, whichever occurs earlier, or at the next annual school election, or a special school election called for that purpose, to be held after the expiration of 40 days from the adoption by the board of education of the district of a resolution, or from the filing with the secretary of the board of education of a petition signed by said percentage of such number of legally qualified voters of the district, directing such submission and thereupon said clerk or secretary shall cause said question to be submitted accordingly.

L.1967, c.271.

18A:12-19. 5-year terms

18A:12-19. If at said election the question shall be adopted, the members of the board of education then in office shall continue in office until the expiration of their respective terms and thereafter until the organization meeting following the next annual school election and their respective successors shall be elected by the legal voters of the district at such and each following annual school election to be held in the district, for terms of five years.

L. 1967, c. 271; amended by L. 1987, c. 289, s. 4.

18A:12-19.1. Decrease of term; voter's decision

1. If the board of education of a school district organized pursuant to subarticle C of Article 4 of Chapter 12 of Title 18A of the New Jersey Statutes shall determine by resolution that it is in the best interest of the public schools of the district that the terms of the members of the board shall be decreased from five years to three years, the question shall be submitted to the voters of the district at the next annual school election and the question shall be stated in the notice of the election prepared pursuant to R.S.19:12-7.

L.1987,c.161,s.1; amended 1995,c.278,s.30.

18A:12-19.2. Approval; succession

If at the election the question shall be adopted, the members of the board of education then in office shall continue in office until the expiration of their respective terms and thereafter until the first Monday following the next annual school election and their respective successors shall be elected by the legal voters of the district at this and each following annual school election to be held in the district, for terms of three years.

L. 1987, c. 161, s. 2.

18A:12-20 Indemnity of members of boards of education against cost of defense.

18A:12-20. Whenever a civil, administrative, criminal or quasi-criminal action or other legal proceeding has been or shall be brought against any person for any act or omission arising out of and in the course of the performance of his duties as a member of a board of education, and in the case of a criminal or quasi-criminal action such action results in final disposition in favor of such person, the board of education shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom. Indemnification for exemplary or punitive damages shall not be mandated and shall be governed by the standards and procedures set forth in N.J.S.59:10-4. Any board of education may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.

L.1967, c.271; amended 1973, c.336; 2001, c.178, s.1.

18A:12-21. Short title

1. This act shall be known and may be cited as the "School Ethics Act."

L.1991,c.393,s.1.

18A:12-22. Findings, declarations

2. The Legislature find and declares:

a. In our representative form of government it is essential that the conduct of members of local boards of education and local school administrators hold the respect and confidence of the people. These board members and administrators must avoid conduct

which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

b. To ensure and preserve public confidence, school board members and local school administrators should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards among them.

L.1991,c.393,s.2.

18A:12-23. Definitions

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

"Administrator" means any officer, other than a board member, or employee of a local school district who (i) holds a position which requires a certificate that authorizes the holder to serve as school administrator, principal, or school business administrator; or (ii) holds a position which does not require that the person hold any type of certificate but is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by the local school district; or (iii) holds a position which requires a certificate that authorizes the holder to serve as supervisor and who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by the local school district;

"Board member" means any person holding membership, whether by election or appointment, on any board of education other than the State Board of Education;

"Business" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union, political organization, or other legal entity but shall not include a local school district or any other public entity;

"Commission" means the School Ethics Commission established pursuant to section 7 of this act;

"Commissioner" means the Commissioner of Education;

"Interest" means the ownership or control of more than 10% of the profits, assets, or stock of a business but shall not include the control of assets in a labor union;

"Local school district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes and any jointure commission, county vocational school, county special services district, educational services commission, educational research and demonstration center, environmental education center, and educational information and resource center;

"Member of immediate family" means the spouse or dependent child of a school official residing in the same household;

"Political organization" means a "political committee" or a "continuing political committee" as those terms are defined in "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (C.19:44A-1 et seq.);

"Relative" means the spouse, natural or adopted child, parent, or sibling of a school official;

"School official" means a board member, an employee or officer of the New Jersey School Boards Association, but not including any member of the secretarial, clerical or maintenance staff of the association, or an administrator; and

"Spouse" means the person to whom a school official is legally married under New Jersey law.

L.1991,c.393,s.3; amended 1995,c.14,s.1.

18A:12-23.1 Applicability of "School Ethics Act" to charter school administrators, trustees.

1. The provisions of the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.) shall apply to an administrator and a member of the board of trustees of a charter school that is established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

L.2004,c.131,s.1.

18A:12-24. Conflicts of interest

4. a. No school official or member of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest;

b. No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others;

c. No school official shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial involvement that might reasonably be expected to impair his objectivity or independence of judgment. No school official shall act in his official capacity in any matter where he or a member of his immediate family has a personal involvement that is or creates some benefit to the school official or member of his immediate family;

d. No school official shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his independence of judgment in the exercise of his official duties;

e. No school official, or member of his immediate family, or business organization in which he has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing him, directly or indirectly, in the discharge of his official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the school official has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the school official in the discharge of his official duties;

f. No school official shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated;

g. No school official or business organization in which he has an interest shall represent any person or party other than the school board or school district in connection with any cause, proceeding, application or other matter pending before the school district in which he serves or in any proceeding involving the school district in which he serves or, for officers or employees of the New Jersey School Boards Association, any school district. This provision shall not be deemed to prohibit representation within the context of official labor union or similar representational responsibilities;

h. No school official shall be deemed in conflict with these provisions if, by reason of his participation in any matter required to be voted upon, no material or monetary gain accrues to him as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of that business, profession, occupation or group;

i. No elected member shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the member or a member of his immediate family, whether directly or indirectly, in return therefor;

j. Nothing shall prohibit any school official, or members of his immediate family, from representing himself, or themselves, in negotiations or proceedings concerning his, or their, own interests; and

k. Employees of the New Jersey School Boards Association shall not be precluded from providing assistance, in the normal course of their duties, to boards of education in the negotiation of a collective bargaining agreement regardless of whether a member of their immediate family is a member of, or covered by, a collective bargaining agreement negotiated by a Statewide union with which a board of education is negotiating.

L.1991,c.393,s.4; amended 1995, c.14, s.2; 1999, c.256.

18A:12-24.1 Code of Ethics for School Board Members.

5. A school board member shall abide by the following Code of Ethics for School Board Members:

a. I will uphold and enforce all laws, rules and regulations of the State Board of Education, and court orders pertaining to schools. Desired changes shall be brought about only through legal and ethical procedures.

b. I will make decisions in terms of the educational welfare of children and will seek to develop and maintain public schools that meet the individual needs of all children regardless of their ability, race, creed, sex, or social standing.

c. I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

d. I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

e. I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

f. I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

g. I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

h. I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

i. I will support and protect school personnel in proper performance of their duties.

j. I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

L.2001,c.178,s.5.

18A:12-25. Disclosure statements of employment, contracts or business with schools

5. a. On a form to be prescribed by the commission and to be filed annually with the commission, each school official shall state:

(1) whether any relative of the school official or any other person related to the school official by marriage is employed by the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the name and position of each such relative;

(2) whether the school official or a relative is a party to a contract with the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the nature of the contract; and

(3) whether the school official or a relative is employed by, receives compensation from, or has an interest in any business which is a party to a contract with the school district with which the school official holds office or employment or, for officers or employees of the New Jersey School Boards Association, any school district, and, if so, the name of each such business.

b. Each statement shall be signed by the school official filing it, and the school official's signature shall constitute a representation of the accuracy of the contents of the statement.

c. A school official who fails to file a statement or who files a statement containing information which the school official knows to be false shall be subject to reprimand, censure, suspension, or removal pursuant to the procedures established in section 9 of P.L.1991, c.393 (C.18A:12-29). Nothing in this subsection shall be construed to prevent or limit criminal prosecution.

d. All statements filed pursuant to this section shall be retained by the commission as public records.

L.1991,c.393,s.5; amended 1995,c.14,s.3.

18A:12-26. Financial disclosure statement

6. a. Each school official shall annually file a financial disclosure statement with the School Ethics Commission. All financial disclosure statements filed pursuant to this act shall include the following information which shall specify, where applicable, the name and address of each source and the school official's position:

(1) Each source of income, earned or unearned, exceeding \$2,000 received by the school official or a member of his immediate family during the preceding calendar year. Individual client fees, customer receipts or commissions on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security or interest derived from a financial institution is the source of income, the security or interest derived from a financial institution need not be reported unless the school official or member of his immediate family has an interest in the business organization or financial institution;

(2) Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the school official or a member of his immediate family during the preceding calendar year;

(3) Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$250 from any single source, excluding relatives, received by the school official or a member of his immediate family during the preceding calendar year; and

(4) The name and address of all business organizations in which the school official or a member of his immediate family had an interest during the preceding calendar year.

b. The commission shall prescribe a financial disclosure statement form for filing purposes. Initial financial disclosure statements shall be filed within 90 days following the effective date of this act. Thereafter, statements shall be filed on or before April 30th each year.

c. All financial disclosure statements filed shall be public records.

L.1991,c.393,s.6.

18A:12-27. School Ethics Commission

7. a. There is hereby established in the State Department of Education a commission to be known as the "School Ethics Commission." The commission shall consist of nine members, not more than five of whom shall be from the same political party: two shall be board members; two shall be school administrators; and five shall be persons who are not school officials. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor.

b. Members of the commission shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties under this act.

c. No member of the commission shall serve on or campaign for any office of a political organization during membership on the commission.

d. All members shall serve for a term of three years, except that for the members initially appointed, one board member, one administrator, and one public member shall be appointed for a term of three years; one board member and two public members shall be appointed for a term of two years; and one administrator and two public members shall be appointed for a term of one year.

e. Each member shall serve until the member's successor has been appointed and qualified. If a school official appointed to the commission ceases to be a school official, the person's appointment to the commission shall expire on the next succeeding July 1, or when the person's successor has been appointed and qualified, whichever occurs earlier. However, the membership of a school official who has been removed from office for official misconduct shall immediately cease upon such removal.

f. Any vacancy occurring in the membership of the commission shall be filled in the same manner as the original appointment for the unexpired term.

g. The members of the commission shall, by majority vote, select from among themselves one member to serve as chairperson for a term not to exceed one year.

L.1991,c.393,s.7.

18A:12-28. Staff appointments; duties; powers

8. a. The commission may appoint professional employees and clerical staff and may incur expenses which are necessary to carry out the provisions of this act within the limits of funds appropriated or otherwise made available to it for that purpose. All appointments shall be made in accordance with the provisions of Title 11A of the New Jersey Statutes.

b. In order to carry out the provisions of this act, the commission shall have the power to issue advisory opinions, receive complaints filed pursuant to section 9 of this act, receive and retain disclosure statements filed pursuant to sections 5 and 6 of this act, conduct investigations, hold hearings, and compel the attendance of witnesses and the production of documents as it may deem necessary and relevant to such matter under investigation. The members of the commission and persons appointed by it for this purpose are empowered to administer oaths and examine witnesses under oath.

c. A person shall not be excused from testifying or producing evidence on the ground that the testimony or evidence might tend to incriminate the person, but an answer shall not be used or admitted in any proceeding against the person, except in a prosecution for perjury. The foregoing use immunity shall not be granted without prior written approval of the Attorney General. If use immunity is not granted, the person may be excused from testifying or producing evidence on the ground that the testimony or evidence might tend to incriminate the person.

d. The commission shall promptly report to the Attorney General any information which indicates the possible violation of any criminal law.

L.1991,c.393,s.8.

18A:12-29 Complaint procedures.

9. a. Any person, including a member of the commission, may file a complaint alleging a violation of the provisions of this act or the Code of Ethics for School Board Members as set forth in section 5 of P.L.2001, c.178 (C.18A:12-24.1), by submitting it, on a form prescribed by the commission, to the commission. No complaint shall be accepted by the commission unless it has been signed under oath by the complainant. If a member of the commission submits the complaint, the member shall not participate in any subsequent proceedings on that complaint in the capacity of a commission member. If a commission member serves on the school board of, or is employed by, the school district which employs or on whose board the school official named in the complaint serves, the commission member shall not participate in any subsequent proceedings on that complaint.

b. Upon receipt of a complaint, the commission shall serve a copy of the complaint on each school official named therein and shall provide each named school official with the opportunity to submit a written statement under oath. The commission shall thereafter decide by majority vote whether probable cause exists to credit the allegations in the complaint. If the commission decides that probable cause does not exist, it shall dismiss the complaint and shall so notify the complainant and any school official named in the complaint. The dismissal shall constitute final agency action. If the commission determines that probable cause exists, it shall refer the matter to the Office of Administrative Law for a hearing to be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and shall so notify the complainant and each school official named in the complaint.

In making a determination regarding an alleged violation of the Code of Ethics for School Board Members, the burden of proof shall be on the accusing party to establish factually a violation of the code. A decision regarding a complaint alleging violations of the code shall be rendered by the commission within 90 days of the receipt of the complaint by the commission.

c. Upon completion of the hearing, the commission, by majority vote, shall determine whether the conduct complained of constitutes a violation of this act, or in the case of a board member, this act or the code of ethics, or whether the complaint should be dismissed. If a violation is found, the commission shall, by majority vote, recommend to the commissioner the reprimand, censure, suspension, or removal of the school official found to have violated this act, or in the case of a board member, this act or the code of ethics. The commission shall state in writing its findings of fact and conclusions of law. The commissioner shall then act on the commission's recommendation regarding the sanction.

d. Any appeal of the commission's determination regarding a violation of this act, or in the case of a board member, this act or the code of ethics, and of the commissioner's decision regarding the sanction shall be in accordance with the provisions of P.L.2008, c.36 (C.18A:6-9.1 et al.).

e. If prior to the hearing the commission determines, by majority vote, that the complaint is frivolous, the commission may impose on the complainant a fine not to exceed \$500. The standard for determining whether a complaint is frivolous shall be the same as that provided in subsection b. of section 1 of P.L.1988, c.46 (C.2A:15-59.1).

f. Notwithstanding the provisions of subsections c. and d. of this section, the commission shall be authorized to determine and impose the appropriate sanction including reprimand, censure, suspension or removal of any school official found to have violated this act who is an officer or employee of the New Jersey School Boards Association. Any action of the commission regarding a violation of P.L.1991, c.393 (C.18A:12-21 et seq.) or the sanction to be imposed in the event that the school official involved is an officer or employee of the New Jersey School Boards Association shall be considered final agency action and an appeal of that action shall be directly to the Appellate Division of the Superior Court.

L.1991, c.393, s.9; amended 1995, c.14, s.4; 2001, c.178, s.4; 2008, c.36, s.5.

18A:12-29.1 Appeal of determination of School Ethics Commission.

3. Notwithstanding the provisions of any law or regulation to the contrary, any appeal of a determination of the School Ethics Commission shall be to the Commissioner of Education whose determination shall be a final agency action under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and appeal of that action shall be directly to the Appellate Division of the Superior Court.

L.2008, c.36, s.3.

18A:12-30. Imposition of sanctions

10. Notwithstanding the provisions of any other law or regulation to the contrary, the sanctions authorized by this act may be imposed on any school official pursuant to the procedures established in section 9 of this act. However, nothing in this act shall be construed to limit the authority of any board of education or any appointing authority to process charges or complaints pursuant to the procedures contained in Titles 18A or 11A of the New Jersey Statutes.

L.1991, c.393, s.10.

18A:12-31. Advisory opinions

11. A school official may request and obtain from the commission an advisory opinion as to whether any proposed activity or conduct would in its opinion constitute a violation of the provisions of this act. Advisory opinions of the commission shall not be made public, except when the commission, by a vote of at least six members, directs that the opinion be made public. Public advisory opinions shall not disclose the name of the school official.

L.1991,c.393,s.11.

18A:12-32. Jurisdiction preempted on pending matters

12. The commission shall not process any complaint, issue a final ruling or issue any advisory opinion on a matter actually pending in any court of law or administrative agency of this State.

L.1991,c.393,s.12.

18A:12-33 Training program; requirements.

13. a. Each newly elected or appointed board member shall complete during the first year of the member's first term a training program to be prepared and offered by the New Jersey School Boards Association, in consultation with the New Jersey Association of School Administrators, the New Jersey Principals and Supervisors Association, and the Department of Education, regarding the skills and knowledge necessary to serve as a local school board member. The training program shall include information regarding the school district monitoring system established pursuant to P.L.2005, c.235, the New Jersey Quality Single Accountability Continuum, and the five key components of school district effectiveness on which school districts are evaluated under the monitoring system: instruction and program; personnel; fiscal management; operations; and governance.

The board member shall complete a training program on school district governance in each of the subsequent two years of the board member's first term.

b. Within one year after each re-election or re-appointment to the board of education, the board member shall complete an advanced training program to be prepared and offered by the New Jersey School Boards Association. This advanced training program shall include information on relevant changes to New Jersey school law and other information deemed appropriate to enable the board member to serve more effectively.

c. The New Jersey School Boards Association shall examine options for providing training programs to school board members through alternative methods such as on-line or other distance learning media or through regional-based training.

L.1991, c.393, s.13; amended L.2007, c.53, s.17.

18A:12-34. Rules, regulations

14. The State Board of Education may promulgate regulations pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

L.1991,c.393,s.14.

18A:13-1. Application of chapter; government of regional districts

The provisions of this chapter shall apply to regional school districts and to all former union graded schools and the affairs of such districts shall be conducted and governed by the provisions of this title relating to type II school districts, except as otherwise so provided as to regional school districts.

L.1967, c.271.

18A:13-2. Types of regional districts

Regional school districts shall be of two types:

a. "all purpose regional districts" organized for all the school purposes of the municipalities included within such regional districts;

b. "limited purpose regional districts" organized to provide and operate in the territory comprised within such districts one or more of the following: elementary schools, junior high schools, high schools, vocational schools, special schools, health facilities or particular educational services or facilities.

L.1967, c.271.

18A:13-3. Constituent municipalities as constituent districts

In every all purpose regional district the constituent municipalities of the regional district shall be construed to be the constituent districts of the regional district after the dissolution pursuant to this chapter of the constituent districts which formed the regional district.

L.1967,c.271.

18A:13-4. Supervision by county superintendent

Each regional school district shall be under the supervision of the county superintendent of the county in which the constituent districts having the greatest amount of ratables are situate.

L.1967, c.271.

18A:13-5. Conduct of regional district elections, votes required

18A:13-5. Elections in regional districts shall be conducted as in other local districts except that in any such elections, unless otherwise provided by this Title, the total vote of the entire regional district, without regard to the territorial boundaries of the constituent districts, shall be counted in determining the result of the election.

In any case in which a proposal for the creation of a regional district or for the enlargement of a regional district is submitted, such proposal shall be adopted only if a majority of the votes cast thereon

a. In each of the local districts, other than a consolidated district, proposing to form the regional district,

b. In the consolidated district proposing to form the regional district without regard to the territorial boundaries of the constituent districts, or

c. In the regional district to be enlarged, and in each district proposed to enlarge it,

shall be cast in favor of the adoption of such proposal.

L.1967, c.271; amended 1968,c.240,s.1; 1995,c.278,s.31.

18A:13-6. Body corporate and corporate title

Each board of education of a regional district shall be a body corporate and shall be known as "the board of education of the regional school district including the school districts of (herein insert the names of the constituent districts and the names of the county or counties in which each is situate)" unless the regional board shall determine to adopt a shorter title, with the approval of the state board, in which case the new title shall be certified by the secretary of the board to the secretary of state and thereupon it shall become the corporate title of the regional district and any obligations of the regional board, under the former title, shall become the obligation of the board under the new title.

L.1967, c.271.

18A:13-7. Regional board members

A member of a regional board of education shall be for at least one year a resident of the constituent district of the regional district, to be represented by the member, in the regional board of education.

L.1967, c.271; amended by L. 1986, c. 98, s. 2, eff. Aug. 27, 1986.

18A:13-8. Boards of education of regional districts; membership; apportionment

18A:13-8. The board of education of a regional district shall consist of nine members unless it consists of more than nine constituent districts, in which case the membership shall be the same as the number of constituent districts, plus one. If there are nine or less constituent districts, the members of the board of education of the regional district shall be apportioned by the county superintendent or county superintendents of the county or counties in which the constituent districts are situate, among said districts as nearly as may be according to the number of their inhabitants except that each constituent district shall have at least one member.

In making the apportionment of the membership of a regional board of education among the several school districts uniting to create a regional school district having nine or less constituent districts, as required by section 18A:13-36, there shall be subtracted from the number of inhabitants of a constituent school district, as shown by the last federal census officially promulgated in this State, the number of such inhabitants who according to the records of the Federal Bureau of the Census were patients in, or inmates of, any State or federal hospital or prison, or who are military personnel stationed at, or civilians residing within the limits of, any United States Army, Navy or Air Force installation, located in such constituent school district.

If there are more than nine constituent districts, the members on the board shall be apportioned among the constituent districts and the weight of their votes in all proceedings of the board shall be determined by the appropriate county superintendent or superintendents through the following procedure:

a. The number of inhabitants of each constituent district shall be determined as shown by the last federal census officially promulgated in this State.

b. A representative ratio shall be calculated by adding the number of inhabitants of all constituent districts and dividing the sum by the board size.

c. All constituent districts shall be listed in ascending order of their number of inhabitants. If the first constituent district in said list has a number of inhabitants which is less than the representative ratio, it shall be combined with the constituent district contiguous to it having the smallest number of inhabitants. This process shall be repeated for each successively larger constituent district or combination of constituent districts until all remaining constituent districts or combinations of constituent districts shall have a number of inhabitants equal to, or exceeding the representative ratio. The districts formed in this manner shall be known as representative districts.

d. There shall be established a priority list according to the method of equal proportions for the apportionment of the members of the regional district board of education among the representative districts.

e. The members of the regional district board of education shall be apportioned among the representative districts according to the method of equal proportions, and where a representative district is composed of more than one constituent district, members shall be elected at large from within the representative district.

f. The number of inhabitants of each representative district shall be divided by the number of members assigned to that district to find the number of inhabitants per members.

g. The vote to be cast by each member of the regional district board of education in all proceedings of the board shall be determined by dividing the number of inhabitants per member in the representative district from which the member is elected by the representative ratio for the regional district, and rounding off the quotient to the nearest tenth of a full vote.

Wherever any statute or bylaw of the board requires decision in any matter by vote of a majority of the board members, or of the members present, this shall be interpreted as meaning a majority of the weighted votes of all members, or of the members present, as the case may be.

h. Whenever the above reapportionment procedure is used for a regional district having more than nine constituent districts, the terms of office of all incumbent board of education members shall terminate on the day on which the annual organization meeting of the board is held pursuant to N.J.S.18A:13-12 following certification by the county superintendent of the representative districts and the number of members to be elected from each; provided, that if the reapportionment results in any representative district retaining its former boundaries and the same number of board members, that the members elected from such a district shall serve the full term for which they were elected. All other board members shall be elected in an election to be held on the third Tuesday in April at least 60 days following certification by the county superintendent for initial terms of office to be designated in advance by the county superintendent so that, as nearly as possible, one-third of the board shall be elected in each future year, to serve for three-year terms, and where a representative district has more than one member, their terms of office shall terminate in different years.

If any constituent district is a consolidated district, or a district composed of two or more municipalities, and

a. The original district is a limited purpose regional district and such constituent district has such population that it is entitled to have apportioned to it a number of members equal to or greater than the number of districts making up such constituent district, or

b. The regional district is an all purpose district,

the membership of the regional board of education from such district shall be apportioned, and from time to time reapportioned, and the members from the district shall be elected, as their respective terms expire, in the same manner as though each of the municipalities making up such constituent district were constituent districts of the regional district.

L.1967, c.271; amended 1968,c.295,s.1; 1972,c.161; 1979,c.37,s.1; 1992,c.159,s.9.

18A:13-9. Reapportionment of membership

Each apportionment shall continue in effect unless and until a reapportionment shall become necessary by reason of the official promulgation of the next Federal census or the enlargement of the regional district by the admission of one or more local districts. In any such case, immediately after the official promulgation of said census or the certification of a favorable result of the election for enlargement of the regional district the county superintendent or county superintendents of the county or counties in which the constituent districts are situate shall reapportion the members accordingly but all members shall continue in office for the terms for which they were elected or appointed notwithstanding any reapportionment. If any constituent district shall become entitled to increased representation on the board the additional members shall be elected at the next annual school election of the regional district. If, as a result of such reapportionment, a disproportionate number of the total representatives of any one

constituent district to a regional board are to be elected at a single annual school election, the commissioner shall have the power, on petition of a constituent district board of education, to alter the term of any member representing such constituent district by not more than 1 year, so as to temporarily apportion, as equally as possible over any given 3-year period, the election of the members representing such constituent district.

L.1967, c.271; amended by L.1977, c. 327, s. 1, eff. Jan. 10, 1978.

18A:13-9.1. Special election of members of board after Federal decennial census; resolution

Whenever the board of education of a regional district shall, following the taking of a Federal decennial census and the issuance of preliminary populations of the constituent districts pursuant to said census but prior to the issuance of the final populations of said districts and the official promulgation of said census in this State, determine that (a) said final populations and official promulgation shall not be available in time for the next succeeding election of members of said board, (b) said preliminary figures indicate that significant changes in the number of members to be allocated to the constituent districts will result, and (c) the allocation of members among the constituent districts on the basis of the present official census effective in this State will result in inequitable representation, it may, by resolution unanimously adopted and approved by the Commissioner of Education, provide that, notwithstanding the provisions of any other law to the contrary, the members to be next elected pursuant to article 7 of chapter 13 of Title 18A of the New Jersey Statutes shall be elected at a special election to be held on a day no later than 60 days after the official promulgation of said census in this State as specified in said resolution.

L.1970, c. 305, s. 1, eff. Dec. 14, 1970.

18A:13-9.2. Special election

In the event that such a resolution is adopted and approved, the terms of the present members of the regional board whose terms would terminate in the year of said election shall be continued until the organization meeting which shall be held during the first or second week after said special election at which time the board shall organize pursuant to section 18A:13-12 of the New Jersey Statutes and the terms of the members elected in said election shall commence. The powers of the present board shall continue unaltered until said organization meeting after said special election. Each such new member shall serve for the unexpired term only.

L. 1970, c. 305, s. 2; amended by L. 1987, c. 289, s. 7.

18A:13-10. Annual elections

18A:13-10. The board of education of each regional district shall provide for the holding, in accordance with the provisions of P.L.1995, c.278 (C.19:60-1 et al.), of an annual school election for the regional district on the third Tuesday in April.

At such election there shall be elected for terms of three years, beginning on any day of the first or second week following such election, the members of the regional boards of education to succeed those members of the board whose terms shall expire in that year, except as is in this chapter provided for the election of the first elected members of the board.

L.1967, c.271; amended 1978,c.136,s.3; 1979,c.23,s.6; 1981,c.371,s.1; 1987,c.289,s.5; 1992,c.159,s.10; 1995,c.278,s.32.

18A:13-11. Vacancies in membership of board; filling

Vacancies in the membership of the board shall be filled from the constituent districts represented by the former incumbents in the same manner as vacancies in the membership of boards of education of type II districts having elected boards of education are filled.

L.1967, c.271.

18A:13-12. Election of officers

18A:13-12. The board shall hold a regular meeting forthwith after its first appointment, and annually thereafter on any day of the first or second week following the annual school election, at which it shall organize by the election, from among its members, of a president and vice president, who shall serve until the organization meeting next succeeding the election of their respective successors as members of the board. If any board shall fail to organize within said two weeks, the county superintendent of the county, or the county superintendents of the counties, in which the constituent districts are situate, shall appoint, from among the members of the board, a president and vice president to serve until the organization meeting next succeeding the next election.

L. 1967, c. 271; amended by L. 1974, c. 105, s. 2; 1979, c. 23, s. 9; 1982, c. 17, s. 1; 1987, c. 289, s. 6.

18A:13-13. Appointment of secretary

The board shall appoint a secretary who may or may not be a member of the board, for the term of one year beginning on July 1 following his appointment but he shall continue to serve after the expiration of his term until his successor is appointed and qualified.

L.1967, c.271.

18A:13-14. Treasurer of school moneys; appointment; term; bond

The board shall appoint a treasurer of school moneys who may be a member of the board and it shall fix his salary. His term of office shall expire annually on June 30 of each year, but if a municipal officer is appointed treasurer, his term shall cease if he ceases to hold his municipal office and in either case, the treasurer shall continue in office after the expiration of his term until his successor is qualified. He shall give bond in such amount, and with such surety, as the board shall direct. The board in its determination of the amount shall be guided by a schedule of minimum limits to be promulgated by the State board.

L.1967, c.271; amended by L.1981, c. 174, s. 1, eff. June 19, 1981.

18A:13-15. Acquisition of lands without districts

The board of education of any regional school district may from time to time acquire for school purposes, by purchase, condemnation or otherwise, lands or premises not exceeding 45 acres in extent and situated in whole or in part in any one or more municipalities adjoining the regional school district, and all of the proceedings to acquire such lands or premises shall be in accordance with the provisions of this title.

L.1967, c.271.

18A:13-16. Special police services; contracts with municipalities

The board of education of any regional district may contract with the municipality in which any of its regional schools are located for such special police services as may be required for the safety of its students and such regional district shall appropriate and raise annually in the same manner as other school moneys are appropriated and raised in the district the amount required to pay therefor.

L.1967, c.271.

18A:13-17 Submission of budget; other questions to voters; adherence to procedures

18A:13-17. The regional board of education shall, at each annual school election, submit to the voters of the regional district the amount of money fixed and determined in its budget to be voted upon for the use of the regional schools of the district for the ensuing school year and may submit thereat any other question authorized by this law to be submitted at such an election. The board may, in submitting to the voters the amount of money to be voted upon for the use of the regional schools of the district, identify the amount of money determined to be the constituent municipality's share. The board shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5) and N.J.S.18A:22-33.

L.1967, c.271; amended 1996, c.138, s.47; 2001, c.26, s.1.

18A:13-19. Procedure following school board rejection

18A:13-19. If the voters reject any of the items submitted at the annual election, within two days thereafter the board of education of the regional district shall certify to the governing body of each municipality, included within the regional district, the item or items so rejected, and such governing bodies, after consultation with the board, and no later than May 19 shall determine the amount or amounts for the ensuing school year and cause the same to be certified by the respective municipal clerks to the board of education of the regional district. The board and the governing bodies shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5) and N.J.S.18A:22-37.

L.1967, c.271; amended 1969, c.250, s.1; 1978, c.136, s.4; 1979, c.23, s.10; 1983, c.119, s.1; 1992, c.159, s.11; 1995, c.94, s.1; 1996, c.138, s.48.

18A:13-20. Determination, certification of amount by commissioner

18A:13-20. Should said governing bodies fail to so certify or fail to agree and certify different amounts for said purposes, then the commissioner shall determine and certify the amount or amounts to the board of education of the regional district. The commissioner shall follow the procedures established in N.J.S.18A:22-38.

L.1967, c.271; amended 1996, c.138, s.49.

18A:13-21. Inclusion of amounts certified in tax

The amount or amounts so certified by all of said governing bodies or by the commissioner, as the case may be, shall be apportioned among municipalities included within the regional district and shall be included in the tax levy for such municipalities for such appropriations, as provided by law.

L.1967, c.271.

18A:13-23 Apportionment of appropriations.

18A:13-23. The annual or special appropriations for regional districts, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district, shall be apportioned among the municipalities included within the regional

district, as may be approved by the voters of each municipality at the annual school election or a special school election, upon the basis of:

- a. the portion of each municipality's equalized valuation allocated to the regional district, calculated as described in the definition of equalized valuation in section 3 of P.L.2007, c.260 (C.18A:7F-45);
- b. the proportional number of pupils enrolled from each municipality on the 15th day of October of the prebudget year in the same manner as would apply if each municipality comprised separate constituent school districts; or
- c. any combination of apportionment based upon equalized valuations pursuant to subsection a. of this section or pupil enrollments pursuant to subsection b. of this section.

Amended 1975, c.212, s.29; 1990, c.52, s.37; 1993, c.67, s.1; 1996, c.138, s.50; 2007, c.260, s.50.

18A:13-23.3. Modification of apportionment of appropriations

5. A regional district may modify the manner in which the amounts to be raised for annual or special appropriations for the district, including the amounts to be raised for interest upon, and the redemption of, bonds payable by the district, are apportioned pursuant to N.J.S.18A:13-23 only upon the occurrence of one of the following events:

- a. Ten years have elapsed since the last school election in which the apportionment of costs was approved by the voters;
- b. A school year in which the equalized valuations of any constituent municipality when divided by the total equalized valuations of all the constituent municipalities is either greater than .10 plus or less than .10 minus the result expressed as a decimal of the equalized valuations of the constituent municipality divided by the total equalized valuations of all the constituent municipalities in the school year of the last school election in which the apportionment of costs was approved by the voters;
- c. A school year in which the pupil population of any constituent municipality when divided by the total pupil population of the regional district is either greater than .10 plus or less than .10 minus the result expressed as a decimal of the pupil population of the constituent municipality divided by the total pupil population of the regional district in the school year of the last school election in which the apportionment of costs was approved by the voters;
- d. A school year in which the regional district is enlarged by the admission of one or more districts;
- e. During any school year if the regional district was formed prior to the effective date of P.L.1993, c.67 (C.18A:7D-37 et al.) and has never revised its cost apportionment basis.

L.1993,c.67,s.5.

18A:13-24. Appropriations; certification; apportionment; assessment and collection among constituent districts

The amounts to be raised for annual or special appropriations and for interest upon, and the redemption of, bonds for regional districts shall be certified by the regional board of education to, and shall be apportioned among the municipalities included within the regional district as follows:

- a. When the regional district is located wholly within one county, said amounts shall be certified to the county board of taxation of the county and shall be apportioned by it among such municipalities in the manner, and upon the basis, prescribed in this article; or
- b. When the regional district is located in more than one county, said amount shall be certified to the county board of taxation of the county in which the largest number of regional district pupils are resident, and said amounts shall be apportioned by said county board of taxation, among such municipalities in the manner, and upon the basis, prescribed in this article.

The share of the amount to be raised by taxation in each municipality included in a regional district shall be certified to the appropriate county board of taxation by the Commissioner of Education.

The amounts apportioned to each such included municipality shall be assessed, levied and collected in the same manner and at the same time as other school taxes are assessed, levied and collected therein and shall be paid upon requisition as in other Type II school districts.

L.1967, c.271; amended by L.1975, c. 212, s. 30, eff. July 1, 1976.

18A:13-26. Authorization; issuance; maturities, sales and lien of bonds

Bonds or notes of a regional school district shall be issued in the corporate name of the district, and shall be authorized and issued, in accordance with the law governing

the issuance of bonds by type II districts, and the outstanding bonds and notes of a regional school district shall be a lien upon the real estate, situate in all the constituent school districts in the regional district, and the personal estates of the inhabitants of all of such constituent districts, as well as the public property of said constituent districts and of the regional district, shall be liable for the payment thereof.

All bonds and notes issued by or for regional districts shall be dated and sold in all respects in accordance with the provisions of this title and shall mature within the period or respective periods of time prescribed by such provisions, in each case computed from the date of such bonds.

L.1967, c.271.

18A:13-27. Newly created regional districts; issuance of temporary bonds or notes for current expenses; submission to voters, etc.

Whenever the boards of education of all local school districts proposing to create a regional district shall determine by identical resolutions that it is desirable, as part of the proposal to create such regional district, to issue promissory notes or temporary loan bonds of the regional district, in a principal amount not exceeding such amount as shall be stated in said resolutions, to mature not later than one year, from the date of the issuance of the first of such notes or bonds, in order to provide for the current expenses of the proposed regional district to be incurred until appropriations for the operation of the regional district will be available and the commissioner shall certify in writing that said principal amount does not exceed the amount which reasonably may be expected to be necessary for such expenses, each of said boards of education may, at the election called and conducted to act upon the proposal for the creation of the regional district, submit as part of such proposal the authorization and approval of the issuance of said notes or bonds briefly describing the contents of the resolution authorizing the issuance of the same and stating the date upon which it was adopted by the boards of education in question. If such proposal is adopted any such note or bond so authorized may be issued and may be renewed in like form, without further certification or submission to the voters, to mature not later than two years from the date of the first of the notes or bonds so renewed, but no school debt statement need be prepared or filed prior to the authorization of such bonds.

L.1967, c.271.

18A:13-28. Authorization of bonds upon formation of regional district

The board of education of each local district proposing to create or to join in the creation of the regional district or the board of education of any regional district and of each local district proposing to unite to enlarge the regional district may adopt identical resolutions authorizing the issuance of bonds of such proposed or enlarged regional district, in such amount or amounts, and for such of the purposes described in section 18A:24-5 as they shall determine upon and there may be submitted, as part of the proposal for the creation or enlargement of the regional district the approval of the authorization of the issuance of such bonds. If the provisions of sections 18A:24-24 through 18A:24-27 are applicable to such issuance of bonds, a copy of such resolutions shall be submitted, prior to such election, for consideration by the commissioner and the local finance board under and for all the purposes of said sections and no such authorization shall be submitted in any such case except it be approved for submission as provided in said sections. If the proposal containing such authorization shall be approved by referendum in each of such districts such resolutions shall after such vote be authority for the issuance of bonds of such regional district to the amount and for the purpose or purposes set forth therein, and from and after the date of, such vote, shall for all purposes of any provisions of this title, be deemed to constitute resolutions duly approved on said date by the local voters of such regional district authorizing the board of education thereof to issue bonds of such regional district for the purpose or purposes and in the amount or amounts set forth in such proposal.

If the regional district so created or enlarged is a limited purpose regional district, no school debt statement in relation to the issuance of such bonds need be prepared and filed prior to the authorization of the issuance thereof.

L.1967, c.271.

18A:13-29. Issuance of bonds of constituent district by all purpose regional district

If in any consolidated district, or local district comprising two or more municipalities, which is comprised in an all purpose regional district, the issuance of bonds of said consolidated district or district comprising two or more municipalities has been authorized and approved by referendum in accordance with this title before the creation of such regional district and all or any part of such issue of bonds remained or remain unissued at the time of the creation of the regional district, such authorization and approval shall, be authority for the issuance of bonds of the regional district in same amount and for the same purpose or purposes after the date of such creation, as though such authorization and approval by referendum had been given in the regional districts after the creation thereof. The bonds so issued shall be dated and sold and made payable in accordance with the provisions of this chapter and any provisions of resolutions with respect to the dates and maturities of such bonds shall not affect the powers of the regional board of education with respect to such dates and maturities.

L.1967, c.271.

18A:13-30. Issuance of bonds for acquisition of lands to include buildings, equipment, etc.

Every resolution, proposition, question or proposal heretofore or hereafter adopted by the legal voters of:

1. Any regional district then in existence, or
2. Each local district proposing to join in the creation of a regional district, or
3. Any local district proposing to join with a regional district so as to enlarge the same, and of the regional district so to be enlarged

authorizing the issuance of bonds of said existing regional district or of the regional district so to be formed or enlarged, as the case may be, for the purchase or taking or condemning of land for school purposes shall, unless otherwise expressly provided therein, be deemed to include and authorize the purchase of any schoolhouse or schoolhouses or other buildings situate thereon and the furniture and other necessary equipment therefor and the material and supplies therefor, as well as the issuance of said bonds for said purpose in the amount or amounts set forth in such resolution, proposition, question or proposal.

L.1967, c.271.

18A:13-31. Authority to purchase and sell property of constituent district

Whenever at an election held to create or enlarge a regional district and at that or a subsequent election a resolution for the purchase of real or personal property or both from one or more of the constituent districts of such regional district and the issuance of bonds of the newly created or enlarged regional district shall be legally adopted and approved by referendum as part of the proposal to create or enlarge such regional district, the board or boards of education of said constituent district or districts shall have power to sell and convey said property if it is no longer useful to such district at the price and on the terms designated in the resolution, and the board of education of the regional district as created or enlarged, when organized, shall have power to purchase the same accordingly at private sale, and to issue and sell such bonds with such maturities, and in such manner as is prescribed by law.

L.1967, c.271.

18A:13-32. Application of proceeds of sale of property

The board of education of each constituent district from which any purchase of real property is made pursuant to section 18A:13-31 may expend all or any part of the proceeds of any such sale together with any interest thereon for any purpose for which bonds might be issued by such district if the board shall first have been authorized to make such expenditure in the same manner as authority is given in the case of issuance of bonds of the district and all or any part of the proceeds of such sale not so expended shall be applied to the payment of the principal of any outstanding bonds or notes of the district and pending said application shall be invested in war savings bonds or other obligations of the United States of America pursuant to law and the income received from such investments shall be applied to the payment of interest upon said outstanding bonds or notes as it shall become due and payable and if any surplus of such proceeds remains after the payment of the principal and interest payable upon said outstanding bonds or notes, the same, or if there be then no outstanding bonds or notes, the entire proceeds shall be paid into the capital account of the local school district.

L.1967, c.271.

18A:13-33. Additional purposes; referendum

Whenever the board of education of a regional district and the commissioner or his representative, shall, after consultation, study and investigation, determine that it is advisable to add to the purposes for which the regional district was created, one or more of the purposes for which such a district may be created as provided in this chapter, the regional board shall by resolution frame and adopt a proposal to that effect and submit to the voters of the regional district at any school election held therein, the question, whether or not said proposal shall be approved, briefly describing the contents thereof and stating the date of its adoption by the regional board of education, and if, at said election, said proposal is adopted by a majority of the votes cast thereon in the regional district, the secretary of the regional district shall certify to the county superintendent of each county in which any of the constituent districts of the regional district is situate, and to the commissioner, the result of said election and thereafter the regional board of education shall be authorized to carry out such additional purpose or purposes.

If the proposal to add additional purposes will convert the regional district from a limited purpose regional district to an all purpose regional district, the proposal shall be submitted to the voters of each of the constituent districts of the regional district instead of at large to the voters of the regional district.

If the boards of education of a regional district, and of each local district, proposing to join therewith to enlarge said regional district, and the commissioner or his representative, shall, after consultation, study and investigation, determine by

resolution so to add to the purpose or purposes of the regional district, the authorization of the adoption of such additional purpose or purposes shall be included by resolution in the proposal to enlarge said regional district and shall be so submitted to the voters of the regional district and of each proposed new constituent district at the election to be held in relation to the enlargement of said regional district.

L.1967, c.271.

18A:13-34. Creation of regional school district, apportionment of appropriations

18A:13-34. If the boards of education of two or more local districts, or the board of education of a consolidated district, or of a district comprising two or more municipalities, and the commissioner or his representative, after consultation, study and investigation, shall determine, that it is advisable for such districts to join and create, or for such district to become

(a) an all purpose regional school district for all the school purposes of such districts or district, or

(b) a limited purpose regional school district to provide and operate, in the territory comprised within such local districts or district, one or more of the following: elementary schools, junior high schools, high schools, vocational schools, special schools, health facilities or particular educational services or facilities, that board or boards shall by resolution frame and adopt a proposal to that effect stating also the manner in which the amounts to be raised for annual or special appropriations for such proposed regional school district, including the amounts to be raised for interest upon, and the redemption of bonds payable by the regional district, shall be apportioned upon the basis of:

a. the portion of each municipality's equalized valuation allocated to the regional district, calculated as described in the definition of equalized valuation in section 3 of P.L.1990, c.52 (C.18A:7D-3);

b. the proportional number of pupils enrolled from each municipality on the 15th day of October of the prebudget year in the same manner as would apply if each municipality comprised separate constituent school districts; or

c. any combination of apportionment based upon equalized valuations pursuant to subsection a. of this section or pupil enrollments pursuant to subsection b. of this section, and each such board shall call for a special school election to be held upon the same day in each municipality in its district and shall submit thereat the question whether or not the proposal shall be approved, briefly describing the contents of the resolution and stating the date of its adoption and they may submit also, at the special election, as part of such proposal, any other provisions which may be submitted, at such a special election, under the provisions of this chapter but no such special election shall be held on any day before April 15 or after December 1 of any calendar year. Except as otherwise provided herein, the special election shall be conducted in accordance with the provisions of P.L.1995, c.278 (C.19:60-1 et al.).

L.1967, c.271; amended 1993,c.67,s.2; 1995,c.278,s.33.

18A:13-34.2. Impact assessment

6. The Department of Education shall provide to the board of education of a school district proposing to join or create a regional school district and to the board of education of a regional school district proposing to modify its method of apportionment, an impact assessment of the apportionment method. The impact assessment shall be provided to the board of education at least 45 days prior to the date of the school election at which the question will be presented to the voters. The failure of the department to provide an impact assessment in accordance with this section will not preclude the district from submitting the question to the voters at the school election.

L.1993,c.67,s.6.

18A:13-35. Certification and determination of the result of referendum to create regional district

The secretary of each local district, so proposed to be included in the proposed regional district, shall certify to the county superintendent of the county, in which such district is situate, within 5 days after such election, the results of the election held therein for the creation of a regional district, showing the number of votes cast for, and the number cast against, the adoption of the proposal to create such a regional district submitted therein, in each municipality in his district and each county superintendent of a county, in which any such municipality or municipalities are situate, shall canvass the vote cast in each such municipality and if such county superintendent or superintendents shall determine from such certificates that a majority of the votes cast for and against the proposal submitted at said election were cast for its adoption in a consolidated district or in each such municipality other than a constituent of a consolidated district, he or they shall immediately certify to the board of education of each such local district, the result of such vote as so determined and the regional school district shall be created and any other provisions included in such proposal in accordance with the provisions of this chapter shall become effective on the twentieth day following the day of such election.

L.1967, c.271; amended by L.1968, c. 240, s. 2, eff. July 31, 1968.

18A:13-36. Apportionment of membership of board of newly created regional district

The county superintendent or county superintendents of any county or counties, in which such newly created regional district is situate, shall calculate and apportion the membership of the board of education of such newly created regional district in accordance with the provisions of section 18A:13-8 and if such regional district is an all purpose regional district such membership shall be apportioned among the municipalities included within the districts according to the number of their inhabitants, as apportionment is made among constituent districts forming a limited purpose regional district, and the members shall be elected or appointed in accordance with such apportionment.

L.1967, c.271.

18A:13-37. First board of education; appointment

The county superintendent of each county in which there is located any constituent district of a newly created regional district shall appoint from among the citizens of each constituent district in his county, qualified as required by sections 18A:12-1 and 18A:13-7 of this title, the number of members of the board of education of the regional district requisite to represent such constituent district and all of the members so appointed shall constitute the first board of education of the regional district.

L.1967, c.271.

18A:13-38. Allocation of terms for first elective board

The county superintendent or county superintendents appointing the first board of education of a regional district shall allocate the initial elective terms for the first elective members of said board in the following manner:

(1) In regional districts having nine members, three members shall be elected for three years, three for two years and three for one year, which terms shall be allocated to the constituent districts to the extent of apportioned membership on the regional board of education, starting with the allocation of the terms of three years, by allocating one of such terms to each of the constituent districts in the alphabetical order of the names of such districts, and continuing then still in such order with allocation of the terms of two years and with allocation of the terms of one year.

(2) In regional districts in which there are more than nine constituent school districts, the allocation for the tenth district shall be a term of three years, for the eleventh district a term of two years, and for the twelfth district a term of one year, with continuation of such rotation until provision has been made for allocation of the terms to all districts.

In any regional district in which the constituent districts have been or will be dissolved, said allocation shall be made among the municipalities included within the regional district in the manner hereinbefore provided for allocation among the constituent districts.

The county superintendent or county superintendents shall notify the board, when it shall have been organized, of the allocation of initial elective terms for its members as so made.

L.1967, c.271.

18A:13-39. Election of first members to board

The first elected members of the board of a newly created regional district shall be elected at the annual election to be held in the calendar year first succeeding the year in which the special election for the creation of the district was held.

L.1967, c.271.

18A:13-40. General powers and duties of board of newly created regional districts

The board of education of a newly created regional district may, prior to taking charge and control of the educational facilities of the regional district, do all other acts and things which may be necessary for the proper organization and functioning of the public schools of the regional district during its first year, including the making of contracts for the employment of necessary personnel and for other proper purposes, the preparation and submission to the voters of the regional district for their approval or disapproval of the budget and the appropriations for the conduct of the public schools of the regional district during its first school year, the authorization of the purchase of real and personal property, and the construction, enlargement and repair of buildings, for school purposes, and the appropriations of the funds necessary to carry out the same and the authorization of the issuance and sale of bonds in order to provide for the payment therefor in whole or in part and the calling and holding of special elections when necessary for any such purposes and to carry out any or all of said purposes.

L.1967, c.271.

18A:13-41. Taking charge and control of educational facilities of schools in newly created regional districts

A regional board of education of a newly created regional district shall take charge and control of the educational facilities of the constituent districts in the classes or

grades for which the same is formed when the commissioner shall certify to the boards of education of each of the constituent districts that suitable facilities and accommodations have been made available for the instruction of the pupils in said regional district, but it shall not take charge and control of such educational facilities earlier than July 1 of the calendar year next ensuing the date of the special election, except by agreement between the regional board and the boards of education of the constituent districts, approved by the commissioner. Until the commissioner shall so certify, the charge and control of the educational facilities of the constituent districts in the classes and grades for which the regional district was formed shall continue to be in the respective boards of education of the constituent districts.

L.1967, c.271

18A:13-42. Pension and tenure rights; certain teachers transferred to regional districts; preserved

Whenever a regional district has been created subsequent to April 1, 1951, or shall hereafter be created, for high school or junior high school education, the tenure and pension rights of any high school or junior high school teacher, who, at the time of the holding of the election to create such regional district, was assigned for a majority of his time in a grade or grades from grades seven to 12 inclusive, in any high school or junior high school in any of the constituent districts of such regional district, shall be recognized and preserved by the board of education of the regional district in the organization and operation of any high school or junior high school in the regional district, and any period of employment in any one or more of the high schools or junior high schools of any such constituent district or districts, shall count toward the acquisition of tenure in the regional district, but nothing in this section shall be applicable to any superintendent or high school or junior high school principal.

L.1967, c.271.

18A:13-43. Enlargement of regional districts; referendum

If the board of education of a regional district and the board or boards of education of one or more local districts, and the commissioner or his representative, after consultation, study and investigation, shall determine that it is advisable to enlarge the regional school district so as to include said local district or districts therein, the board of education of the regional district and of each such local district shall by resolution frame and adopt a proposal to that effect and shall call for, and conduct, upon the same day, a special school election in such regional district and in each such local school district, and shall submit thereat the question whether or not said proposal shall be approved briefly describing the contents of said resolution and stating the date of its adoption and they may submit also at such special election as part of such proposal any other provision which may be submitted at such a special election under the provisions of this chapter, but no such special election shall be held on any day before April 15 or after December 1 of any calendar year.

L.1967, c.271.

18A:13-44. Certification of results of election for enlargement of regional district

The secretary of the regional district and of each local district, which is included in the proposal to enlarge the regional district, shall certify to the county superintendent of the county in which such district is situate, within five days after such election, the result of the election in his district showing the number of votes cast for, and the number cast against, the adoption of such proposal and such county superintendent or county superintendents shall canvass the vote and if he or they shall determine from such certificates that such proposal was adopted in the regional school district and in each proposed constituent district, he or they shall notify the board of education of the regional district and of each proposed constituent district, and the commissioner, accordingly and the enlargement of the regional district, by the admission thereto of the proposed constituent district or districts, and any other provisions included in such proposal in accordance with the provisions of this chapter shall become effective on the twentieth day following the day of said election.

L.1967, c.271.

18A:13-45. Corporate existence and name; assumption of indebtedness

The corporate existence of an enlarged regional district shall be continued without interruption from the date of its original creation notwithstanding its enlargement and its corporate name shall remain unchanged unless another corporate name, approved by the state board, shall be adopted by resolution of the regional board of education and shall be certified to the secretary of state.

Each new constituent district shall become responsible, for the indebtedness of the regional district then outstanding or authorized but unissued, as if it had originally constituted a part of the regional district.

L.1967, c.271.

18A:13-46. Enlargement of regional districts; new board members; reapportionment

The county superintendent of the county in which any new constituent district of an enlarged regional district shall be situate shall, not later than 30 days after the election for the enlargement thereof, appoint one member of the enlarged board of education of the regional district from among the qualified citizens of each such new

constituent district and the members so appointed shall serve until the first Monday succeeding the first annual school election of the enlarged regional district and their successors shall be elected at said election. If by reason of the enlargement of the district it becomes necessary to reapportion the membership of the enlarged board of education the county superintendent or superintendents of the county or counties in which the constituent local districts of the enlarged district are situate shall reapportion the membership of the enlarged board of education in accordance with the provisions of sections 18A:13-8 and 18A:13-36, and at the same time shall designate the number of members to be elected from each constituent school district at the succeeding annual school election to be held therein upon the expiration of the terms of office of the members of the regional board then in office, in such manner that the representation of the constituent districts shall be established in accordance with such reapportionment at the earliest possible time but the members then in office shall continue in office for the terms for which they were elected or appointed notwithstanding such reapportionment.

L.1967, c.271.

18A:13-47. Enlarged regional districts; educational facilities; powers of board

The regional board of education of an enlarged regional district shall not take charge and control of the educational facilities, being provided for pupils in the classes or grades included in the regional district before its enlargement, in the local districts to be added thereto, until such time, not earlier than July 1 of the calendar year following that in which the election to enlarge the regional district is held, as the commissioner shall certify to the board of education of the regional district before its enlargement, and the board of education of each new constituent district, that suitable facilities and accommodations have been made available for the instruction of pupils in the enlarged regional district and until then the pupils in the regional district and in the new constituent districts shall continue under the charge and control of the board of education of the regional district existing prior to its enlargement and the board or boards of education of said new constituent district or districts, respectively. The time for taking charge and control of such facilities may be accelerated or postponed by agreement of the board of education of the regional district existing prior to its enlargement and of the board or boards of education of the new constituent district or districts with the approval of the commissioner. Upon taking charge and control of the educational facilities of the enlarged regional district the board of education of the enlarged regional district shall have full authority and control with respect thereto and in the meantime said board of the enlarged regional district may exercise any other powers and perform any other duties with respect to the enlarged regional district which the first board of education of a newly formed regional district may exercise and perform, as provided in section 18A:13-40.

L.1967, c.271.

18A:13-48. Dissolution of local districts; original boards to function until taking over of schools

Whenever any local district has joined or shall join in

a. Creating or enlarging an all purpose regional district, or

b. The formation of a limited purpose regional district and thereafter has joined or shall join in the formation of another regional district for all other school purposes,

all existing districts forming such regional district or any existing district so united with such last named regional district shall be dissolved when the board of education of such regional district shall take charge and control of the educational facilities of the schools of such existing district or districts and thereafter each municipality included within such regional district shall become a constituent district of such regional district.

The board of education of each district to be dissolved shall continue in office with power to conduct the schools of the district until such date as the board of education of such regional district shall take charge and control of the educational facilities of the schools of such regional district, on which date their terms of office shall terminate.

No election shall be held for members of any district to be so dissolved in or after any year in which the members of the board of the regional district are elected.

L.1967, c.271.

18A:13-49. Principals, teachers and employees transferred

All principals, teachers and employees in the employ of any dissolving local district shall be transferred to and continue in their respective employments in the employ of the regional school district and their rights to tenure, pension and accumulated leave of absence accorded under the laws of the state shall not be affected by their transfer to the employ of the regional school district.

L.1967, c.271.

18A:13-50. Transfers; funds; personal property, books, etc.; obligations of indebtedness

Upon the dissolution of any local district the officer having custody of the funds of such district shall deliver all of the funds of the dissolved district in his possession to the secretary of the successor regional district who shall give his receipt therefor and shall immediately turn the same over to the custodian of school moneys of the regional district.

All personal property, books, papers, vouchers and other documents belonging to any district, being dissolved, shall be transferred to the secretary of said regional district who shall cause a complete inventory to be made on all assets, real and personal, received by the regional school district. Upon and after the date of dissolution of the district all proceeds of taxes of any nature raised or to be levied for use or benefit of each dissolving school district and rights and claims with respect thereto, and all the property, funds, moneys and assets of each dissolving district shall vest in the regional district and the regional district shall be subject to all the contracts, debts and other obligations of each dissolving district. Upon said date all bonds and notes, of each dissolving district, theretofore issued and outstanding and all bonds and notes theretofore issued and outstanding of any municipality constituting or comprised within any dissolving district which were issued for the purpose of acquiring property which is vesting on said date in the regional district shall be and shall constitute obligations of and payable as to both principal and interest by the regional district, and, unless otherwise required or provided for by law, in the same manner and to the same extent as if such bonds and notes had been issued by the board of the regional district. The regional board shall cause an audit and settlement of all accounts of officers of the former district or districts to be made forthwith. The official bonds of such officers shall be continued in full force and effect until the completion of such audit and satisfactory financial settlement of said accounts shall have been made.

L.1967, c.271; amended by L.1971, c. 377, s. 1, eff. Dec. 30, 1971.

18A:13-51. Investigation as to advisability of withdrawal, dissolution; application; procedures

1. The board of education of any local school district constituting part of a limited purpose regional school district or the governing body of the municipality constituting a constituent district may, by resolution, apply to the county superintendent of schools to make an investigation as to the advisability of withdrawal of such local district from the regional district.

A majority of the boards of education of the school districts which constitute a limited purpose regional school district and a majority of the governing bodies of the municipalities which constitute the constituent school districts of a limited purpose regional school district may, by separate resolutions, apply to the county superintendent of schools to make an investigation as to the advisability of the dissolution of the regional district.

Within 21 days following adoption of the resolution or resolutions required pursuant to this section, the county superintendent shall call a meeting of representatives of each constituent governing body, each board of education constituting part of the regional district, and the board of education of the regional district to review the procedures to be followed for the withdrawal from, or dissolution of, the limited purpose regional district. This meeting, however, may be called by the county superintendent prior to the adoption of the required resolutions.

L.1975,c.360,s.1; amended 1993,c.255,s.1.

18A:13-52 Report; feasibility study.

2. The executive county superintendent shall, within 60 days after such request, file with the governing bodies of the municipalities constituting the regional district and the boards of education of all of the constituent school districts and the board of education of the regional school district a report containing a statement of the current assets and operating expenses of the regional district for the then current year and such financial, educational and other information as he may deem necessary to enable said governing bodies and local boards of education and regional board of education to form an intelligent judgment as to the advisability of the proposed withdrawal or dissolution and the effect thereof upon the educational and financial condition of the withdrawing district and the regional district, or upon each of the constituent districts in the event of a dissolution and setting forth the amount of indebtedness, if any, to be assumed by the withdrawing and the regional districts, or by each constituent district in the event of a dissolution, calculated as hereinafter provided. The report, in discussing the educational and financial effect of the withdrawal or dissolution, shall include the effect thereof upon the administrative and operational efficiencies, and the resultant cost savings or cost increases, in the withdrawing and the regional districts, or by each constituent district in the event of a dissolution.

The executive county superintendent may require the constituent municipalities and school districts and the regional district to submit a feasibility study in order to determine the educational and financial impact of the withdrawal from, or dissolution of, the limited purpose regional district. In the event the executive county superintendent requests a feasibility study to be conducted, the executive county superintendent's

report required pursuant to this section shall be filed within 60 days following submission of the feasibility study.

L.1975, c.360, s.2; amended 1977, c.279, s.1; 1993, c.255, s.2; 2007, c.63, s.52.

18A:13-53. Calculation of amount of indebtedness to be assumed

3. The county superintendent shall calculate the amount of indebtedness relating to buildings, grounds, furnishings, equipment and additions thereto so to be assumed on the basis of the proportion which the replacement cost of the buildings, grounds, furnishings, equipment, and additions thereto of the regional district situated in the withdrawing district, or in each of the constituent districts in the event of a dissolution, bears to the replacement cost of the buildings, grounds, furnishings, equipment and additions thereto situated in the entire regional district. Said replacement cost shall be determined according to rules prescribed by the commissioner with the approval of the State board and in accordance with recognized accounting practices. The county superintendent shall also calculate the amount of all other indebtedness and unfunded liabilities to be so assumed on an equitable basis.

L.1975,c.360,s.3; amended 1977,c.279,s.2; 1993,c.255,s.3.

18A:13-54. Petition for permission to submit to voters for approval of withdrawal, dissolution; proof of service

4. The municipal governing body or the board of education of the withdrawing district or the municipal governing body and the board of education of each constituent district seeking dissolution may, within 30 days after the filing of the report by the county superintendent, petition the commissioner for permission to submit to the legal voters of the withdrawing district and the remaining districts within the regional district the question whether or not it shall so withdraw or in the event of a dissolution to submit to the legal voters of each constituent district whether the regional district shall dissolve. The board may request in the petition any specific reduction or increase in the amount of indebtedness to be assumed as set forth in the county superintendent's report. Proof of the service of a copy of the petition upon the municipal governing body and the board of education of each constituent district, the board of education of the regional district, and the county superintendent, prior to the filing of the petition, shall accompany the petition.

L.1975,c.360,s.4; amended 1993,c.255,s.4.

18A:13-55. Answer; filing; contents

The governing body of any municipality constituting a constituent district or the board of education of any such constituent district and the board of education of the regional district shall, within 15 days after service of a copy of the petition upon it, file an answer thereto with the commissioner and serve a copy of such answer upon the board of education of every other constituent district and of the regional district and the county superintendent. The answer shall set forth matters similar to those described in section 6 of this act.

L.1975, c. 360, s. 5, eff. March 3, 1976.

18A:13-56. Submission of petition and answers to board of review; findings and determination of board

6. Within 15 days after the filing of the answers to the petition, the Commissioner of Education shall submit the petition and answers to a board of review consisting of the commissioner as chairman, a member of the State Board of Education to be appointed by the president thereof, the State Treasurer or his designee and the Director of the Division of Local Government Services in the Department of Community Affairs, for a determination as to whether or not the petition should be granted, and if so, the amount of indebtedness, if any, to be assumed by the remaining and the new district, or by each of the constituent districts in the event of a dissolution, upon approval of the legal voters pursuant to section 9 of P.L.1975, c.360 (C.18A:13-59) at a special school election. The board of review shall consider the effect of the proposed withdrawal or dissolution upon the educational and financial condition of the withdrawing and the remaining districts, or upon each of the constituent districts in the event of a dissolution, and shall schedule and hold a public hearing on the petition upon the application of any interested party. In considering the effect of the proposed withdrawal or dissolution upon the educational and financial condition of the withdrawing and remaining districts, or upon each of the constituent districts in the event of a dissolution, the board of review shall:

- a. Consent to the granting of the application; or
- b. Oppose the same because, if the same be granted--

1. An excessive debt burden will be imposed upon the remaining districts, or the withdrawing district, or upon any of the constituent districts in the event of a dissolution;

2. An efficient school system cannot be maintained in the remaining districts or the withdrawing district, or in any of the constituent districts in the event of a dissolution, without excessive costs;

3. Insufficient pupils will be left in the remaining districts, or in any of the constituent districts in the event of a dissolution, to maintain a properly graded school system; or

4. Any other reason, which it may deem to be sufficient; or

c. Request that if the petition be granted, the amount of debt which the remaining districts, or any of the constituent districts in the event of a dissolution, would be required to assume, calculated as hereinbefore provided, be reduced for the reason that--

1. Such amount of indebtedness, together with all other indebtedness of the municipalities or school districts would be excessive;

2. The amount of expenditure for debt service which would be required would be so great that sufficient funds would not be available for current expenses without excessive taxation; or

3. Such amount of indebtedness is inequitable in relation to the value of the property to be acquired by the remaining districts, or by any of the constituent districts in the event of a dissolution, and would materially impair the credit of the municipalities or such districts and the ability to pay punctually the principal and interest of their debt and to supply such essential educational facilities and public improvements and services as might reasonably be anticipated would be required of them.

The board of review shall make its findings and determination, by the recorded vote of at least three of the four members of the board, within 60 days of the receipt of the petition and answers.

L.1975,c.360,s.6; amended 1993,c.255,s.5.

18A:13-57. Fixing date of election

7. If the application be granted, the county superintendent shall, after conferring with the boards of education of the constituent districts, fix a day and a time on said day for holding a special school election, at which time the question whether or not the withdrawing school district shall withdraw from the regional district or whether the regional district shall be dissolved, whichever shall be applicable, shall be submitted to the legal voters of the withdrawing district and to the legal voters within the remainder of the regional district or to the legal voters of each of the constituent districts in the event of a dissolution.

L.1975,c.360,s.7; amended 1977,c.279,s.3; 1993,c.255,s.6.

18A:13-58. Statement of indebtedness to be assumed in notices and advertisements; conduct of election; certification of results

8. The amount of indebtedness to be assumed by the withdrawing district or by each of the constituent districts in the event of a dissolution and the effect of such indebtedness upon the borrowing margin of the municipality, the withdrawing district, the remaining districts, and the remaining municipalities within the regional district, or by each of the constituent districts and municipalities within the regional district in the event of a dissolution, shall be stated in the notices and advertisements of the special school election and in the ballots to be used therein, and said election shall be conducted and the results thereof determined in the manner prescribed by law for special school elections in type II districts. The result shall be certified within five days after the holding of the election to the county superintendent and to the boards of education of the withdrawing district, the regional district and the constituent districts within the regional district, or to the boards of education of each of the constituent districts in the event of a dissolution.

L.1975,c.360,s.8; amended 1993,c.255,s.7.

18A:13-59. Effective date of withdrawal, dissolution; votes for adoption

9. If the question is adopted at said elections, the withdrawal of the district or the dissolution of the regional district shall become effective upon a date to be determined by the Commissioner of Education. For withdrawal from a regional district, the question shall be deemed adopted if it receives an affirmative vote of a majority of the votes cast within the withdrawing constituent district and it receives an affirmative vote of a majority of the overall votes cast in the entire regional district. For dissolution of a regional district, the question shall be deemed adopted if it receives an affirmative vote in a majority of the individual constituent districts and it receives an affirmative vote of a majority of the overall votes cast in the entire regional district.

L.1975,c.360,s.9; amended 1977,c.279,s.4; 1993,c.255,s.8.

18A:13-60. Continuance in office of board members until withdrawal, dissolution; reapportionment of vacancies

10. The members of the board of education of the regional district shall continue in office until the withdrawal of the district or the dissolution of the regional district has become effective. When a withdrawal has taken effect, the terms of those members of the regional board who reside in the withdrawing district shall thereupon expire, and the vacancies so occurring shall be reapportioned among the remaining districts and filled by appointment by the county superintendent to serve until the next annual school election of the regional district, at which time their successors shall be elected in accordance with such reapportionment.

L.1975,c.360,s.10; amended 1993,c.255,s.9.

18A:13-61. Taking title to and control of grounds, buildings and furnishings by districts; assumption of indebtedness

11. The withdrawing district and the remaining districts, or each constituent district in the event of a dissolution, shall take title to and control of all school grounds and buildings, and the furnishings and equipment therein, other than those which had been rotated or shared among the regional schools, situated in their respective districts on the effective date of withdrawal or dissolution as established by the commissioner. The county superintendent shall allot a fair proportion of the shared or rotated furnishings and equipment to the withdrawing district or to each of the constituent districts in the event of a dissolution .

Upon the assumption of title, each board shall also assume such amount of the indebtedness of the original regional school district as shall have been determined by the board of review. In the event of a withdrawal, the withdrawing district shall pay to the regional board of education, at least five days before it becomes due, the amount of the principal and interest of the assumed indebtedness; such principal and interest shall be paid by the regional board, together with such amount due on its assumed indebtedness, at and when it becomes due and payable. In the event of a dissolution, the county superintendent and board of review, in determining the amount of indebtedness to be assumed by each constituent district, shall give due regard to the value of school buildings and grounds being conveyed to the constituent district in which those buildings and grounds are located.

L.1975,c.360,s.11; amended 1977,c.279,s.5; 1993,c.255,s.10.

18A:13-61.1. Withdrawal from certain limited purpose regional school district

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, a district which receives approval to withdraw from a limited purpose regional school district that has grades 7 through 12 and is located in a county of the second class with a population of at least 500,000, but not greater than 600,000, according to the 1990 federal decennial census shall pay to the regional district an amount which represents the equity interest of the withdrawing district in the buildings, furnishings and property to which the district will take title upon withdrawal , and that amount shall be used by the regional district only for the purposes for which bonds may be issued under N.J.S.18A:24-5. The withdrawing district may issue bonds for that amount, or any portion of that amount, pursuant to chapter 24 of Title 18A of the New Jersey Statutes ; provided however, that the total principal amount of any such debt issued shall not exceed \$8,000,000.

The withdrawing district shall provide the Commissioner of the Department of Education with a detailed statement of the costs of issuance of any such bonds, within thirty days of the issuance thereof, with specific reference, where applicable, to itemized costs for the following services:

(1) bond counsel, tax counsel and special counsel;

(2) financial advisor;

(3) paying agent and registrar;

(4) rating agencies;

(5) official statement printing;

(6) bond printing;

(7) trustee;

(8) credit enhancement;

(9) liquidity facility; and

(10) miscellaneous issuance costs; and

calculation of underwriters' spread, broken down into the following components, and accompanied by a list of underwriters' spreads from recent comparable bond issues:

(1) management fees;

(2) underwriters' fees;

(3) selling concessions;

(4) underwriters' counsel; and

(5) other costs.

L.1994,c.96,s.1.

18A:13-61.2. "Equity interest" defined; calculation

2. a. As used in section 1 of this act, "equity interest" means the excess in value between the assets to be acquired by the withdrawing district pursuant to section 3 of P.L.1975, c.360 (C.18A:13-53) and the proportionate contribution made by the withdrawing district to all regional assets, adjusted for replacement value.

b. The calculation required to establish the equity interest as defined in subsection a. of this section shall be the excess, if any, of the replacement cost of the buildings, grounds, furnishings, equipment, and additions thereto to which the withdrawing district shall take title upon withdrawal pursuant to section 3 of P.L.1975, c.360 (C.18A:13-53) over that amount obtained by multiplying the replacement cost of all the regional district's buildings, grounds, furnishings, equipment, and additions thereto by a ratio that reflects the proportionate contributions made by the withdrawing district to the payment of the cost of the regional district's assets. The proportionate contribution shall be determined by reference to the proportion of the revenues of the regional district contributed by the withdrawing district in each fiscal year of the life of all of the buildings, grounds, furnishings, equipment, and additions thereto of the regional district.

L.1994,c.96,s.2.

18A:13-62. Division of assets and liabilities in event of withdrawal, dissolution

12. The county superintendent in a written report filed by him at the end of the school year preceding that in which the withdrawal or dissolution becomes effective shall make a division of the assets and liabilities between the withdrawing district and the regional district, or among the constituent districts in the event of a dissolution, in the same manner as provided in N.J.S.18A:8-24.

L.1975,c.360,s.12; amended 1993,c.255,s.11.

18A:13-63. Dissolution of limited purpose regional school district; withdrawal of local districts; separate local school district

13. If in the event of a withdrawal from the regional district as a result of the foregoing procedures a limited purpose regional school district shall be left with only one constituent local school district, such regional school district shall be dissolved upon the effective date of the withdrawal of the other constituent school districts, and such remaining constituent municipality shall thenceforth be constituted a separate local school district and governed by the laws applicable thereto. If all of the local districts withdraw from the regional district, such regional district shall be dissolved upon the effective date of the last withdrawal, and its assets and liabilities shall devolve upon the respective withdrawing districts in accordance with the division made by the county superintendent as provided in section 12 hereof.

Upon the effective date of a dissolution of a regional district each constituent municipality shall thenceforth be constituted a separate local school district and be governed by the laws applicable thereto, and its assets and liabilities shall devolve upon the respective constituent districts in accordance with the division made by the county superintendent as provided in section 12 of P.L.1975, c.360 (C.18A:13-62).

L.1975,c.360,s.13; amended 1993,c.255,s.12.

18A:13-64. Positions, rights and benefits of regional, constituent district employees continued

14. All employees of the regional district shall continue in their respective positions in the withdrawing district, or in each of the constituent districts in the event of a dissolution, and all of their rights of tenure, seniority, pension, leave of absence and other similar benefits shall be recognized and preserved and any periods of prior employment in the regional district shall count toward the acquisition of tenure to the same extent as if all such employment had been under the withdrawing district or in any of the constituent districts in the event of a dissolution. In the event of a withdrawal, any tenured employee in a school located in the withdrawing district who desires to remain in the employ of the regional district, and whose seniority under existing tenure laws so permits, may apply for and shall be granted a transfer to a position with the regional district for which he is certified which is vacant, held by a tenured employee with less seniority or by an employee without tenure; applications for such transfers shall be made within 45 days of the date of the special school election at which the withdrawal was approved.

L.1975,c.360,s.14; amended 1993,c.255,s.13.

18A:13-65. Inapplicability of act to rights of bondholders

Nothing contained herein shall in any way affect the rights of holders of any bonds issued by any school district or municipality effected pursuant to this act.

L.1975, c. 360, s. 15, eff. March 3, 1976.

18A:13-66. Investigation of advisability of withdrawal

The governing body of any municipality constituting a part of an all purpose regional district may, by resolution, apply to the county superintendent of schools to investigate the advisability of the withdrawal of the municipality from the all purpose regional district.

L.1989,c.90,s.1.

18A:13-67. Report on assets, operating expenses

The county superintendent shall, within 60 days after the request, file with the governing bodies of the municipalities constituting the all purpose regional district and the board of education of the all purpose regional school district, a report containing a statement of the current assets and operating expenses of the all purpose regional district for the current year and any financial, educational and other information that he may deem necessary to enable the governing bodies and the regional board of education to form an intelligent judgment as to the advisability of the proposed withdrawal and its effect upon the educational and financial condition of the withdrawing municipality and the all purpose regional district and setting forth the amount of indebtedness, if any, to be assumed by the withdrawing municipality and the all purpose regional district, calculated as hereinafter provided.

L.1989,c.90,s.2.

18A:13-68. Amount indebtedness bears to replacement cost

The county superintendent shall calculate the amount of indebtedness to be assumed on the basis of the proportion which the replacement cost of the buildings, grounds, furnishings, equipment, and additions thereto of the all purpose regional district situated in the withdrawing municipality bears to the replacement cost of the buildings, grounds, furnishings, equipment and additions thereto situated in the entire all purpose regional district. The replacement cost shall be determined according to rules prescribed by the Commissioner of Education with the approval of the State board and in accordance with recognized accounting practices.

L.1989,c.90,s.3.

18A:13-69. Petition

The governing body of the withdrawing municipality may, within 30 days after the filing of the report by the county superintendent, petition the commissioner for permission to submit to the legal voters of the withdrawing municipality and the remaining municipalities within the all purpose regional district the question whether or not it shall withdraw from the all purpose regional district, and in the petition the governing body may request any specific reduction or increase in the amount of indebtedness to be assumed as set forth in the county superintendent's report. Proof of the service of a copy of the petition upon the municipal governing body of each constituent municipality, the board of education of the all purpose regional district, and the county superintendent, prior to the filing of the petition, shall accompany the petition.

L.1989,c.90,s.4.

18A:13-70. Answer to petition

The governing body of any constituent municipality of the all purpose regional district and the board of education of the all purpose regional district shall, within 15 days after service of a copy of the petition upon it, file an answer to the petition with the commissioner and serve a copy of the answer upon the governing body of every other constituent municipality and upon the board of education of the all purpose regional district and the county superintendent. The answer shall set forth matters similar to those described in section 6 of this act.

L.1989,c.90,s.5.

18A:13-71. Answers, petition to board of review; granting, denial

Within 15 days after the filing of the answers to the petition, the Commissioner of Education shall submit the petition and answers to a board of review consisting of the commissioner, as chairman, the State Treasurer or his designee and the Director of the Division of Local Government Services in the Department of Community Affairs, for a determination as to whether or not the petition should be granted, and if so, the amount of indebtedness, if any, to be assumed by the withdrawing municipality and the all purpose regional district upon approval of the legal voters of the withdrawing municipality and the remaining constituent municipalities at a special school election. The board of review shall consider the effect of the proposed withdrawal upon the educational and financial condition of the withdrawing municipality and the all purpose regional district and shall schedule and hold a public hearing on the petition upon the application of any interested party. In considering the effect of the proposed withdrawal upon the educational and financial condition of the withdrawing and remaining municipalities the board of review shall:

a. Consent to the granting of the application;

b. Oppose the granting of the application because, if it is granted:

(1) An excessive debt burden will be imposed upon the withdrawing municipality and regional district;

(2) An efficient school system cannot be maintained in the all purpose regional district or the withdrawing municipality without excessive costs;

(3) Insufficient pupils will be left in the all purpose regional district to maintain a properly graded school system; or

(4) Any other reason, which it may deem to be sufficient; or

c. Request that if the petition is granted, the amount of debt which the regional district would be required to assume, calculated as hereinbefore provided, be reduced for the reason that:

(1) The amount of indebtedness, together with all other indebtedness of the constituent municipalities of the all purpose regional district would be excessive;

(2) The amount of expenditure for debt service which would be required would be so great that sufficient funds would not be available for current expenses without excessive taxation; or

(3) The amount of indebtedness is inequitable in relation to the value of the property to be acquired by the all purpose regional district and would materially impair the credit of the constituent municipalities of the district, and the ability to pay punctually the principal and interest of their debt and so supply the essential educational facilities and public improvements and services that might reasonably be anticipated would be required of them. The board of review shall make its findings and determination, by the recorded vote of at least two of the three members of the board, within 60 days of the receipt of the petition and answers.

L.1989,c.90,s.6.

18A:13-72. Special school election

If the application is granted, the county superintendent shall, after conferring with the governing bodies of the constituent municipalities of the regional district, fix a day and a time for holding a special school election, at which time the question whether or not the withdrawing municipality shall withdraw from the all purpose regional district shall be submitted to the legal voters of the withdrawing municipality and to the legal voters within the remainder of the all purpose regional district.

L.1989,c.90,s.7.

18A:13-73. Amount, effect of indebtedness to be stated

The amount of indebtedness to be assumed by the withdrawing municipality and the effect of the indebtedness upon the borrowing margin of the municipality and the remaining municipalities within the all purpose regional district shall be stated in the notices and advertisements of the special school election and in the ballots to be used therein, and the election shall be conducted and the results of the election shall be determined in the manner prescribed by law for special school elections in type II districts. The result shall be certified within five days after the holding of the election to the county superintendent, the governing bodies of the withdrawing municipality and the constituent municipalities of the all purpose regional district, and the board of education of the all purpose regional district.

L.1989,c.90,s.8.

18A:13-74. Withdrawal of municipality

If the question is adopted at the special school election, the withdrawal of the municipality initiating the proceeding shall become effective and the municipality shall be constituted a separate district upon a date to be decided by the Commissioner of Education. The newly constituted district shall be classified as provided pursuant to chapter 9 of Title 18A of the New Jersey Statutes.

L.1989,c.90,s.9.

18A:13-75. Board of education

The members of the board of education of the all purpose regional district shall continue in office until the withdrawal of the municipality becomes effective. When the withdrawal takes effect, the terms of those members of the regional board who reside in the withdrawing municipality shall expire, and the vacancies occurring shall be reapportioned among the remaining municipalities and filled by appointment by the county superintendent to serve until the next annual school election of the all purpose regional district, at which time their successors shall be elected in accordance with the reapportionment.

L.1989,c.90,s.10.

18A:13-76. First board of education

The members of the regional board who reside in the withdrawing municipality shall be members of the first board of education of the new district. They shall continue to serve as members of the board of education of the new district until the expiration of the respective terms for which they were elected as members of the board of education of the all purpose regional district. The number of additional members of the first board of education required to complete full membership of the board shall be appointed by the county superintendent to serve until the next annual school election or, in the case of a type I district, until the next annual appointment period of the new district, at which time their successors shall be elected or appointed.

L.1989,c.90,s.11.

18A:13-77. Title to school grounds, etc.; assumption of indebtedness

The new district and the all purpose regional district shall take title to and control of all school grounds and buildings, and the furnishings and equipment therein, other than those which had been rotated or shared among the regional schools, situated in their respective districts on the effective date of withdrawal as established by the commissioner. The county superintendent shall allot a fair proportion of the shared or rotated furnishings and equipment to the new district.

Upon the assumption of title, each board shall also assume the amount of the indebtedness of the original all purpose regional district as determined by the board of review. The new district shall pay to the regional board of education, at least five days before it becomes due, the amount of the principal and interest of the assumed indebtedness. The principal and interest shall be paid by the regional board, together with the amount due on its assumed indebtedness, as and when it becomes due and payable.

L.1989,c.90,s.12.

18A:13-78. Division of assets, liabilities

The county superintendent in a written report filed by him at the end of the school year preceding that in which the withdrawal becomes effective shall make a division of the assets and liabilities between the new district and the remaining district in the same manner as provided in N.J.S.18A:8-24.

L.1989,c.90,s.13.

18A:13-79. Dissolution of all purpose regional district

If as a result of the foregoing procedures an all purpose regional district is left with only one constituent municipality, the all purpose regional district shall be dissolved upon the effective date of the withdrawal of the other constituent municipalities, and the remaining constituent municipality shall thenceforth be constituted a separate local school district and governed by the laws applicable thereto. If all of the municipalities withdraw from the all purpose regional district, the all purpose regional district shall be dissolved upon the effective date of the last withdrawal, and its assets and liabilities shall devolve upon the respective withdrawing municipalities in accordance with the division made by the county superintendent as provided in section 13 of this act.

L.1989,c.90,s.14.

18A:13-80. Employees continued; benefits preserved

All employees of the all purpose regional district shall continue in their respective positions in the new district and all of their rights of tenure, seniority, pension, leave of absence and other similar benefits shall be recognized and preserved and any periods of prior employment in the all purpose regional district shall count toward the acquisition of tenure to the same extent as if the employment had been under the new district. Any tenured employee in a school located in the new district who desires to remain in the employ of the all purpose regional district, and whose seniority under existing tenure laws so permits, may apply for and shall be granted a transfer to a position with the all purpose regional district for which he is certified which is vacant, held by a tenured employee with less seniority or by an employee without tenure. Applications for these transfers shall be made within 45 days of the date of the special school election at which the withdrawal was approved.

L.1989,c.90,s.15.

18A:13-81. Bondholders unaffected

Nothing contained herein shall in any way affect the rights of holders of any bonds issued by any district or municipality affected by this act.

L.1989,c.90,s.16.

18A:15-1. President and vice president; election or failure to elect

At its first regular meeting each board shall organize by electing one of its members as president and another as vice president, who shall serve for one year and until their respective successors are elected and shall qualify, but if the board shall fail to hold said meeting or to elect said officers, as prescribed by this law, the county superintendent shall appoint from among the members of the board a president and vice president.

L.1967, c.271.

18A:15-2. Removal of president or vice president; vacancies

A president or vice president of a board of education who shall refuse to perform a duty imposed upon him by this law may be removed by a majority vote of all of the members of the board, and in case the office of president or vice president shall become vacant the board shall, within 30 days thereafter fill the vacancy for the unexpired term. If the board shall fail to fill the vacancy within such time, the county superintendent shall fill the vacancy for the unexpired term.

L.1967, c.271.

18A:16-1. Officers and employees in general

Each board of education, subject to the provisions of this title and of any other law, shall employ and may dismiss a secretary or a school business administrator to act as secretary and may employ and dismiss a superintendent of schools, a treasurer of school moneys, when and as provided by section 18A:13-14 or 18A:17-31, and such principals, teachers, janitors and other officers and employees, as it shall determine, and fix and alter their compensation and the length of their terms of employment.

L.1967, c.271; amended by L.1981, c. 174, s. 2, eff. June 19, 1981.

18A:16-1.1. May appoint temporary officers and employees

In each district the board of education may designate some person to act in place of any officer or employee during the absence, disability or disqualification of any such officer or employee subject to the provisions of section 18A:17-13.

The act of any person so designated shall in all cases be legal and binding as if done and performed by the officer or employee for whom such designated person is acting but no person so acting shall acquire tenure in the office or employment in which he acts pursuant to this section when so acting.

L.1967, c.271.

18A:16-1.2. Delegation of powers of business manager in district having no business manager

Any board of a district, which has no business manager, may delegate, to any appropriate officer employed by the board, the powers vested in a business manager by

section 18A:17-28 and those set forth in sections 18A:18-1, 18A:18-2, 18A:18-4.1, 18A:18-23 and 18A:18-24.

L.1967, c.271.

18A:16-1.3 Dismissal of nontenured, certificated employee for cause, notice to State board.

1. A board of education shall notify the State Board of Examiners whenever a non-tenured, certificated employee is dismissed prior to the end of any school year for just cause as a result of misconduct in office. This notification requirement shall not apply in instances where the employee's contract is not renewed. The State Board of Examiners shall maintain a list containing the name and Social Security number of the employee and the reason for the dismissal. If a disciplinary grievance arbitration is conducted pursuant to section 8 of P.L.1989, c.269 (C.34:13A-29) as to the dismissal, or if the dismissal is appealed to a court or administrative tribunal of competent jurisdiction the board of education shall not notify the State Board of Examiners unless just cause due to misconduct in office is found by the arbitrator, the court or administrative tribunal of competent jurisdiction. If a person's name is placed on the list subsequent to a determination of just cause due to misconduct in office by the arbitrator and the person later files an appeal to a court or administrative tribunal of competent jurisdiction, a board of education shall notify the State Board of Examiners that an appeal has been filed. The State Board of Examiners shall remove the person's name from the list and upon any inquiry as to the person's status on the list, the State Board of Examiners shall indicate that the person's name has been proposed for inclusion on the list. A board of education shall notify the State Board of Examiners regarding the final determination of the court or administrative tribunal of competent jurisdiction. If a final determination is made that the basis for dismissal does not constitute misconduct in office, the State Board of Examiners shall not put the name of the person on the list. If a final determination is made that the basis for dismissal does constitute misconduct in office, the State Board of Examiners shall place the name of the person on the list. Nothing herein shall be deemed to create a right to tenure beyond the provisions of existing law.

The chief school administrator of a public school district or a nonpublic school, in New Jersey or any other state that has entered into the interstate agreement on qualification of educational personnel pursuant to P.L.1969, c.114 (C.18A:26-11 et seq.), may submit to the State Board of Examiners the name and Social Security number of a person who has applied for a position in the district or school, and the State Board of Examiners shall indicate to the chief school administrator whether the person's name appears on the list and if so, the listed reason for the dismissal or whether the person's name has been proposed for inclusion on the list.

Whenever a board of education notifies the State Board of Examiners of a person's dismissal for reasons of misconduct, the board of education shall send the person a simultaneous copy of the notifying correspondence. Whenever a chief school administrator inquires about the status on the list of a job applicant, the chief school administrator shall send the applicant a simultaneous copy of the inquiry and shall subsequently forward to the applicant a copy of the response received from the State Board of Examiners.

Any non-tenured, certificated employee who submits a false name or Social Security number to a board of education is deemed to be in violation of N.J.S.2C:28-3.

L.1997,c.200,s.1; amended 1999, c.301, s.1.

18A:16-1.4 Removal from list.

2. Upon application to the State Board of Examiners, a person's name shall be removed from the list provided that his name has been on the list for at least three years.

L.1999,c.301,s.2.

18A:16-1.5 Employee rights unaffected.

3. Nothing herein shall limit the rights of employees to pursue any remedy permitted by law.

L.1999,c.301,s.3.

18A:16-2. Physical examinations; drug testing; requirements

18A:16-2. a. Every board of education may require its employees and shall require any candidate for employment who has received a conditional offer of employment to undergo a physical examination. The board may require individual psychiatric or physical examinations of any employee, whenever, in the judgment of the board, an employee shows evidence of deviation from normal, physical or mental health.

Any such examination may, if the board so requires, include laboratory tests or fluoroscopic or X-ray procedures for the obtaining of additional diagnostic data.

Nothing in this section shall be so construed as to affect screening for tuberculosis or fitness examinations for bus drivers as required pursuant to statute, rule or regulation.

b. A board of education may include testing for usage of controlled dangerous substances as they are defined in N.J.S.2C:35-2 as part of any physical examination which is required of a candidate for employment who has received a conditional offer of employment. Any testing shall be conducted by a physician or institution designated by the board of education and the costs shall be paid by the board.

The Department of Education, in consultation with the Department of Health, shall develop guidelines for school boards which elect to require the testing.

L.1967, c.271; amended 1996, c.35; 1996, c.100.

18A:16-3. Character of examinations

Any such examination may be made by a physician or institution designated by the board, in which case the cost thereof and of all laboratory tests and fluoroscopic or X-ray procedures shall be borne by the board or, at the option of the employee, they may be made by a physician or institution of his own choosing, approved by the board, in which case said examination shall be made at the employee's expense.

L.1967, c.271.

18A:16-4. Sick leave; dismissal

If the result of any such examination indicates mental abnormality or communicable disease, the employee shall be ineligible for further service until proof of recovery, satisfactory to the board, is furnished, but if the employee is under contract or has tenure, he may be granted sick leave with compensation as provided by law and shall, upon satisfactory recovery, be permitted to complete the term of his contract, if he is under contract, or be reemployed with the same tenure as he possessed at the time his services were discontinued, if he has tenure, unless his absence shall exceed a period of two years.

L.1967, c.271.

18A:16-5. Records of examinations

All records and reports relating to any such examination shall be the property of the board and shall be filed with its medical inspector as confidential information but shall be open for inspection by officers of the state department of health and the local board of health.

L.1967, c.271.

18A:16-6 Indemnity of officers and employees against action, proceeding; exceptions.

18A:16-6. Whenever any civil or administrative action or other legal proceeding has been or shall be brought against any person holding any office, position or employment under the jurisdiction of any board of education, including any student teacher or person assigned to other professional pre-teaching field experience, for any act or omission arising out of and in the course of the performance of the duties of such office, position, employment or student teaching or other assignment to professional field experience, the board shall defray all costs of defending such action, including reasonable counsel fees and expenses, together with costs of appeal, if any, and shall save harmless and protect such person from any financial loss resulting therefrom; provided that

a. no employee shall be entitled to be held harmless or have his defense costs defrayed in a disciplinary proceeding instituted against him by the board or when the employee is appealing an action taken by the board; and

b. indemnification for exemplary or punitive damages shall not be mandated and shall be governed by the standards and procedures set forth in N.J.S.59:10-4.

Any board of education may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.

L.1967, c.271; amended 1977, c.216; 2001, c.178, s.2.

18A:16-6.1 Indemnity of officers and employees in certain criminal, quasi-criminal actions.

18A:16-6.1. Should any criminal or quasi-criminal action be instituted against any such person for any such act or omission and should such proceeding be dismissed or result in a final disposition in favor of such person, the board of education shall reimburse him for the cost of defending such proceeding, including reasonable counsel fees and expenses of the original hearing or trial and all appeals. No employee shall be entitled to be held harmless or have his defense costs defrayed as a result of a criminal or quasi-criminal complaint filed against the employee by or on behalf of the board of education.

Any board of education may arrange for and maintain appropriate insurance to cover all such damages, losses and expenses.

L.1967, c.271; amended 2001, c.178, s.3.

18A:16-7. Salaries in first-class cities; payment

The salaries of all persons, other than teachers and instructors, employed in any school district, which comprises a city of the first class, shall be paid as other city employees are paid.

L.1967, c.271.

18A:16-8. Salary deductions for government bonds

Salary deductions for government bonds. Whenever one or more of the persons employed by a board of education shall agree, in writing, to participate in any plan for the purchase of bonds of the United States government the board may, by a recorded roll call majority vote of its full membership direct the secretary of the board to deduct from the salaries of such employees as shall participate in such plan under such rules as may be established by the board specified amounts for the purchase of bonds and pay the total amount of such deductions directly or indirectly to the Federal Government for such bonds, and the making of any such deductions shall be construed as voluntary payments by the employee.

L.1967, c.271; amended by L.1979, c. 391, s. 12, eff. Feb. 6, 1980.

18A:16-9. Responsibility of board

No board of education shall be under any liability or responsibility in connection with any such plan except to show that the payments have been made for the purposes aforesaid and that any bonds purchased through such deductions are delivered to the respective employees.

L.1967, c.271.

18A:16-11. Compensation of de facto officer or employee

A person who holds de facto any office, position or employment in a school district and who performs the duties thereof shall be entitled to the emoluments and compensation appropriate thereto for the time the same is so held in fact and may recover therefor in any court of competent jurisdiction.

L.1967, c.271.

18A:16-12 Definitions relative to group insurance.

1. As used in this act:

a. "Dependents" means an employee's spouse and the employee's unmarried children, including stepchildren, legally adopted children, and, at the option of the local board of education and the carrier, children placed by the Department of Children and Families with a resource family, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the local board of education and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance, but shall not include a spouse or child while serving in the military service. At the option of the local board of education, "dependent" may include an employee's domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3);

b. "Employees" may, at the option of the local board of education, include elected officials, but shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the local board of education is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties;

c. "Federal Medicare Program" means the coverage provided under Title XVIII of the Social Security Act as amended in 1965, or its successor plan or plans.

L.1979, c.391, s.1; amended 2004, c.130, s.41; 2005, c.334, s.1; 2006, c.47, s.92.

18A:16-13. Entering into group life, hospitalization, health and accident insurance contracts

2. Any local board of education may directly or indirectly through a trust fund or otherwise enter into contracts of group life, accidental death and dismemberment, hospitalization, medical, surgical, major medical expense, minimum premium insurance policy or health and accident insurance with any insurance company or companies authorized to do business in this State, or may contract with a nonprofit hospital service, medical service or health service corporation with respect to the benefits which they are authorized to provide respectively. Such contract or contracts shall provide any one or more of such coverages for the employees of the local board of education and may include their dependents. A local board of education may enter into a contract or contracts to provide drug prescription and other health care benefits, or enter into a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement, or as may be required to implement a determination by a local board of education to provide such

benefit or benefits to employees not included in collective negotiations units. Nothing herein contained shall be deemed to authorize coverage of dependents of an employee under a group life insurance policy or to allow the issuance of a group life insurance policy under which the entire premium is to be derived from funds contributed by the insured employee.

For purposes of this section, "minimum premium insurance policy" means a group insurance policy issued by an insurer licensed to do business in this State under which the policyholder agrees to directly fund specified claims of insureds covered under the policy, in lieu of payment of a portion of the premium.

L.1979,c.391,s.2; amended 1995,c.74,s.4.

18A:16-13.1 Provision of group insurance, certain, by board of education for employees, dependents.

9. A board of education may provide contributory or non-contributory group health insurance or group term life insurance, or both, for employees or their dependents, or both, through self insurance, the purchase of commercial insurance or reinsurance or any combination thereof. The maximum risk to be retained for group term life insurance by a board of education on a self insured basis shall not exceed a face amount of \$5,000 per covered employee or dependent or such greater amount as approved by the Commissioners of Banking and Insurance and Education. Notwithstanding any other provision of law to the contrary, the board shall be subject to the surcharge levied pursuant to section 3 of P.L.1993, c.8 (C.52:14-17.38c) for claims paid within the retained amount. For any claims paid in excess of the retained amount, the surcharge shall be paid by the entity insuring the excess amount.

L.2007, c.18, s.9.

18A:16-14. Exclusions from eligibility

The contract shall exclude from eligibility:

a. Employees and dependents, active or retired, who are otherwise eligible for coverage but who, although they meet the age eligibility requirement of the Federal Medicare Program, are not covered by the complete Federal program;

b. Any class or classes of employees who are eligible for like or similar coverage under another group contract covering such class or classes of employees.

L.1979, c. 391, s. 3, eff. Feb. 6, 1980.

18A:16-15. Limitations, exclusions to avoid duplication of benefits

Any contract or contracts permitted under this act shall contain limitations, exclusions or exceptions so as to avoid duplication of benefits or services otherwise available pursuant to accidental death and dismemberment, hospitalization, medical, surgical, major medical expense or health and accident coverage under any other law of this State or the coverage afforded under the laws of the United States, such as the Federal Medicare Program, and at the option of the local board of education and the carrier, group insurance or any other arrangement of coverage for individuals in a group, whether on an insured or uninsured basis.

Any contract permitted under this act may condition the eligibility of any employee upon satisfying a waiting period stated in the contract.

L.1979, c. 391, s. 4, eff. Feb. 6, 1980.

18A:16-16. Termination of coverage

The coverage of any employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage subject to such provision as may be made in any contract made by the local board of education for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service, and for continuance of coverage after retirement.

L.1979, c. 391, s. 5, eff. Feb. 6, 1980.

18A:16-17. Premiums; payment by board of education

Any local board of education entering into a contract pursuant to this act is authorized to pay part or all of the premiums or charges for such contracts and may appropriate out of its general funds any money necessary to pay such premiums or charges or portions thereof.

The contribution required of any employee toward the cost of such coverage may be deducted from the pay, salary or other compensation of such employee upon authorization in writing made to the local board of education.

The local board of education may reimburse an active employee for his premium charges under Part B of the Federal Medicare Program covering the employee alone.

Nothing herein shall be construed as compelling a local board of education to pay any portion of the premiums or charges attributable to such contracts.

L.1979, c. 391, s. 6, eff. Feb. 6, 1980.

18A:16-18. Coverage after retirement

The continuance of coverage after retirement of any employee shall be provided at such rates and under the conditions as shall be prescribed in the contract subject, however, to the requirements set forth in section 8 of P.L. 1979, c. 391 (C. 18A:16-19). The contribution required of any retired employee toward the cost of such coverage may be paid by the employee to the local board of education or in such other manner as the local board of education shall direct.

1979, c.391, s.7; amended 1987,c.386,s.1.

18A:16-19. Payment for coverage

a. Except as otherwise prescribed by P.L. 1979, c. 391 (C. 18A:16-12 et seq.), retired employees shall be required to pay for the entire cost of coverage for themselves and their dependents at rates which are deemed adequate to cover the benefits, as affected by Medicare, of such retired employees and their dependents on the basis of the utilization of services which may be reasonably expected of such older age classification; provided, however, that the total rate payable by such a retired employee for himself and his dependents, for coverage under the contract and for Part B of Medicare, shall not exceed by more than 25%, the total amount that would have been required to have been paid by the employee and the local board of education for the coverage maintained had he continued in office or active employment and he and his dependents were not eligible for Medicare benefits.

b. The local board of education may, in its discretion, assume the entire cost of such coverage and pay all of the premiums for employees who have retired after 25 years or more service with the local board of education, including the premiums on their dependents, if any, under such uniform conditions as the local board of education shall prescribe, except that retired employees and dependents who are eligible for and elect at the time of retirement to take State-paid coverage under the State Health Benefits Program pursuant to paragraph (2) of subsection b. of section 7 of P.L. 1964, c. 125 (C. 52:14-17.38) shall not be eligible for employer-paid coverage under this subsection.

1979, c.391,s.8; amended 1987,c.386,s.2.

18A:16-19.1 Establishment of cafeteria plan for health benefits by board of education.

44. Notwithstanding the provisions of any other law to the contrary, a board of education, or an agency or instrumentality thereof, may establish as an employer a cafeteria plan for its employees pursuant to section 125 of the federal Internal Revenue Code, 26 U.S.C. s.125. The plan may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and dependent care expenses as provided in section 129 of the code, 26 U.S.C. s.129, and such other benefits as are consistent with section 125 which are included under the plan. The amount of any reduction in an employee's salary for the purpose of contributing to the plan shall continue to be treated as regular compensation for all other purposes, including the calculation of pension contributions and the amount of any retirement allowance, but, to the extent permitted by the federal Internal Revenue Code, shall not be included in the computation of federal taxes withheld from the employee's salary.

L.2007, c.62, s.44.

18A:16-20. Multiple coverage; summary of cost of each coverage to be furnished to board

In the event an insurance company issues a group insurance policy to a local board of education which includes two or more of the coverages authorized under this act, such insurance company shall at the end of each policy year furnish to the local board of education a summary of the cost of each such coverage.

L.1979, c. 391, s. 9, eff. Feb. 6, 1980.

18A:16-21. Copy of insurance contract to be filed with State Employees Health Benefits Commission

It shall be the duty of the local board of education, entering into a contract pursuant to the provisions of this act, to file a copy thereof with the State Employees Health Benefits Commission. The commission shall prepare and file periodically, and not less than every 2 years, a report to the Governor and the Legislature as to such contracts being entered into by local boards of education and shall make such recommendations concerning said contracts and the coverage thereunder as it deems appropriate to achieve uniformity of coverage and benefits for employees throughout the State.

L.1979, c. 391, s. 10, eff. Feb. 6, 1980.

18A:16-22. Validation of contracts executed prior to act

a. Contracts executed between a local board of education and an authorized insurer prior to the effective date of this act are hereby confirmed and validated until the contract anniversary next following the first anniversary of said date when such contracts, exclusive of group life insurance, will have to be conformed to the provisions of this act.

b. It shall not be a defense to the payment or satisfaction of any claim for benefits under any contract or policy hereby confirmed and validated that such contract or policy was ultra vires, improperly entered into or otherwise not authorized by law.

L.1979, c. 391, s. 11, eff. Feb. 6, 1980.

18A:17-1. Removal, etc., of secretaries, assistant secretaries, school business administrators and business managers during terms of office

No secretary, assistant secretary, school business administrator or business manager of a board of education of any school district shall, during the term for which he was appointed, be dismissed or reduced in compensation, except for neglect, misbehavior or other offense unless it is otherwise provided in his contract of employment.

L.1967, c.271.

18A:17-2. Tenure of secretaries, assistant secretaries, school business administrators, business managers and secretarial and clerical employees

a. Any secretary, assistant secretary, school business administrator or business manager of a board of education of any school district who has or shall have devoted his full time to the duties of his office and has or shall have served therein for three consecutive calendar years, and

b. Any person holding any secretarial or clerical position or employment under a board of education of any school district or under any officer thereof, after

1. The expiration of a period of employment of three consecutive calendar years in the district or such shorter period as may be fixed by the board or officer employing him, or

2. Employment for three consecutive academic years, together with employment at the beginning of the next succeeding academic year, an academic year being the period between the time when school opens in the district after the general summer vacation and the beginning of the next succeeding summer vacation, and

c. Any person, who has acquired, or shall hereafter acquire, tenure in any secretarial or clerical office, position or employment under the board of education of a school district and has been appointed district clerk or secretary, or shall hereafter be appointed secretary of said district, as such secretary,

shall hold his office, position or employment under tenure during good behavior and efficiency and shall not be dismissed or suspended or reduced in compensation, except for neglect, misbehavior or other offense and only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title.

L.1967, c.271.

18A:17-3. Tenure of janitorial employees

Every public school janitor of a school district shall, unless he is appointed for a fixed term, hold his office, position or employment under tenure during good behavior and efficiency and shall not be dismissed or suspended or reduced in compensation, except as the result of the reduction of the number of janitors in the district made in accordance with the provisions of this title or except for neglect, misbehavior or other offense and only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title.

L.1967, c.271.

18A:17-4. Reduction in number of janitorial employees

No board of education shall reduce the number of janitors, janitor engineers, custodians or janitorial employees in any district by reason of residence, age, sex, race, religion or political affiliation and when any janitor, janitor engineer, custodian or janitorial employee under tenure is dismissed by reason of reduction in the number of such employees, the one having the least number of years to his credit shall be dismissed in preference to any other having a longer term of service and the person so dismissed shall be and remain upon a preferred eligibility list, in the order of years of service, for reemployment whenever vacancies occur and shall be reemployed by the board in such order and upon reemployment shall be given full recognition for previous years of service in his respective positions and employments.

L.1967, c.271.

18A:17-5. Appointment of a secretary of board of education; terms; compensation; vacancy

Each secretary shall be appointed by the board, by a recorded roll call majority vote of its full membership, for a term to expire not later than June 30 of the calendar year next succeeding that in which the board shall have been organized, but he shall continue to serve after the expiration of his term until his successor is appointed and qualified. The secretary may be appointed from among the members of the board and, subject to the provisions of this Title and any other law, the board shall fix his compensation; provided, however, that the secretary shall not receive compensation from the board for any period during which he is an elected or appointed member of the board.

In case of a vacancy in the office of secretary, the vacancy shall be filled by the board within 60 days after the vacancy occurs and if the board does not make such appointment within such time the county superintendent shall appoint a secretary who shall receive the same compensation as his predecessor in office received and shall serve until a secretary is appointed by the board.

L.1967, c.271; amended by L.1968, c. 271, s. 1, eff. July 1, 1968.

18A:17-6. Bond of secretary

The secretary shall, before entering upon the duties of his office, give bond to the board, not less than \$2,000.00, in an amount and with surety to be approved by the board, conditioned for the faithful performance of the duties of his office. The board may accept as surety a corporation authorized to be surety under the laws of this state and may pay the annual premiums or fee upon said bond as a current expense of the board.

L.1967, c.271.

18A:17-7. Notices, minutes, special meetings

18A:17-7. The secretary shall give notice of all regular or special meetings of the board to the members thereof and record the minutes of all proceedings of the board and the results of any annual or special school election in suitable minute books.

L.1967, c.271; amended 1995,c.278,s.34.

18A:17-8. Secretary; collection of tuition and auditing of accounts

The secretary shall be the general accountant of the board and he shall:

a. Collect tuition fees and other moneys due to the board not payable directly to the custodian of school moneys of the district and transmit the same to such custodian;

b. Examine and audit all accounts and demands against the board and present the same to the board for its approval in open meeting, and when payment thereof shall be ordered by the board, he shall indicate the board's approval upon the same in writing with the president of the board and present the same to the district comptroller, or to the custodian of school moneys of the district; and

c. Keep and maintain such accounts of the financial transactions of the district as shall be prescribed by the state board in accordance with the uniform system of bookkeeping presented by the state board including a correct detailed account of all the expenditures of school moneys in the district.

L.1967, c.271.

18A:17-9. Secretary; report of appropriations, etc.; custodial duties, etc.

The secretary shall:

a. Report to the board, at each regular meeting, but not oftener than once each month, the amount of total appropriations and the cash receipts for each account, and the amount for which warrants have been drawn against each account and the amounts of orders or contractual obligations incurred and chargeable against each account since the date of his last report;

b. Keep and maintain in his office all contracts, records and documents belonging to the board, except such as shall be kept by the treasurer of school moneys pursuant to law, under such conditions as the board shall prescribe;

c. Perform any other duties prescribed by law.

L.1967, c.271; amended by L.1981, c. 174, s. 3, eff. June 19, 1981.

18A:17-10. Secretary; annual report

The secretary shall, at the close of each fiscal year, present to the board a detailed report of its financial transactions during such year and file such copies thereof with the county superintendent as shall be required by the commissioner and he shall also make report on or before August 1 of each year of such matters, in such manner and form, as shall be prescribed by the commissioner.

L.1967, c.271.

18A:17-11. Secretary; taking oaths

The secretary may, without charge, administer oaths, in relation to the school matters of the district in which he is employed.

L.1967, c.271.

18A:17-12. Secretary; annual financial report to commissioner

The secretary shall, on or before August 1 of each year, report to the commissioner the amount of interest bearing school debt, if any, of the municipality or the district then remaining unpaid, together with the rate of interest payable thereon, the date or dates on which the bonds or other evidences of indebtedness were issued and the date or dates upon which they will fall due, which information shall be furnished to the

secretary, upon demand, by the clerk of each municipality within the district as to any such obligation outstanding.

L.1967, c.271.

18A:17-12.1. Secretary; retirement on pension; amount

The board of education of any school district may by resolution provide for the retirement on pension of a secretary of the board of education who has served in such office for 30 or more years on a part-time basis and 10 or more years on a full-time basis, who is not less than 65 years of age and who, by reason of age at the time of his appointment as a full-time secretary of the board, was ineligible for membership in a contributory pension system.

Any pension authorized pursuant to this act may not exceed 50% of the employee's annual final average salary, inclusive of any benefits to which the employee may be entitled under the General Non-Contributory Pension Act, or any other pension payable from his employer and exclusive of any benefits to which the employee might be entitled under Federal Old Age and Survivor's Insurance.

L.1968, c. 148, s. 1, eff. July 12, 1968.

18A:17-12.2. Secretary; pension funds

Funds for any pension granted by the board of education pursuant to this act shall be provided in the same manner as other expenses for the maintenance of the board of education.

L.1968, c. 148, s. 2, eff. July 12, 1968.

18A:17-13. Assistant and acting secretaries; appointment, powers and duties

The board may, by a recorded roll call majority vote of its full membership appoint an assistant secretary who may be chosen from among its members and may fix his term of employment and compensation.

An assistant secretary shall assist the secretary in the performance of his duties and perform such other duties as the board may from time to time prescribe.

An assistant secretary shall act as secretary of the board and perform all duties and be subject to all of the obligations of the secretary during the secretary's absence or inability to act or during a vacancy in the office of secretary, unless or until the board shall, by a like vote, designate another person to act as secretary during such time.

An assistant secretary or an acting secretary shall, if so required by the board, give bond for his faithful performance of his duties as secretary in the same manner and in the same amount as is required of the secretary and the payment of the premium thereon may be paid by the board as in the case of a secretary.

No assistant secretary or acting secretary shall acquire tenure of office, position or employment as secretary.

L.1967, c.271.

18A:17-14. Clerks in secretary's office

In type I districts, the secretary may appoint clerks in his office to such number and at such salaries as shall be determined by the board and remove them, subject to the provisions of this title and of any other law.

L.1967, c.271.

18A:17-14.1 Appointment of school business administrator; duties; subcontracting; tenure acquisition.

18A:17-14.1. A board or the boards of two or more districts may, under rules and regulations prescribed by the State board, appoint a school business administrator by a majority vote of all the members of the board, define his duties, which may include serving as secretary of one of the boards, and fix his salary, whenever the necessity for such appointment shall have been agreed to by the county superintendent of schools or the county superintendents of schools of the counties in which the districts are situate and approved by the commissioner and the State board.

Nothing in P.L.1996, c.111 (C.18A:17-24.1 et al.) shall prohibit a school district from subcontracting its school business administrator to another school district pursuant to the provisions of P.L.1973, c.208 (C.40:8A-1 et al.), in which case credit toward tenure acquisition shall accrue only in the primary district of employment.

L.1967, c.27, s.1; amended 1996, c.111, s.1; 2007, c.63, s.36.

18A:17-14.2. Qualifications

The appointee shall be a suitable person who holds an appropriate certificate as prescribed by the state board. He shall be considered a member of the professional staff of the district. No person shall act as school business administrator or perform the

duties of a school business administrator, as prescribed by the rules and regulations of the state board, unless he holds such a certificate.

L.1967, c.271.

18A:17-14.3. Secretary or business manager appointed school administrator; tenure

Any person who has acquired, or shall hereafter acquire tenure as a secretary or business manager under any board, and who shall be appointed a school business administrator shall have tenure as a school business administrator.

L.1967, c.271.

18A:17-14.4 Compliance with requirements for income tax on compensation of administrators.

8. A school business administrator, or any other person designated by the board of education, shall certify to the Department of the Treasury that all documentation prepared for income tax related purposes, in regard to superintendents of schools, assistant superintendents of schools, and school business administrators, complies fully with the requirements of federal and State laws and regulations regarding the types of compensation which are required to be reported.

L.2007, c.53, s.8.

18A:17-15. Appointment of superintendents; terms; apportionment of expense

18A:17-15. The board of education of a Type I district and of any Type II district, now having or hereafter authorized to have a superintendent of schools, may, by contract appoint, for a term of not less than three nor more than five years and expiring July 1, a superintendent of schools by the recorded roll call majority vote of the full membership of the board.

A superintendent of schools may be appointed for a like term also in any other Type II district or in any other two or more Type II districts as follows:

Application for the establishment of the office of superintendent of schools for a district or for two or more districts which determine to share a superintendent shall be made to the county superintendent of the county or the county superintendent of each of the counties in which such district or districts are situate and if said application is agreed to in writing by such county superintendent or county superintendents and shall be approved by the commissioner and the State board, the board of education of such a district so applying may appoint a superintendent of schools for a single district in the manner hereinbefore provided or may appoint a superintendent for two or more districts in the manner provided by section 4 of P.L.1996, c.111 (C.18A:17-24.1).

L.1967, c.271; amended 1991, c.267, s.1; 1996, c.111, s.2.

18A:17-15.1 Required provision of superintendent's employment contract.

7. An employment contract entered into between a board of education and a superintendent of schools shall include a provision that explicitly states that in the event that the certificate of the superintendent is revoked the contract is null and void as of the date of the revocation.

L.2007, c.53, s.7.

18A:17-16. Appointment and removal of assistant superintendents

The board or boards of education of any school district or school districts having a superintendent of schools may, upon nomination of the superintendent, by a recorded roll call majority vote of the full membership, of the board or of each of such boards, appoint assistant superintendents of schools. They may be removed by a like vote of the members of the board or of each board employing them, subject to the provisions of chapter 28 of this title.

L.1967, c.271.

18A:17-17. Certificate required

No person shall be appointed, or act as, or perform the duties of, superintendent or assistant superintendent of schools, unless he holds an appropriate certificate as prescribed by the state board.

L.1967, c.271.

18A:17-18. Full time required of superintendents; when

The superintendent of schools shall, when so required by the board or boards of education of the district or districts employing him, devote himself exclusively to the duties of his office.

L.1967, c.271.

18A:17-19. Salaries

The board or boards of education employing a superintendent or assistant superintendent of schools shall fix the salaries of the superintendent and assistant superintendent of schools and the salary of a superintendent shall not be reduced during his term of office.

L.1967, c.271.

18A:17-20. Superintendent; general powers and duties

18A:17-20. a. Any superintendent of schools, who has acquired tenure in the position of superintendent as of the effective date of P.L.1991, c.267 (C.18A:17-20.1 et al.), shall have general supervision over the schools of the district or districts under rules and regulations prescribed by the State board and shall keep himself informed as to their condition and progress and shall report thereon, from time to time, to, and as directed by, the board and he shall have such other powers and perform such other duties as may be prescribed by the board or boards employing him.

He shall have a seat on the board or boards of education employing him and the right to speak on all educational matters at meetings of the board or boards but shall have no vote.

b. Any superintendent of schools who has not acquired tenure in the position of superintendent as of the effective date of P.L.1991, c.267 (C.18A:17-20.1 et al.) but who holds tenure during the term of his employment contract pursuant to section 5 of P.L.1991, c.267 (C.18A:17-20.2), shall be the chief executive and administrative officer of the board or boards of education employing him and shall have general supervision over all aspects, including the fiscal operations and instructional programs, of the schools of the district or districts under rules and regulations prescribed by the State board and shall keep himself informed as to their condition and progress and shall report thereon, from time to time, to, and as directed by, the board and he shall have such other powers and perform such other duties as may be prescribed by the board or boards employing him.

He shall have a seat on the board or boards of education employing him and the right to speak on all matters at meetings of the board or boards but shall have no vote.

L.1967, c.271; amended 1991,c.267,s.2.

18A:17-20.1 Reappointment of superintendent.

4. At the conclusion of the term of the initial contract or of any subsequent contract as hereinafter provided, the superintendent shall be deemed reappointed for another contracted term of the same duration as the previous contract unless either: a. the board by contract reappoints him for a different term which term shall be not less than three nor more than five years, in which event reappointments thereafter shall be deemed for the new term unless a different term is again specified; or b. the board notifies the superintendent in writing that he will not be reappointed at the end of the current term, in which event his employment shall cease at the expiration of that term, provided that such notification shall be given prior to the expiration of the first or any subsequent contract by a length of time equal to 30 days for each year in the term of the current contract.

L.1991, c.267, s.4; amended 2008, c.106.

18A:17-20.2. Dismissal of superintendent

5. During the term of any employment contract with the board, a superintendent shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming a superintendent or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes.

L.1991,c.267,s.5.

18A:17-20.2a Required actions relative to early termination of superintendent's employment contract.

6. a. Prior to a board of education entering an agreement for an early termination of an employment contract entered into with its superintendent of schools pursuant to the provisions of N.J.S.18A:17-15, that includes the payment of compensation to the superintendent as a condition of separation from service with the district, the board shall submit the agreement to the Commissioner of Education for approval. The agreement shall be submitted by certified mail, return receipt requested. The commissioner shall evaluate the agreement and have the authority to disapprove the agreement if the payment of compensation as a condition of separation from service is found to be excessive. The determination of the commissioner shall be made within 30 days of receipt of the agreement.

As used in this subsection, "compensation" includes, but is not limited to, salary, allowances, bonuses and stipends, payments for accumulated sick or vacation leave, contributions toward the costs of health, dental, life and other types of insurance, medical reimbursement plans, retirement plans, and any in-kind or other form of remuneration.

b. The Commissioner of Education shall adopt regulations in accordance with the provisions of section 6 of P.L.2008, c.37 (C.18A:11-13) to establish the allowable parameters of early termination agreements.

L.2007, c.53, s.6; amended 2008, c.37, s.2.

18A:17-20.3. Evaluation of superintendent's performance

6. a. Every local board of education having a superintendent shall evaluate the performance of the superintendent at least once a year. Each evaluation shall be in writing, a copy shall be provided to the superintendent and the superintendent and the board shall meet to discuss the findings. The evaluations shall be based upon the goals and objectives of the district, the responsibilities of the superintendent and such other criteria as the State Board of Education shall by regulation prescribe. Any contract entered into pursuant to N.J.S.18A:17-15 shall provide for an evaluation pursuant to this section and may provide for additional evaluation criteria or procedures which shall not be inconsistent with the regulations of the State board.

b. The New Jersey School Boards Association shall establish a training program for local school board members on the evaluation of superintendents pursuant to subsection a. of this section. Every newly appointed or elected school board member shall complete the training program within six months of commencement of his term of office.

L.1991,c.267,s.6.

18A:17-20.4. Tenure rights not affected

8. Nothing in this section or in this act shall affect any tenure rights which shall have already accrued to any superintendent prior to the effective date of this amendatory and supplementary act. A superintendent of schools promoted from within a district shall retain all tenure rights accrued in any position which was previously held by the superintendent in the district.

L.1991,c.267,s.8.

18A:17-20.5. Appointment of administrative principal

9. In any district not having a superintendent of schools, the board of education shall appoint an administrative principal for the district. In a district having two or more schools the board shall appoint the principal of one of those schools as administrative principal, and in a district having only one school, the principal of that school shall be so appointed. The appointment of an administrative principal shall be made by contract for a term of not less than three nor more than five years and expiring July 1, by the recorded roll call majority vote of the full membership of the board. Reappointment of the administrative principal shall be governed by the same provisions as set forth in section 4 of P.L.1991, c.267 (C.18A:17-20.1) with respect to superintendents.

The administrative principal shall have all the powers, authority, privileges, rights and duties set forth in N.J.S.18A:17-20 and sections 5 and 6 of P.L.1991, c.267 (C.18A:17-20.2 and 18A:17-20.3) with respect to superintendents.

No administrative principal hereafter appointed shall have tenure in any other position in the district; but nothing in this section or in P.L.1991, c.267 (C.18A:17-20.1 et al.) shall affect any tenure rights which shall have already accrued to any individual who was appointed as or functioning as an administrative principal prior to the effective date of P.L.1991, c.267 (C.18A:17-20.1 et al.).

L.1991,c.267,s.9.

18A:17-21. Annual report to commissioner

Each superintendent of schools shall render to the commissioner and to the county superintendent of schools having jurisdiction over the district a report of such matters relating to the schools, under his supervision as shall be required by the commissioner, and in the manner and form prescribed by him, on or before August 1 of each year.

L.1967, c.271.

18A:17-22. Assistant superintendent; duties

Each assistant superintendent of schools shall perform such duties as shall be prescribed by the superintendent of schools with the approval of the board or boards of education employing such superintendent.

L.1967, c.271.

18A:17-23. Suspension of assistant superintendent

Any assistant superintendent of schools may be suspended by the superintendent of schools in the manner provided by section 18A:25-6.

L.1967, c.271.

18A:17-24. Clerks in superintendent's office

The superintendent of schools may appoint, and subject to the provisions of article 1 of this chapter may remove, clerks in his office but the number and salaries of such clerks shall be determined by the board or boards employing him.

L.1967, c.271.

18A:17-24.1. Sharing of superintendent, school business administrator; procedure

4. The boards of education of two or more school districts may share a superintendent or a school business administrator, or both. A shared superintendent or business administrator shall be subject to the same rules governing eligibility for employment as are superintendents or business administrators of a single district. The decision to share a school business administrator shall be made jointly by the boards of education of the districts, in consultation with the superintendents of the respective districts, subject to the final approval of the Commissioner of Education. The decision to share a superintendent shall be made jointly by the boards of education of the districts, subject to the final approval of the Commissioner of Education. The procedure shall be as follows:

a. Should two or more districts, after careful study and opportunity for community input, decide to share a superintendent or school business administrator, the districts shall mutually prepare a report for submission to the county superintendent or county superintendents if the districts are in different counties. The report shall outline the anticipated advantages to the districts and the feasibility of a shared arrangement. The report shall set forth a plan explaining how the shared arrangement will operate, and shall also address such items as community support for the arrangement, effect on services to the respective districts, division of the superintendent's or business administrator's time between the districts, availability of administrative backup, likelihood of situations creating conflict of interest, and financial advantages of the arrangement.

b. The county superintendent or superintendents shall review the plan and forward a recommendation to the Commissioner of Education who shall approve or disapprove the plan.

L.1996,c.111,s.4.

18A:17-24.2. Contract for sharing superintendent, school business administrator

5. Any boards obtaining the approval of the Commissioner of Education may contract with one another for the sharing of a superintendent or school business administrator. The contract shall be in writing and shall address the responsibilities of each district under the sharing relationship, including the apportionment of costs. The agreement shall be made contingent upon the districts' mutual agreement on a candidate to fill the shared position and shall be conterminous with the superintendent's or business administrator's employment contract. A candidate for the position of superintendent shall hold the standard certificate of school administrator and a candidate for the position of school business administrator shall hold the standard certificate of school business administrator.

a. The school districts shall together agree on how the initial costs of sharing a superintendent or business administrator shall be apportioned, which apportionment shall be expressed as a percentage for each district, and shall include the cost of salaries and benefits.

b. At least one year prior to the expiration of the first or any subsequent contract between school boards sharing a superintendent or business administrator, a board wishing to terminate the contract shall notify, in writing, the other board or boards and the superintendent or business administrator, that it wishes to terminate the contract.

c. Should a board give a notice of termination, the contract between the boards shall be terminated at the expiration of that term and the superintendent or business administrator shall not be reappointed by the joint boards at the end of the current term. However, the termination shall not preclude a board from reemploying the superintendent or business administrator on an individual basis.

d. Upon the expiration of a contract between school boards sharing a superintendent or business administrator, the boards shall submit a report to the county superintendent or superintendents, which shall include an evaluation of the sharing relationship and the feasibility of voluntarily forming a regional district.

L.1996,c.111,s.5.

18A:17-24.3. Appointment of shared superintendent, school business administrator; terms

6. The boards of education may, by contract, appoint a shared superintendent or school business administrator for a term of not less than three nor more than five years and expiring July 1, by the recorded roll call majority vote of the membership of each board. At the conclusion of the term of the initial contract or of any subsequent contract, the superintendent or business administrator shall be deemed reappointed for another contracted term of the same duration as the previous contract unless either:

a. The boards shall together agree to reappoint the person by contract for a different term, which term shall not be less than three nor more than five years in which event reappointments thereafter shall be deemed for the new term unless a different term is again specified; or

b. At least one year prior to the expiration of the first or any subsequent contract a board shall notify the superintendent or business administrator and the other board or boards in writing that the person will not be reappointed at the end of the current term, in which event the person's employment shall cease at the expiration of that term. The contract between the boards shall also be terminated. However, the termination shall not preclude any board from reemploying the superintendent or business administrator on an individual basis. If a contract between boards of education is terminated because the superintendent or business administrator is not reappointed at the end of the term of employment, and the boards involved in the previous sharing relationship determine to enter into a new contract, the boards shall not be required to prepare and submit a report or receive the approval of the Commissioner of Education if the new contract is for the same shared position for which the boards previously received approval.

L.1996,c.111,s.6.

18A:17-24.4. Grounds for dismissal of shared superintendent, school business administrator

7. During the term of any employment contract with the board, a shared superintendent or school business administrator shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming or other just cause and then only in the manner prescribed by N.J.S.18A:6-9 et seq.

L.1996,c.111,s.7.

18A:17-24.5. Position of shared superintendent, business administrator not tenurable

8. The position of shared superintendent or shared business administrator shall not be a tenurable position. If two or more boards of education appoint an individual from within one of the school districts to a shared position, the individual shall retain all tenure rights accrued in the positions in which he previously served within the district. However, in no event shall the districts be required to appoint a tenured individual from within any of the districts to fill a shared position.

L.1996,c.111,s.8.

18A:17-24.6. Determination of initial terms, conditions of employment contract

9. The initial terms and conditions of the employment contract between the boards and the superintendent or school business administrator shall be determined by the boards and the superintendent or business administrator. The terms shall be maintained for the life of the contract.

Boards may mutually agree to provide additional benefits or compensation during the life of the superintendent's or business administrator's contract, but if agreement is not possible, an individual board may do so unilaterally based upon the superintendent's or business administrator's performance and the needs of the district, and the responsibility for the cost of the additional benefits shall rest solely with that individual board.

L.1996,c.111,s.9.

18A:17-24.7. Individual evaluation of shared superintendent, school business administrator

10. Each district shall ensure that the shared superintendent or school business administrator is evaluated individually in that district, in accordance with statute and regulation.

L.1996,c.111,s.10.

18A:17-24.8. Mediation of contract disputes

11. The county superintendent or superintendents if the districts are in different counties shall serve as a mediator for any disputes arising over the interpretation of the contract between the boards of education sharing a superintendent or a school business administrator.

L.1996,c.111,s.11.

18A:17-24.9. Law supersedes "Interlocal Services Act".

12. The provisions of P.L.1996, c.111 (C.18A:17-24.1 et al.) shall govern the sharing of a superintendent or school business administrator by two or more boards of education and shall not be deemed inconsistent with the provisions of P.L.1973, c.208

(C.40:8A-1 et seq.) insofar as that act may authorize the subcontracting of school district administrative services.

L.1996, c.111, s.12.

18A:17-25. Appointment; salary; removal

A business manager may be appointed in any type I school district, and subject to the provisions of article 1 of this chapter, may be removed from such office, by a recorded roll call majority vote of the full membership of the board of education and he shall receive such salary as the board shall determine.

L.1967, c.271; amended by L.1968, c. 295, s. 3, eff. Sept. 9, 1968.

18A:17-26. Bond of business manager

The business manager shall, before entering upon the duties of office, give bond to the board for the faithful discharge of his duties in such principal sum, not less than \$2,000.00 and with such surety as the board shall direct, but the annual premium of such bond may be paid by the board as a current expense.

L.1967, c.271.

18A:17-27. Attendance upon meetings of the board

The business manager shall have a seat on the board and the right to speak on all matters relating to his department but he shall not have the right to vote.

L.1967, c.271.

18A:17-28. Duties of business manager

The business manager shall:

- a. Have charge and care of the public school buildings and other property belonging to the district and the repair and maintenance thereof, and in the case of repairs not exceeding the sum of \$1,000.00, he, when so authorized by the board, may order the same between meetings of the board, without previous order of the board and without advertisement;
- b. Draw or supervise the drawing of all plans and specifications for the erection, improvement or repair of public schoolhouses, subject to the approval thereof by the board;
- c. Superintend all advertisements for bids in the letting of all contracts for the board;
- d. Supervise the construction and repair of all school buildings and inspect all work done and materials and supplies furnished under contract and, subject to the approval of the board, condemn any work done or reject any materials or supplies furnished which, in his judgment, do not conform to the specifications or the contract therefor;
- e. Report monthly to the board as to the progress of any work of construction or repair;
- f. Perform such other duties as may be required by law or as may be required by the board.

L.1967, c.271.

18A:17-29. Appointment of clerks

The business manager may appoint and remove clerks in his office to the number and at such salaries as shall be determined by the board of education.

L.1967, c.271.

18A:17-30. Business assistants; appointments, etc.

The board of education in every type II school district which has a board of school estimate may employ and dismiss a business assistant, fix his duties, compensation and term of employment.

L.1967, c.271.

18A:17-31. Treasurers of school moneys; who to act

The treasurer of school moneys of each school district which does not contain more than one municipality shall be the custodian of the moneys of the municipality unless the board of education shall designate the tax collector of the municipality; provided, however, that if both the custodian of moneys of the municipality and the tax collector of the municipality submit written notifications to the board that they do not wish to serve as treasurer of school moneys, the board shall appoint any other suitable person except a member or employee of the board, with a term of office fixed by the board as such treasurer. If the school district contains more than one municipality, the person designated by law as the custodian of the moneys of the constituent municipality having the largest amount of taxable property shall be treasurer of the school moneys of the district unless and until the board shall appoint any other suitable person except a

member or employee of the board and fix his term of office. Any municipal officer acting or designated as treasurer of school moneys who ceases to be such officer shall thereupon cease to be such treasurer.

L.1967, c.271; amended by L.1977, c. 464, s. 1, eff. March 3, 1977; L.1981, c. 174, s. 4, eff. June 19, 1981.

18A:17-32. Bond of treasurer

If the treasurer is an officer of the municipality constituting the district, and the bond given by him for the faithful performance of his duties as such municipal officer covers and secures the faithful performance of his duties as treasurer of school moneys, and it shall be so certified to the board by a certificate of such coverage by the bondsman thereon and the amount thereof is sufficient to cover both the original and the additional liability he shall not be required to give additional bond but otherwise or if he is not such an officer he shall give bond for the faithful performance of his duties as treasurer of school moneys in such amount, and with such surety, as the board shall direct. In each case the board in its determination of the amount shall be guided by a schedule of minimum limits to be promulgated by the State board.

L.1967, c.271; amended by L.1968, c. 295, s. 4, eff. Sept. 9, 1968; L.1981, c. 174, s. 5, eff. June 19, 1981.

18A:17-33. Compensation

The treasurer shall receive from the board of education such compensation as the board shall determine.

L.1967, c.271; amended by L.1981, c. 174, s. 6, eff. June 19, 1981.

18A:17-34. Receipt and disposition of moneys

The treasurer shall receive and hold in trust all school moneys belonging to the district from whatever source derived free of any control by the governing body of any municipality comprised in said district, except such moneys as are derived from athletic events or other activities of pupil organizations of the district, and he shall, when required by resolution of the board, deposit the same or such part thereof as may be designated in any bank or banking institution of this State designated by it as a depository of school moneys, which may include the State of New Jersey Cash Management Fund, created pursuant to section 1 of P.L.1977, c. 281 (C. 52:18A-90.4), and thereafter school moneys shall be deposited only in the depository or any of the depositories so named and the treasurer shall, upon depositing the same therein, be relieved from liability for any loss thereof which may be caused by reason of such deposit.

L.1967, c.271; amended by L.1977, c. 281, s. 8, eff. Nov. 2, 1977; L.1981, c. 174, s. 7, eff. June 19, 1981.

18A:17-35. Records of receipts and payments

The treasurer shall keep a record of the sums received and paid out by him in books provided for that purpose and kept in accordance with the uniform system of bookkeeping prescribed by the State board. Upon ceasing to hold said office he shall pay over the balance of school funds remaining in his hands to his successor in office.

L.1967, c.271; amended by L.1981, c. 174, s. 8, eff. June 19, 1981.

18A:17-36. Accounting; monthly and annual reports

The treasurer shall render to the board monthly, and at such other times as shall be requested by the board, reports giving a detailed account of all receipts, the amounts of all warrants signed by him since the date of his last report and the accounts against which, and the purposes for which, the warrants were drawn and the balance to the credit of each account, and at the close of the school year and not later than August 1 of each year he shall render an annual report showing the amounts received and disbursed by him for school purposes during said year, a duplicate whereof shall be filed with the county superintendent, and shall also report to the county superintendent in the manner and form prescribed by the commissioner.

L.1967, c.271; amended by L.1981, c. 174, s. 9, eff. June 19, 1981.

18A:17-41. Rules and regulations governing janitorial employees

The board of education of every district shall make such rules and regulations, not inconsistent with this title, as may be necessary for the employment, discharge, management and control of the public school janitor, janitor engineers, custodians or janitorial employees of the district.

L.1967, c.271.

18A:17-42. Preamble; purpose of article

The legislature finds that the safety and welfare of the public school students of this state while attending sessions of the public schools is a matter of prime concern to the citizens of this state; that, in several isolated instances throughout this state, unlawful intruders into the public schools have subjected public school students and their teachers to physical and verbal attacks during sessions of the public schools and on the property of said public schools; that such attacks might have been prevented, and similar attacks will be prevented, if public school law enforcement officers are

stationed in said schools; and that state aid to local boards is necessary to help such boards bear the cost of employing and stationing public school law enforcement officers.

L.1967, c.271.

18A:17-43. Employment of law enforcement officers

(a) The commissioner may, in accordance with rules and regulations promulgated pursuant to this article and upon a finding of need therefor, authorize any board of education to employ, subject to the provisions of Title 11, Civil Service, of the Revised Statutes, one or more public school law enforcement officers, and to station such public school law enforcement officers in public schools of this state during hours when said public schools are normally in session or are occupied by public school students or their teachers.

(b) No such public school law enforcement officer shall be employed, except upon the application of a board of education and with the approval of the county superintendent.

L.1967, c.271.

18A:17-43.1 Training course required for service as safe schools resource officer, liaison to law enforcement.

3. a. Following the development of the training course pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign a safe schools resource officer to a public school unless that individual first completes the safe schools resource officer training course.

b. Following the development of the training course pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8) or 180 days following the effective date of this act, whichever occurs first, a board of education shall not assign an employee to serve as a school liaison to law enforcement unless that individual first completes the safe schools resource officer training course.

c. A person who is assigned to a public school as a safe schools resource officer prior to the effective date of P.L.2005, c.276 (C.52:17B-71.8 et al.) or assigned to serve as a school liaison to law enforcement prior to that date shall not be required to complete the safe schools resource officer training course developed by the Police Training Commission pursuant to subsection a. of section 2 of P.L.2005, c.276 (C.52:17B-71.8), but may in accordance with that section.

L.2005,c.276,s.3.

18A:17-45. Rules and regulations to be established by commissioner

The commissioner shall issue and promulgate such rules and regulations as are necessary and appropriate to carry out the provisions of this article.

L.1967, c.271.

18A:17-46 Reporting of act of violence by school employee; annual report; public hearing.

1. Any school employee observing or having direct knowledge from a participant or victim of an act of violence shall, in accordance with standards established by the commissioner, file a report describing the incident to the school principal in a manner prescribed by the commissioner, and copy of same shall be forwarded to the district superintendent.

The principal shall notify the district superintendent of schools of the action taken regarding the incident. Annually, at a public hearing, the superintendent of schools shall report to the board of education all acts of violence and vandalism which occurred during the previous school year. Verification of the annual report on violence and vandalism shall be part of the State's monitoring of the school district, and the State Board of Education shall adopt regulations that impose a penalty on a school employee who knowingly falsifies the report. A board of education shall provide ongoing staff training, in cooperation with the Department of Education, in fulfilling the reporting requirements pursuant to this section. The majority representative of the school employees shall have access monthly to the number and disposition of all reported acts of school violence and vandalism.

L.1982, c.163, s.1; amended 2001, c.299; 2007, c.42, s.1.

18A:17-47. Discharge of, or discrimination against, school employee who files report

It shall be unlawful for any board of education to discharge or in any manner discriminate against a school employee as to his employment because the employee had filed a report pursuant to section 1 of this act. Any employee discriminated against shall be restored to his employment and shall be compensated by the board of education for any loss of wages arising out of the discrimination; provided, however, if the employee shall cease to be qualified to perform the duties of his employment he shall not be entitled to restoration and compensation.

L.1982, c. 163, s. 2, eff. Oct. 28, 1982.

18A:17-48. Annual report to legislature

The Commissioner of Education shall each year submit a report to the Education Committees of the Senate and General Assembly detailing the extent of violence and vandalism in the public schools and making recommendations to alleviate the problem.

L.1982, c. 163, s. 3, eff. Oct. 28, 1982.

18A:17-49. Definitions relative to public school facilities

1. As used in this act, "Buildings and grounds supervisor" means a person employed by a school district who performs administrative and supervisory duties relating to the structural, mechanical and physical maintenance and repair of public school facilities and who consults with contractors and school district officials to ensure proper compliance and administration of the various laws, regulations, technical practices, operations and management techniques with regard to the maintenance and repair of public school facilities or assists in planning, organizing and directing all undertakings relating to the structural, mechanical and physical maintenance and repair of public school facilities, or a combination thereof.

"Certified educational facilities manager" means a person who meets any one of the following criteria:

i. has served as a buildings and grounds supervisor in a school district continuously for the five years prior to September 1, 2002; or

ii. is a code enforcement official licensed by the Department of Community Affairs and is serving as a building and grounds supervisor on the effective date of P.L.1999, c.337 (C.18A:17-49 et seq.); or

iii. has a minimum of two years of experience in the field of buildings and grounds supervision and has graduated as a certified educational facilities manager from the New Jersey Educational Facility Management Program at Rutgers, The State University or has graduated from an equivalent program offered at either an accredited institution of higher education or an approved post-secondary institution located within or outside of the State.

L.1999, c.337, s.1.

18A:17-50. Conditions of employing building and grounds supervisor

2. Commencing September 1, 2002, no person shall be employed by a board of education of a school district as a buildings and grounds supervisor unless he is a certified educational facilities manager; except that when a vacancy occurs in a position in which the duties of a buildings and grounds supervisor are performed, a board may select, for a period not to exceed two years and commencing on the date of the vacancy, a person who is not a certified educational facilities manager to perform on an interim basis, the duties of a buildings and grounds supervisor.

L.1999, c.337, s.2.

18A:17-51. Applicant to provide certification documentation

3. A board of education shall require any applicant for a permanent position as a buildings and grounds supervisor to provide documentation that he is a certified educational facilities manager.

L.1999, c.337, s.3.

18A:17-52. Rules, regulations

4. The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.1999, c.337, s.4.

18A:17A-1. Districts in cities of first class over 325,000; unit control organizational structure; executive superintendent; appointment; term; compensation

Districts in cities of the first class with a population over 325,000 shall have a unit control organizational structure. The board of education shall appoint, for a first term not to exceed 3 years and for any subsequent term for said person not to exceed 5 years, an executive superintendent by the recorded roll call majority vote of the full membership of the board. The executive superintendent shall receive such salary as the board shall determine. The salary of the executive superintendent shall not be reduced during his term of office. Notwithstanding any other provision of the law, no executive superintendent shall acquire tenure.

L.1975, c. 169, s. 1, eff. Aug. 4, 1975.

18A:17A-2. Executive superintendent; qualifications

No person shall be appointed, or act as, or perform the duties of, executive superintendent, unless he holds an appropriate certificate as prescribed by the State board; provided, however, that in addition to State certification requirements the executive superintendent shall meet additional criteria as shall be determined by the board of education. Such additional criteria for the executive superintendent shall be

determined and set forth and the public shall be given notice of such criteria prior to the start of the selection process.

L.1975, c. 169, s. 2, eff. Aug. 4, 1975.

18A:17A-3. Executive superintendent; duties and powers

The executive superintendent shall be the chief executive officer and administrator of the district. Pursuant to rules and regulations established by the board of education, the executive superintendent shall have responsibility and general supervision over the organization and the educational, managerial, and fiscal operations of the district, including the schools therein, under rules and regulations prescribed by the State board. He shall have supervisory authority over all officers and employees, professional and nonprofessional, of the district, all of whom shall report to him, and he shall prescribe their duties. He shall keep himself informed as to the condition and progress of the educational, managerial, and fiscal operations of the district and shall report thereon, from time to time, to, and as directed by, the board and he shall have such other powers and perform such other duties as may be prescribed by the board employing him.

He shall have a seat on the board of education employing him and the right to speak on all educational, managerial, and fiscal matters at meetings of the board but shall have no vote.

L.1975, c. 169, s. 3, eff. Aug. 4, 1975.

18A:17A-4. Abolishment of certain positions; performance of duties and powers by executive superintendent

The positions of superintendent of schools, assistant superintendents of schools, school business administrator, school business manager, secretary to the board of education and assistant secretary to the board of education in such cities are hereby abolished. The executive superintendent shall perform all the duties and possess all the powers heretofore and hereafter assigned to the superintendent of schools, secretary of the board of education, school business administrator, school business manager, and assistants and clerks thereto, in Title 18A of the New Jersey Statutes.

L.1975, c. 169, s. 4, eff. Aug. 4, 1975.

18A:17A-5. Officers and employees, professional and nonprofessional; employment, transfer and removal

All officers and employees, professional and nonprofessional, shall be employed, transferred and removed as provided below.

a. The executive superintendent may appoint, transfer, pursuant to the provisions of Title 11 of the Revised Statutes, and, pursuant to Article 1 of chapter 17 of Title 18A of the New Jersey Statutes, remove clerks in his immediate office, but the number and salaries of the clerks shall be determined by the board.

b. The executive superintendent, subject to the approval of the board, shall appoint and fix the compensation of such assistant executive superintendents as he shall deem necessary; provided, however, the number of assistant executive superintendents shall not exceed the number of persons serving immediately prior to the effective date of this act in the position of assistant superintendent of schools, school business administrator, school business manager, secretary to the board of education and assistant secretary to the board of education. An assistant executive superintendent shall not be appointed for a term exceeding the remainder of the term of the executive superintendent. Notwithstanding any other provision of law, no assistant executive superintendent shall acquire tenure.

c. The executive superintendent shall propose to the board of education all other officers and employees, professional and nonprofessional, for employment, transfer and removal.

L.1975, c. 169, s. 5, eff. Aug. 4, 1975.

18A:17A-6. Delegation of powers and duties

The executive superintendent may delegate to subordinate officers or employees in the district such of his powers and duties as he may deem desirable to be exercised under his supervision and direction.

L.1975, c. 169, s. 6, eff. Aug. 4, 1975.

18A:17A-7. Board of education; retention of powers and responsibilities

Except as otherwise provided in this act, the board of education in districts in cities of the first class with a population over 325,000 shall retain the power to perform all acts and do all things consistent with law and State board rules that are necessary for the proper conduct and maintenance of the public schools in its district and all other powers and responsibilities vested in it under Title 18A of the New Jersey Statutes, including but not limited to appointing, transferring or dismissing employees, fixing the terms and salaries of employees, adopting or altering a course of study, and selecting textbooks.

L.1975, c. 169, s. 7, eff. Aug. 4, 1975.

18A:17A-8. Tenured person in abolished position; continuance of employment; duties

Subject to the provisions of section 12 of this act, any person serving under tenure as an assistant superintendent, secretary to the board of education, assistant secretary to the board of education, school business administrator, school business manager in a city of the first class with a population of over 325,000 as of the effective date of this act shall continue to serve under tenure in the district during good behavior and efficiency and shall not be dismissed or reduced in compensation except for just cause; provided, however, that they shall perform only such administrative duties as are prescribed or delegated by the executive superintendent.

L.1975, c. 169, s. 8, eff. Aug. 4, 1975.

18A:17A-9. Auditor general; appointment; duties

In districts in cities of the first class with a population over 325,000 the commissioner shall appoint an auditor general, who, subject to the rules and regulations of the State board, shall:

a. Perform post or concurrent audits of such transactions and accounts kept by or for the district as he may deem necessary;

b. Perform management analysis of such transactions and activities of the district as he may deem necessary in order to improve the efficiency, productivity and performance of the district and to disclose and prevent inefficiency in the district;

c. Conduct financial, operational and compliance reviews to improve effective control over income, expenditures, funds, property and other assets;

d. Determine whether the financial transactions of the district have been consummated in accordance with laws, regulations or other legal requirements, and whether adequate internal financial control over operations is exercised;

e. Keep and maintain such records as may be necessary to enable him to accomplish the duties of the office as in this act provided;

f. Organize the office as he shall determine appropriate with the approval of the commissioner;

g. Subject to the approval of the commissioner, appoint, employ, and with the limits of funds appropriated therefor, fix the compensation of such assistants and employees as the commissioner shall determine to be required to perform the duties and functions of the office;

h. Report at least annually to the commissioner on the operations of the office;

i. Perform such other duties as shall be directed by the commissioner.

L.1975, c. 169, s. 9, eff. Aug. 4, 1975.

18A:17A-10. Auditor general; reports; quarters; costs of office

The auditor general shall report directly to the commissioner but he shall keep the board of education and the executive superintendent fully informed of his activities, findings and recommendations. A copy of any written report, finding, or recommendation submitted by the auditor general shall be provided by the auditor general simultaneously to the board of education and the executive superintendent and shall be available for public inspection. He shall have no administrative authority within the district. The board of education shall maintain suitable quarters within the administrative offices of the district for the auditor general and his staff. The costs associated with the operation and maintenance of the office of the auditor general, including his salary and those of his assistants and employees, shall be determined by the commissioner and shall be allocated from the district's State aid; provided, however, that said costs shall not exceed in any school year 15/100 of 1% of the district's annual school budget.

L.1975, c. 169, s. 10, eff. Aug. 4, 1975.

18A:17A-11. Comprehensive report by commissioner

The commissioner shall, 2 years after the effective date of this act, make a comprehensive report to the Governor and the Legislature assessing the effectiveness of this act.

L.1975, c. 169, s. 11, eff. Aug. 4, 1975.

18A:18A-1. Short title; citation

This chapter shall be known and may be cited as the "Public School Contracts Law."

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-2 Definitions.

18A:18A-2. As used in this chapter, unless the context otherwise indicates:

a. "Board of education" means and includes the board of education of any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State Board of Education, the Commission on Higher Education or the Presidents' Council, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to make purchases and to enter into contracts for the provision or performance of goods or services. The term "board of education" also shall include the board of trustees of a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.).

b. "Purchasing agent" means the secretary, business administrator or the business manager of the board of education duly assigned the authority, responsibility and accountability for the purchasing activity of the board of education and having the power to prepare advertisements, to advertise for and receive bids and to award contracts as permitted by this chapter, but if there be no secretary, business administrator or business manager, such officer, committees or employees to whom such power has been delegated by the board of education.

c. (Deleted by amendment, P.L.1999, c.440.)

d. "District" means and includes any local school district, consolidated school district, regional school district, county vocational school and any other board of education or other similar body other than the State board, established under the provisions of Title 18A of the New Jersey Statutes.

e. (Deleted by amendment, P.L.1999, c.440.)

f. (Deleted by amendment, P.L.1999, c.440.)

g. "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

h. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

i. (Deleted by amendment, P.L.1999, c.440.)

j. "Purchases" means transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

k. "Work" means any task, program, undertaking, or activity, related to any development, redevelopment, construction or reconstruction performed or provided pursuant to a contract with a board of education.

l. "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a purchasing agent.

m. "Bid threshold" means the dollar amount set in N.J.S.18A:18A-3, above which a board of education shall advertise for and receive sealed bids in accordance with procedures set forth in N.J.S.18A:18A-1 et seq.

n. "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a board of education which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a board of education for the vendor's right to perform a service, such as, but not limited to, operating a concession.

o. "Contract year" means the period of 12 consecutive months following the award of a contract.

p. "Competitive contracting" means the method described in sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through C.18A:18A-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or school business administrator; and the board of education awards a contract to a vendor or vendors from among the formal proposals received.

q. "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract

awarded by a purchasing agent, including goods and property subject to N.J.S.12A:2-101 et seq.

r. "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

s. "Lowest price" means the least possible amount that meets all requirements of the request of a purchasing agent.

t. "Lowest responsible bidder or vendor" means the bidder or vendor: (1) whose response to a request for bids offers the lowest price and is responsive; and (2) who is responsible.

u. "Official newspaper" means any newspaper designated by the board of education pursuant to R.S.35:1-1 et seq.

v. "Purchase order" means a document issued by the purchasing agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the board of education, which, when fulfilled in accordance with the terms and conditions of a request of a purchasing agent and other provisions and procedures that may be established by the board of education, will result in payment by the board of education.

w. "Quotation" means the response to a formal or informal request made by a purchasing agent to a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the purchasing agent.

x. "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

y. "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

z. "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a board of education to house school district functions or provide water, waste disposal, power, transportation and other public infrastructures.

aa. "Concession" means the granting of a license or right to act for or on behalf of the board of education, or to provide a service requiring the approval or endorsement of the board of education, and which may or may not involve a payment or exchange, or provision of services by or to the board of education, provided that the term concession shall not include vending machines.

bb. "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

cc. "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the board of education to be necessary for the conduct of its affairs.

dd. "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the board of education for the vendor's right to operate a concession.

L.1977, c.114; amended 1994, c.48, s.59; 1999, c.440, s.50.

18A:18A-3 Bid threshold.

18A:18A-3. a. When the cost or price of any contract awarded by the purchasing agent in the aggregate, does not exceed in a contract year the total sum of \$17,500, the contract may be awarded by a purchasing agent when so authorized by resolution of the board of education without public advertising for bids and bidding therefor, except that the board of education may adopt a resolution to set a lower threshold for the receipt of public bids or the solicitation of competitive quotations. If the purchasing agent is qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9) the board of education may establish that the bid threshold may be up to \$25,000. Such authorization may be granted for each contract or by a general delegation of the power to negotiate and award such contracts pursuant to this section.

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount and the higher threshold amount which the board of education is permitted to establish as 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 index rate as that term is defined in N.J.S.18A:18A-2, and shall round the adjustment to the nearest \$1,000. The Governor shall notify all local school districts of the adjustment no later than June 1 of every fifth year. The adjustment shall become effective on July 1 of the year in which it is made.

Any contract made pursuant to this section may be awarded for a period of 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 may be awarded for a period not exceeding 12 consecutive months.

L.1977, c.114; amended 1980, c.144, s.1; 1983, c.171, s.1; 1999, c.440, s.51.

18A:18A-3.1. Private driver education schools

Boards of education may enter into contracts with private driver education schools for the purpose of providing driver education courses to students on an individual or group basis, according to rules prescribed by the Commissioner of Education, when it is determined by the local board of education that the private driver education school can provide behind-the-wheel driver education that is substantially equivalent to that provided by the board of education, and at less cost than current or other proposed programs.

Each private driver education school shall hold a current license or certificate of approval issued by the Director of the Division of Motor Vehicles pursuant to P.L. 1951, c.216 (C. 39:12-1 et seq.), and be approved for the purposes of this act by the Commissioner of Education.

L.1983, c. 281, s. 1, eff. July 29, 1983.

18A:18A-3.2 Group legal insurance.

1. Any school district, hereinafter referred to as an employer, may enter into contracts of group legal insurance with an insurer authorized, pursuant to P.L.1981, c. 160 (C. 17:46C-1 et seq.), to engage in the business of legal insurance in this State or may contract with a duly recognized prepaid legal services plan with respect to the benefits which they are authorized to provide. The contract or contracts shall provide coverage for the employees of the employer and may include their dependents. "Dependents" shall include an employee's spouse and the employee's unmarried children, including stepchildren and legally adopted children, and, at the option of the employer and the carrier, children placed by the Department of Children and Families with a resource family, under the age of 19 who live with the employee in a regular parent-child relationship, and may also include, at the option of the employer and the carrier, other unmarried children of the employee under the age of 23 who are dependent upon the employee for support and maintenance. A spouse or child enlisting or inducted into military service shall not be considered a dependent during the military service.

"Employees" shall not include persons employed on a short-term, seasonal, intermittent or emergency basis, persons compensated on a fee basis, or persons whose compensation from the public employer is limited to reimbursement of necessary expenses actually incurred in the discharge of their duties.

The contract shall include provisions to prevent duplication of benefits and shall condition the eligibility of an employee for coverage upon satisfying a waiting period stated in the contract.

The coverage of an employee, and of his dependents, if any, shall cease upon the discontinuance of his employment or upon cessation of active full-time employment in the classes eligible for coverage, subject to the provision as may be made in a contract by his employer for limited continuance of coverage during disability, part-time employment, leave of absence other than leave for military service or layoff, or for continuance of coverage after retirement.

A contract for group legal insurance entered into pursuant to this act shall not include any legal services attendant to a claim brought by a teaching staff member against a board of education or legal services for the defense of a teaching staff member facing disciplinary action pursuant to subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes (N.J.S.18A:6-9 et seq.).

L.1986, c.73, s.1; amended 2004, c.130, s.42; 2006, c.47, s.93.

18A:18A-3.3. Payment of premiums

An employer entering into a contract is authorized to pay part or all of the premiums or charges for the contract and may appropriate any money necessary to pay the premiums or charges or portions thereof. The contribution required of an employee toward the cost of the coverage may be deducted from the pay, salary or other compensation of the employee upon an authorization in writing made to the appropriate disbursing officer.

The continuance of coverage after retirement of an employee may be provided at the rates and under the conditions as shall be prescribed in the contract, subject, however, to the requirements hereinafter set forth in this section. The contribution required of a retired employee toward the cost of the coverage may be paid by him to his former employer or in any other manner as the employer shall direct.

Retired employees may be required to pay for the entire cost of coverage for themselves and their dependents at rates which are determined based upon the reasonable expected use of retired persons.

L. 1986, c. 73, s. 2, eff. Aug. 5, 1986.

18A:18A-3.4. Employment payment for retirees

In providing for the continuance of coverage after retirement of employees and their dependents as authorized by section 2 of this act and notwithstanding any of the provisions of section 2 to the contrary, the employer may assume the entire cost of the coverage and pay all the premiums for employees who have retired after 25 years or more of service with the employer, including the premiums for their dependents, if any, under uniform conditions as the school district shall prescribe.

L. 1986, c. 73, s. 3, eff. Aug. 5, 1986.

18A:18A-4. Contract awarded by board of education resolution; disqualification conditions

18A:18A-4. a. Every contract for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the board of education to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this chapter or specifically by any other law.

The board of education may, by resolution approved by a majority of the board of education and subject to subsections b. and c. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the board of education finds that any board or, in the case of a contract for a school facilities project, the New Jersey Economic Development Authority, has had prior negative experience with the bidder within the past 10 years, as reported in a contractor evaluation submitted pursuant to N.J.S. 18A:18A-15 or in a school facilities project performance evaluation submitted pursuant to regulations of the Department of the Treasury or section 62 of P.L.2000, c.72 (C.18A:7G-36), as appropriate.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority;

(2) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority, to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;

(3) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority, to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority.

c. The following conditions apply if the board of education is contemplating a disqualification based on prior negative experience:

(1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion of the board of education and shall be rendered in the best interests of the board of education.

(2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.

(3) The bidder shall be furnished by the board of education with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the board of education if the bidder so requests within a stated

period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the board of education determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.

(4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.

(5) A disqualification, other than a disqualification pursuant to which a board of education is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion of the board of education, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.

(6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

d. The purchase of text books and materials that exceed the bid threshold and are approved by a board of education pursuant to N.J.S.18A:34-1 shall not require the further adoption of a resolution for purchase.

L.1977, c.11; amended 1980, c.144, s.2; 1983, c.171, s.2; 1999, c.440, s.52; 2002, c.90.

18A:18A-4.1 Use of competitive contracting by boards of education; purposes.

45. Notwithstanding the provisions of any law, rule or regulation to the contrary, competitive contracting may be used by boards of education in lieu of public bidding for procurement of specialized goods and services the price of which exceeds the bid threshold, for the following purposes:

a. The purchase or licensing of proprietary computer software designed for board of education purposes, which may include hardware intended for use with the proprietary software. This subsection shall not be utilized for the purpose of acquiring general purpose computer hardware or software;

b. The hiring of a for-profit entity or a not-for-profit entity incorporated under Title 15A of the New Jersey Statutes for the purpose of:

(1) the operation, management or administration of recreation or social service facilities or programs; or

(2) the operation, management or administration of data processing services;

c. Services performed by an energy services company, including the design, measurement, financing and maintenance of energy savings equipment or renovations, which result in payment derived, in whole or in part, from the sale of verified energy savings over the term of an agreement with a public utility or subsidiary, but not the provision or performance of the physical improvements that result in energy savings, provided that such savings are calculated pursuant to guidelines promulgated by the Board of Public Utilities and further provided that the Local Finance Board, in consultation with the State Board of Education, shall find that the terms and conditions of any financing agreement are reasonable;

d. Telecommunications transmission or switching services that are not part of a tariff or schedule of charges filed with the Board of Public Utilities;

e. The purchase of specialized machinery or equipment of a technical nature, or servicing thereof, which will not reasonably permit the drawing of specifications;

f. Food services provided by food service management companies when not part of programs administered by the New Jersey Department of Agriculture, Bureau of Child Nutrition Programs;

g. Driver education courses provided by licensed driver education schools;

h. At the option of the board of education, any good or service that is exempt from bidding pursuant to N.J.S.18A:18A-5;

i. Laboratory testing services;

j. Concessions;

k. The operation, management or administration of other services, with the approval of the Division of Local Government Services in the Department of Community Affairs.

Any purpose included herein shall not be considered by a board of education as an extraordinary unspecifiable service pursuant to paragraph (2) of subsection a. of N.J.S.18A:18A-5.

L.1999,c.440,s.45.

18A:18A-4.2 Five-year contract term limit; exceptions.

46. Unless an exception is provided for under N.J.S.18A:18A-42 permitting a longer contract duration, contracts awarded pursuant to section 49 of P.L.1999, c.440 (C.18A:18A-4.5) may be for a term not to exceed five years.

L.1999,c.440,s.46.

18A:18A-4.3 Competitive contracting initiated by board of education resolution; process administration.

47. a. In order to initiate competitive contracting, the board of education shall pass a resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in section 45 of P.L.1999, c.440 (C.18A:18A-4.1) are desired to be contracted. If the desired goods or services have previously been contracted for using the competitive contracting process then the original resolution of the board of education shall suffice.

b. The competitive contracting process shall be administered by a purchasing agent qualified pursuant to subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9) or by legal counsel of the board of education, or by the school business administrator of the board of education. Any contracts awarded under this process shall be made by resolution of the board of education subject to the provisions of subsection e. of section 49 of P.L.1999, c.440 (C.18A:18A-4.5).

L.1999,c.440,s.47.

18A:18A-4.4 Request for proposals; documentation; provisions.

48. The competitive contracting process shall utilize a request for proposals documentation in accordance with the following provisions:

a. The purchasing agent or counsel or school business administrator shall prepare or have prepared a request for proposal documentation, which shall include: all requirements deemed appropriate and necessary to allow for full and free competition between vendors; information necessary for potential vendors to submit a proposal; and a methodology by which the board of education will evaluate and rank proposals received from vendors.

b. The methodology for the awarding of competitive contracts shall be based on an evaluation and ranking, which shall include technical, management, and cost related criteria, and may include a weighting of criteria, all developed in a way that is intended to meet the specific needs of the contracting unit, and where such criteria shall not unfairly or illegally discriminate against or exclude otherwise capable vendors. When an evaluation methodology uses a weighting of criteria, at the option of the board of education the weighting to be accorded to each criterion may be disclosed to vendors prior to receipt of the proposals. The methodology for awarding competitive contracts shall comply with such rules and regulations as the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education may adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

c. At no time during the proposal solicitation process shall the purchasing agent or counsel or school business administrator convey information, including price, to any potential vendor which could confer an unfair advantage upon that vendor over any other potential vendor. If a purchasing agent or counsel or school business administrator desires to change proposal documentation, the purchasing agent or counsel or school business administrator shall notify only those potential vendors who received the proposal documentation of any and all changes in writing and all existing documentation shall be changed appropriately.

d. All proposals and contracts shall be subject to the provisions of section 1 of P.L.1977, c.33 (C.52:25-24.2) requiring submission of a statement of corporate ownership and the provisions of P.L.1975, c.127 (C.10:5-31 et seq.) concerning equal employment opportunity and affirmative action.

L.1999,c.440,s.48.

18A:18A-4.5 Competitive contracting proposal solicitation.

49. Competitive contracting proposals shall be solicited in the following manner:

a. A notice of the availability of request for proposal documentation shall be published in an official newspaper of the board of education at least 20 days prior to the date established for the submission of proposals. The board of education shall promptly reply to any request by an interested vendor by providing a copy of the request

for proposals. The board of education may charge a fee for the proposal documentation that shall not exceed \$50.00 or the cost of reproducing the documentation, whichever is greater.

b. Each interested vendor shall submit a proposal which shall include all the information required by the request for proposals. Failure to meet the requirements of the request for proposals may result in the board of education disqualifying the vendor from further consideration. Under no circumstances shall the provisions of a proposal be subject to negotiation by the board of education.

c. If the board of education, at the time of solicitation, utilizes its own employees to provide the goods or perform the services, or both considered for competitive contracting, the board of education shall, at any time prior to, but no later than the time of solicitation for competitive contracting proposals, notify affected employees of the board of education's intention to solicit competitive contracting proposals. Employees or their representatives shall be permitted to submit recommendations and proposals affecting wages, hours, and terms and conditions of employment in such a manner as to meet the goals of the competitive contract. If employees are represented by an organization that has negotiated a contract with the board of education, only the bargaining unit shall be authorized to submit such recommendations or proposals. When requested by such employees, the board of education shall provide such information regarding budgets and the costs of performing the services by such employees as may be available. Nothing shall prevent such employees from making recommendations that may include modifications to existing labor agreements in order to reduce such costs in lieu of award of a competitive contract, and agreements implementing such recommendations may be considered as cause for rejecting all other proposals.

d. The purchasing agent or counsel or school business administrator shall evaluate all proposals only in accordance with the methodology described in the request for proposals. After proposals have been evaluated, the purchasing agent or counsel or school business administrator shall prepare a report evaluating and recommending the award of a contract or contracts. The report shall list the names of all potential vendors who submitted a proposal and shall summarize the proposals of each vendor. The report shall rank vendors in order of evaluation, shall recommend the selection of a vendor or vendors, as appropriate, for a contract, shall be clear in the reasons why the vendor or vendors have been selected among others considered, and shall detail the terms, conditions, scope of services, fees, and other matters to be incorporated into a contract. The report shall be made available to the public at least 48 hours prior to the awarding of the contract, or when made available to the board of education, whichever is sooner. The board of education shall have the right to reject all proposals for any of the reasons set forth in N.J.S.18A:18A-22.

e. Award of a contract shall be made by resolution of the board of education within 60 days of the receipt of the proposals, except that the proposals of any vendors who consent thereto, may, at the request of the board of education, be held for consideration for such longer period as may be agreed.

f. The report prepared pursuant to subsection d. of this section shall become part of the public record and shall reflect the final action of the board of education. Contracts shall be executed pursuant to N.J.S.18A:18A-40.

g. The secretary of the board of education shall publish a notice in the official newspaper of the board of education summarizing the award of a contract, which shall include but not be limited to, the nature, duration, and amount of the contract, the name of the vendor and a statement that the resolution and contract are on file and available for public inspection in the office of the secretary of the board of education.

h. The Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, may adopt additional rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to effectuate the provisions of sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through C.18A:18A-4.5).

L.1999, c.440, s.49.

18A:18A-5 Exceptions to requirement for advertising.

18A:18A-5. Exceptions to requirement for advertising. Any contract, the amount of which exceeds the bid threshold, shall be negotiated and awarded by the board of education by resolution at a public meeting without public advertising for bids and bidding therefor if

a. The subject matter thereof consists of:

(1) Professional services. The board of education shall in each instance state supporting reasons for its action in the resolution awarding each contract and shall forthwith cause to be printed once, in an official newspaper, a brief notice stating the nature, duration, service and amount of the contract, and that the resolution and contract are on file and available for public inspection in the office of the board of education;

(2) Extraordinary unspecifiable services which cannot reasonably be described by written specifications. The application of this exception as to extraordinary unspecifiable services shall be construed narrowly in favor of open competitive bidding where possible and the Director of the Division of Local Government Services in the Department of Community Affairs is authorized to establish rules and regulations after consultation with the Commissioner of Education limiting its use in accordance with the intention herein expressed; and the board of education shall in each instance state supporting reasons for its action in the resolution awarding the contract for extraordinary unspecifiable services and shall forthwith cause to be printed, in the manner set forth in paragraph (1) of this subsection, a brief notice of the award of such contract;

(3) The doing of any work by employees of the board of education;

(4) The printing of all legal notices; and legal briefs, records and appendices to be used in any legal proceeding in which the board of education may be a party;

(5) Library and educational goods and services;

(6) Food supplies, including food supplies for home economics classes, when purchased pursuant to rules and regulations of the State board and in accordance with the provisions of N.J.S.18A:18A-6;

(7) The supplying of any product or the rendering of any service by a public utility, which is subject to the jurisdiction of the Board of Public Utilities, in accordance with the tariffs and schedules of charges made, charged and exacted, filed with said board;

(8) The printing of bonds and documents necessary to the issuance and sale thereof by a board of education;

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(10) Insurance, including the purchase of insurance coverage and consultant services, which exception shall be in accordance with the requirements for extraordinary unspecifiable services;

(11) Publishing of legal notices in newspapers as required by law;

(12) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character;

(13) Those goods and services necessary or required to prepare and conduct an election;

(14) (Deleted by amendment, P.L.1999, c.440.)

(15) (Deleted by amendment, P.L.1999, c.270).

(16) (Deleted by amendment, P.L.1999, c.440.)

(17) The doing of any work by persons with disabilities employed by a sheltered workshop;

(18) Expenses for travel and conferences;

(19) The provision or performance of goods or services for the support or maintenance of proprietary computer hardware and software, except that this provision shall not be utilized to acquire or upgrade non-proprietary hardware or acquire or update non-proprietary software;

(20) Purchases of goods and services at rates set by the Universal Service Fund administered by the Federal Communications Commission;

(21) Goods and services paid with funds that: are raised by or collected from students to support the purchase of student-oriented items or materials, such as yearbooks, class rings, and a class gift; and are deposited in school or student activity accounts; and require no budget appropriation from the board of education;

(22) Food services provided by food service management companies pursuant to procedures established by the New Jersey Department of Agriculture, Bureau of Child Nutrition Programs;

(23) Vending machines providing food or drink.

b. It is to be made or entered into with the United States of America, the State of New Jersey, county or municipality or any board, body, officer, agency, authority or board of education or any other state or subdivision thereof.

c. Bids have been advertised pursuant to N.J.S.18A:18A-4 on two occasions and (1) no bids have been received on both occasions in response to the advertisement, or (2) the board of education has rejected such bids on two occasions because it has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the board of education prior to the advertising therefor, or have not been independently arrived at in open competition, or (3) on one occasion no bids were received pursuant to (1) and on one occasion all bids were rejected pursuant to (2), in whatever sequence; any such contract may then be negotiated and may be awarded upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the board of education authorizing such a contract; provided, however, that:

(a) A reasonable effort is first made by the board of education to determine that the same or equivalent goods or services, at a cost which is lower than the negotiated price, are not available from an agency or authority of the United States, the State of New Jersey or of the county in which the board of education is located, or any municipality in close proximity to the board of education;

(b) The terms, conditions, restrictions and specifications set forth in the negotiated contract are not substantially different from those which were the subject of competitive bidding pursuant to N.J.S.18A:18A-4; and

(c) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications which were the subject of competitive bidding pursuant to N.J.S.18A:18A-4 shall be stated in the resolution awarding the contract; provided further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the board of education shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate, and afford each bidder a reasonable opportunity to negotiate, but the board of education shall not award such contract unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such goods or services.

d. Whenever a board of education shall determine that a bid was not arrived at independently in open competition pursuant to subsection c.(2) of N.J.S.18A:18A-5, it shall thereupon notify the county prosecutor of the county in which the board of education is located and the Attorney General of the facts upon which its determination is based, and when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

e. The board of education has solicited and received at least three quotations on materials, supplies or equipment for which a State contract has been issued pursuant to N.J.S.18A:18A-10, and the lowest responsible quotation is at least 10% less than the price the board would be charged for the identical materials, supplies or equipment, in the same quantities, under the State contract. Any such contract or agreement entered into pursuant to subsection c. or subsection e. may be made, negotiated or awarded only upon adoption of a resolution by the affirmative vote of two-thirds of the full membership of the board of education at a meeting thereof authorizing such a contract or agreement. The purchase order relating to any such contract shall include a notation that the material, supplies, or equipment was purchased at least 10% below the State contract price. The board of education shall make available to the Director of the Division of Local Government Services in the Department of Community Affairs, upon request, any documents relating to the solicitation and award of the contract, including, but not limited to, quotations, requests for quotations, and resolutions.

Amended 1982, c.161, s.5; 1983, c.48; 1983, c.281, s.2; 1984, c.49, s.2; 1985, c.527, s.1; 1995, c.265; 1999, c.270, s.1; 1999, c.440, s.53; 2007, c.42, s.2.

18A:18A-6. Standards for purchase of fresh milk; penalties; rules and regulations

In purchases of fresh milk and as a condition thereof, the board of education shall require each vendor to agree in writing to purchase during the year in which he proposes to furnish such milk to the school district an amount of fresh milk from New Jersey producers or associations of producers at least equal to the amount he proposes to furnish to the school district plus an amount equal to the amount, if any, he shall be required to furnish to any other school district in the State. Every such agreement shall be filed by the board of education with the Secretary of Agriculture who shall be charged with the duty of enforcing the provisions of this section. Failure by any vendor to purchase milk in compliance with his agreement shall subject him to a penalty of not less than \$100.00 nor more than \$500.00 per day for each day of noncompliance, unless he can prove to the satisfaction of the Secretary that he is unable to obtain sufficient milk from New Jersey producers or associations of producers to enable him to comply with his agreement. In the absence of such proof, the penalties herein provided for shall be enforced and collected by the Secretary of Agriculture in the name of the respective school district in a summary proceeding in accordance with the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The penalty, when recovered, shall be paid to the school district so named in the proceeding. Any vendor found guilty of violating his agreement shall be ineligible for any contract award under this section for a period of 3 years thereafter.

The Secretary of Agriculture shall adopt and promulgate such rules and regulations as shall be necessary for the proper operation and enforcement of this section.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-7 Emergency contracts.

18A:18A-7. Emergency contracts. Any contract may be negotiated or awarded for a board of education without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold when an emergency affecting the health or safety of occupants of school property requires the immediate delivery of goods or the performance of services, provided that the contracts are awarded in the following manner:

a. The official in charge of the building, facility or equipment wherein the emergency occurred or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent or a supervisor of the purchasing agent of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.

b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services, shall be entitled to be paid therefor and the board of education shall be obligated for said payment. The board of education shall take such action as shall be required to provide for the payment of the contract price.

c. The Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, shall prescribe rules and procedures to implement the requirements of this section.

d. The board of education may prescribe additional rules and procedures to implement the requirements of this section.

L.1977, c.114; amended 1980, c.144, s.3; 1983, c.171, s.3; 1999, c.440, s.54.

18A:18A-8 Contracts not to be divided.

18A:18A-8. Contracts not to be divided. a. No contract in the aggregate which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the contract includes the provision or performance of additional goods or services, shall be divided, so as to bring it or any of the parts thereof under the bid threshold, for the purpose of dispensing with the requirement of public advertising and bidding therefor.

b. In contracting for the provision or performance of any goods or services included in or incidental to the provision or performance of any work which is single in character or inclusive of the provision or performance of additional goods or services, all of the goods or services requisite for the completion of such contract shall be included in one contract.

L.1977, c.114; amended 1980, c.144, s.4; 1983, c.171, s.4; 1999, c.440, s.55.

18A:18A-8.1 Rules.

56. For the purpose of ensuring consistency between the "Local Public Contracts Law, " P.L.1971, c.198 (C.40A:11-1 et seq.), and the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the Director of the Division of Local Government Services in the Department of Community Affairs, after consultation with the Commissioner of Education, and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules concerning determinations of aggregation for the purposes of whether a contract is subject to public bidding as set forth in sections 3, 4 and 7 of P.L.1971, c.198 (C.40A:11-3, 40A:11-4 and 40A:11-7) and N.J.S.18A:18A-3, N.J.S.18A:18A-4, and N.J.S.18A:18A-8.

L.1999,c.440,s.56.

18A:18A-9 Periodic solicitation of bids.

18A:18A-9. Periodic solicitation of bids. Every board of education shall, on an annual basis or at such lesser intervals to be fixed by it, solicit by public advertisement the submission of bids for the provision or performance of goods or services which are and which under N.J.S.18A:18A-4 can be contracted to be provided or performed only after public advertisement for bids and bidding therefor and all contracts for the provision or performance of such goods or services shall be awarded only in that manner.

L.1977, c.114; amended 1999, c.440, s.57.

18A:18A-10 Board of education purchases through State agency; procedure.

18A:18A-10. a. A board of education, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, by resolution may purchase any goods or services pursuant to a contract or contracts for such goods or services entered into on behalf of the State by the Division of Purchase and Property.

b. A board of education may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration or schedules from other federal procurement programs promulgated by the Director of the Division of Purchase and Property in the Department of the Treasury pursuant to section 1 of P.L.1996, c.16 (C.52:34-6.1), subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) (Deleted by amendment, P.L.2006, c.10);

(3) the board of education receives the benefit of federally mandated price reductions during the term of the contract;

(4) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the board of education determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules or schedules from other federal procurement programs would be more advantageous to the board of education;

(5) a copy of the purchase order relating to any such contract, the requisition or request for purchase order, if applicable, and documentation identifying the price of the goods or services under the Federal Supply Schedules or schedules from other federal procurement programs shall be filed with the Director of the Division of Purchase and Property in the Department of the Treasury within five working days of the award of any such contract by the board of education.

c. Whenever a purchase is made, the board of education shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the board of education. Prior to placing such an order, the board of education shall document with specificity that the goods or services selected best meet the requirements of the board of education.

L.1999,c.39,s.39; amended 2006,c.9,s.1.

18A:18A-11 Joint purchases by districts, municipalities, counties; authority.

18A:18A-11. Joint purchases by districts, municipalities, counties; authority. The boards of education of two or more districts may provide jointly by agreement for the provision and performance of goods and services for their respective districts, or one or more boards of education may provide for such provision or performance of goods or services by joint agreement with the governing body of any municipality or county.

L.1977, c.114; amended 1999, c.440, s.59.

18A:18A-12 Contents of agreement.

18A:18A-12. Contents of agreement. a. Such agreements shall be entered into by resolution adopted by each participating board of education, municipality or county and shall set forth the categories of goods or services to be provided or performed, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating board of education, municipality or county, and other matters deemed necessary to carry out the purposes of the agreement.

b. Each participant's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the participant.

L.1977, c.114; amended 1999, c.440, s.60.

18A:18A-13 Purchases and contracts subject to law and rules and regulations.

18A:18A-13. Purchases and contracts subject to law and rules and regulations. Such purchases and all contracts pertaining thereto shall be subject to all provisions of law and the applicable rules and regulations of the State board.

L.1977, c.114; amended 1999, c.440, s.61.

18A:18A-14 Controversies or disputes; determination; appeal.

18A:18A-14. Controversies or disputes; determination; appeal. In the event that any controversy or dispute shall arise among the parties (except a municipality or county) to any such contract, the same shall be referred to the county superintendent of the county in which the districts are situate for determination and his determination thereon shall be binding, subject to appeal to the commissioner and the State board pursuant to law. In the event that the districts are in more than one county, the

controversy or dispute shall be referred to the county superintendents of the counties for joint determination, and if they shall be unable to agree upon a joint determination within 30 days, the controversy or dispute shall be referred to the commissioner for determination.

L.1977, c.114; amended 1999, c.440, s.62.

18A:18A-14.1. Electronic data processing defined

As used in this act "electronic data processing" means the storage, retrieval, combination or collation of items of information by means of electronic equipment involving the translation of words, numbers and other symbolic elements into electrical impulses or currents.

L.1982, c. 161, s. 1, eff. Oct. 28, 1982.

18A:18A-14.2. Contract or lease for electronic data processing for another school district; combination of records and information

a. Any board of education may by contract or lease provide electronic data processing services for the board of education of another school district, and may undertake with such other board of education the joint operation of electronic data processing of their several official records and other information relative to their official activities, services and responsibilities.

b. The records and other information originating with any board of education participating in such a contract or lease may be combined, compiled, and conjoined with the records and other information of any and all other participating local units for the purposes of such electronic data processing; and any provisions of law requiring such records to be kept confidential or to be retained by any board of education or any officer or agency thereof shall be deemed to be isolated thereby.

L.1982, c. 161, s. 2, eff. Oct. 28, 1982.

18A:18A-14.3. Contract or lease; contents

A contract or lease entered into pursuant to this act shall set forth the charge for all services provided, or in the case of a joint undertaking the proportion of the cost each party thereto shall assume and specify all the details of the management of the joint undertaking, and any other matters that may be deemed necessary for insertion therein, and may be amended from time to time by the contracting parties.

L.1982, c. 161, s. 3, eff. Oct. 28, 1982.

18A:18A-14.4. Party to contract as agent

For the purpose of carrying into execution a contract or lease for a joint enterprise under this act, any party to such contract may act as agent for any or all the parties in acquiring, by lease, purchase or otherwise, any property, facilities or services, in appointing such officers and employees as may be necessary and directing its activities, to the same extent as a board of education is authorized to do separately.

L.1982, c. 161, s. 4, eff. Oct. 28, 1982.

18A:18A-15 Specifications generally.

18A:18A-15. Specifications generally. Any specifications for the provision or performance of goods or services under this chapter shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this chapter may:

a. Require any standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the contract is awarded; or

b. Require that any bidder be a resident of, or that the bidder's place of business be located in, the county or school district in which the contract will be awarded or performed, unless the physical proximity of the bidder is requisite to the efficient and economical performance of the contract; or

c. Discriminate on the basis of race, religion, sex, national origin creed, color, ancestry, age, marital status, affectional or sexual orientation, familial status, liability for service in the Armed Forces of the United States, or nationality; or

d. Require, with regard to any contract, the furnishing of any "brand name," but may in all cases require "brand name or equivalent," except that if the goods or services to be provided or performed are proprietary, such goods or services may be purchased by stipulating the proprietary goods or services in the bid specification in any case in which the resolution authorizing the contract so indicates, and the special need for such proprietary goods or services is directly related to the performance, completion or undertaking of the purpose for which the contract is awarded; or

e. Fail to include any option for renewal, extension, or release which the board of education may intend to exercise or require; or any terms and conditions necessary for the performance of any extra work; or fail to disclose any matter necessary to the substantial performance of the contract.

The specifications for every contract for public work, the entire cost whereof will exceed \$20,000.00, shall provide that the board of education, through its authorized agent, shall upon completion of the contract report to the department as to the contractor's performance, and shall also furnish such report from time to time during performance if the contractor is then in default.

Any specification which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect and shall be readvertised for receipt of new bids, and the original contract shall be set aside by the board of education.

No provision in this section shall be construed to prevent a board of education from designating that a contract for goods or services shall be awarded to a small business enterprise, a minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the purchasing agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the board of education or the award of a contract.

L.1977, c.114; amended 1983, c.266, s.1; 1985, c.490, s.11; 1988, c.37, s.10; 1999, c.440, s.63.

18A:18A-15.1 Payment from bequest, legacy or gift; conditions.

64. Goods or services, the payment for which utilizes only funds received by a board of education from a bequest, legacy or gift, shall be subject to the provisions of N.J.S.18A:18A-1 et seq., except that if such bequest, legacy or gift contains written instructions as to the specifications, manufacturer or vendor, or source of supply of the goods or services to be provided or performed, such instructions shall be honored.

L.1999,c.440,s.64.

18A:18A-16. Preparation and approval of plans and specifications for public schoolhouses

18A:18A-16. All plans and specifications for the erection, alteration, improvement or repair of public school buildings shall be drawn by or under the supervision of an appropriate officer employed by the board to whom such power shall have been delegated by the board of education.

No contract for the erection of any building or any part thereof by any board of education of any school district shall be entered into until the final plans and specifications therefor have been submitted to, and approved by, either the Bureau of Facility Planning Services in the Department of Education or an appropriately licensed code official employed by any municipality in the State, with the written consent of that municipality. No change in any such plans or specifications, so approved, shall be made unless the same shall have been submitted to, and approved by, the Bureau of Facility Planning Services in the Department of Education or an appropriately licensed municipal code official, whichever entity originally approved the plans.

Should a municipal planning board, acting pursuant to the provisions of section 22 of P.L.1975, c.291 (C.40:55D-31), recommend against the approval of plans and specifications for the erection of a school building or any part thereof and file notice of that recommendation within 10 days with the Bureau of Facility Planning Services of the Department of Education for consideration during the plan review process, the Bureau of Facility Planning Services shall not approve the preliminary plans and specifications for educational adequacy until the objections of the municipal planning board have been considered.

L.1977, c.114; amended 1987,c.160; 1990,c.23,s.1.

18A:18A-16.1. Regulation, policy adoption, restriction

1. The State Board of Education shall adopt no regulation or policy which requires as a condition for approval of plans and specifications for the erection, alteration, improvement or repair of a public school facility capacity requirements which exclude space occupied by movable furniture, equipment and other items when calculating net square footage.

L.1995,c.68,s.1.

18A:18A-17. Facilities for handicapped persons

Every board of education shall require that all plans and specifications for bids on any contract with the board for the construction, remodeling or renovation of any public building shall provide facilities for the physically handicapped.

As used in this section, "remodeling or renovation" shall mean to construct an addition to, alter the design or layout of said public building so that a change or modification of the entrance facilities, toilet facilities, or vertical access is achieved, or makes substantial repairs or alterations. As used herein, "substantial repairs or alterations" shall mean that if the costs of making such repairs or alterations:

a. Shall exceed 60% of the value of the building the entire building shall be made to comply with the requirements of this section;

b. Shall be between 30% and 60% of the value of the building, only those portions of the building repaired or altered shall be made to comply with the requirements of this section; or

c. Shall be under 30% of the value of the building such repairs or alterations shall be either in accordance with the requirement of this section, or in compliance with their previously required condition and with the same or equivalent material or equipment, provided the general safety and public welfare are not thereby endangered.

The value of such public buildings shall be determined by every board of education in accordance with a formula which shall be established by the State Board of Education. Said formula may take into account the size, age, type of construction, original building cost and replacement cost of any such building.

The State Board of Education, by rules and regulations, shall prescribe the kinds, types and quality of the aforementioned facilities for the physically handicapped.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-17.1. Commissioner of Education authorized to withhold State aid

The Commissioner of Education is hereby authorized to withhold all or part of any State aid paid to any school district pursuant to chapter 58 of Title 18A of the New Jersey Statutes or any other law, unless and until said school district shall comply with the provisions of N.J.S. 18A:18A-17 with respect to facilities for the physically handicapped.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-18 Preparation of separate plans, specifications for certain construction work, goods and services; bidding; awarding of contracts.

18A:18A-18. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education, when the entire cost of the work will exceed the bid threshold, separate plans and specifications may be prepared for each of the following, and all work kindred thereto to be performed or furnished in connection therewith:

- (1) The plumbing and gas fitting work;
- (2) The heating and ventilating systems and equipment;
- (3) The electrical work, including any electrical power plant;
- (4) The structural steel and ornamental iron work;

(5) General construction, which shall include all other work required for the completion of the project.

b. The board of education or its purchasing agent shall advertise for and receive, in the manner provided by law, (1) separate bids for each of the branches of work specified in subsection a. of this section, or (2) bids for all the work, goods and services required to complete the building to be included in a single overall contract, or (3) both. In the case of a single bid under paragraph (2) or (3) of this subsection, there will be set forth in the bid the name or names of all subcontractors to whom the bidder will subcontract the furnishing of plumbing and gas fitting, and all kindred work, and of the heating and ventilating systems and equipment, and electrical work, structural steel and ornamental iron work, each of which subcontractors shall be qualified in accordance with N.J.S.18A:18A-1 et seq. The school district shall require evidence of performance security to be submitted simultaneously with the list of the subcontractors. Evidence of performance security may be supplied by the bidder on behalf of himself and any or all subcontractors, or by each respective subcontractor, or by any combination thereof which results in evidence of performance security equaling, but in no event exceeding, the total amount bid.

c. Contracts shall be awarded to the lowest responsible bidder in each branch of work in the case of separate bids and to the single lowest responsible bidder in the case of single bids. In the event that a contract is advertised in accordance with paragraph (3) of subsection b. of this section, the contract shall be awarded in the following manner: If the sum total of the amounts bid by the lowest responsible bidder for each branch is less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award separate contracts for each of such branches to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each branch is not less than the amount bid by the lowest responsible bidder for all the work, goods and services, the board of education shall award a single overall contract to the lowest responsible bidder for all of such work, goods and services. In every case in which a contract is awarded under paragraph (2) or (3) of subsection b. of this section, all payments required to be made under such contract for work, goods and services supplied by a subcontractor may, upon

the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor. Payments to a subcontractor for work and materials supplied in connection with the contract shall be made within 10 calendar days of the receipt of payment for that work or the delivery of those materials by the subcontractor in accordance with the provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any regulations promulgated thereunder.

L.1977, c.114; amended 1980, c.144, s.5; 1983, c.171, s.5; 1999, c.280, s.1; 1999, c.440, s.65.

18A:18A-19. Number of working days specified

All specifications for the doing of any work for a board of education shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion; and every such contract shall contain a provision for a deduction, from the contract price, or any wages paid by the board of education to any inspector or inspectors necessarily employed by it on the work, for any number of days in excess of the number allowed in the specifications.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-20 American goods and products to be used where possible.

18A:18A-20. American goods and products to be used where possible. Each board of education shall provide, in the specifications for all contracts for work for which it will pay any part of the cost or work which by contract it will ultimately own and maintain, that only manufactured and farm products of the United States, wherever available, be used in such work.

L.1977, c.114; amended 1999, c.440, s.66.

18A:18A-21 Advertisement for bids; bids; general requirements; notice of revisions.

18A:18A-21. a. Except as provided in section 5 of P.L.1985, c.490 (C.18A:18A-55), all advertisements for bids shall be published in an official newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date. For all contracts, the date fixed for receiving the bids shall not fall on a Monday, or any day directly following a State or federal holiday.

b. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the board of education shall be sealed and shall be opened only for examination at such time and place as all bids received are unsealed and announced. At such time and place the purchasing agent of the board of education shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made in the minutes of the board. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

(1) For all contracts except those for construction work, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the board of education and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender.

(2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

d. Failure of the board of education to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the board of education from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the board of education shall not be considered failure by the board of education to provide notice.

Amended 1985, c.490, s.12; 1999, c.440, s.67; 2005, c.191, s.1; 2007, c.4, s.2.

18A:18A-22 Rejection of bids.

18A:18A-22. Rejection of bids. A board of education may reject all bids for any of the following reasons:

- a. The lowest bid substantially exceeds the cost estimates for the goods or services;
- b. The lowest bid substantially exceeds the board of education's appropriation for the goods or services;
- c. The board of education decides to abandon the project for provision or performance of the goods or services;
- d. The board of education wants to substantially revise the specifications for the goods or services;
- e. The purposes or provisions or both of N.J.S.18A:18A-1 et seq. are being violated; and
- f. The board of education decides to use the State authorized contract pursuant to N.J.S.18A:18A-10.

L.1977, c.114; amended 1999, c.440, s.68.

18A:18A-23. Certificate of bidder showing ability to perform contract

There may be required from any bidder submitting a bid on public work to any board of education, duly advertised for in accordance with law, a certificate showing that he owns, leases, or controls all the necessary equipment required by the plans, specifications and advertisements under which bids are asked for and if the bidder is not the actual owner or lessee of any such equipment, his certificate shall state the source from which the equipment will be obtained, and shall be accompanied by a certificate from the owner or person in control of the equipment definitely granting to the bidder the control of the equipment required during such time as may be necessary for the completion of that portion of the contract for which it is necessary.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-24 Security to accompany bid; amount.

18A:18A-24. Security to accompany bid; amount. There may be required from any person bidding on any contract, advertised in accordance with law, that the bid be accompanied by a guarantee payable to the board of education that, if the contract is awarded to the bidder, the bidder will enter into a contract therefor and will furnish any performance bond or other security required as a guarantee or indemnification. The guarantee shall be in the amount of 10% of the bid, but not in excess of \$20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid bond. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any board of education, which condition requires the depositing of a guarantee in an amount other than 10% of the bid or in excess of \$20,000.00, the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

L.1977, c.114; amended 1999, c.440, s.69.

18A:18A-25 Guarantee certificate.

18A:18A-25. Guarantee certificate. When a surety company bond is required in the advertisement or specifications for a contract, every board of education shall require from any bidder submitting a bid in accordance with plans, specifications and advertisements, as provided for by law, a certificate from a surety company stating that it will provide the contractor with a bond in such sum as is required in the advertisement or in the specifications.

This certificate shall be obtained for a bond--

- a. For the faithful performance of all provisions of the specifications or for all matters which may be contained in the notice to bidders, relating to the performance of the contract; including the guarantees required under article 12 of chapter 44 of Title 2A of the New Jersey Statutes; and
- b. If any be required, for a guarantee bond for the faithful performance of the contract provisions relating to the repair and maintenance of any work, project or facility and its appurtenances and keeping the same in good and serviceable condition during the term of the bond as provided for in the notice to bidders or in the specifications; or
- c. In such other form as may be provided in the notice to bidders or in the specifications.

If a bidder desires to offer the bond of an individual instead of that of a surety company, the bidder shall submit with the bid a certificate signed by such individual similar to that required of a surety company.

The board of education may reject any such bid if it is not satisfied with the sufficiency of the individual surety offered.

L.1977, c.114; amended 1999, c.440, s.70.

18A:18A-26. Classification of bidders as requisite to bidding

Every board of education shall require that all persons proposing to bid on any contract requiring public advertisement for bids with the board for public work, the entire cost whereof will exceed \$20,000.00, shall first be classified in accordance with article 6 of this chapter as to the character and amount of public work on which they shall be qualified to submit bids. So long as such requirement is in effect, the board of education shall accept such bids only from persons qualified in accordance with such classification.

L.1977, c. 114, s. 1, eff. June 2, 1977. Amended by L.1983, c. 266, s. 2, eff. July 14, 1983.

18A:18A-27 Regulations for qualifications of prospective bidders.

18A:18A-27. The State Treasurer may establish reasonable regulations appropriate for controlling the qualifications of prospective bidders upon contracts for public works, the entire cost whereof will exceed the bid threshold, by the amount, class or category of goods or services to be provided or performed which may fix the qualifications required according to the financial ability and experience of the bidders and the capital and equipment available to them pertinent to and reasonably related to the class or category of goods or services to be provided or performed in the performance of any such contract, and may require each bidder to furnish a statement thereof.

Such regulations shall be written in a manner:

- a. Which will not unnecessarily discourage full, free and open competition; or
- b. Which will not unnecessarily restrict the participation of small business in the public bidding process; or
- c. Which will not create undue preferences; or
- d. Which will not violate any other provision of this chapter, or any other law.

No qualification rating of any bidder shall be influenced by the bidder's race, religion, sex, national origin, nationality or place of residence.

Such regulations shall not be effective unless they have been adopted as provided in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L.1977, c.114; amended 1983, c.266, s.3; 1999, c.440, s.71.

18A:18A-27.1 Prequalification of certain persons performing school construction management services.

1. Notwithstanding the provisions of N.J.S.18A:18A-5 or any other section of law to the contrary, any person who performs construction management services for a school facilities project constructed by a school district, which services have a cost in excess of the bid threshold amount specified in N.J.S.18A:18A-3, shall be prequalified by the Division of Property Management and Construction in the Department of the Treasury. This requirement shall not apply to construction management services performed by a full-time employee of a school district.

L.2003,c.302,s.1.

18A:18A-28. Application for classification; fee

Any person desiring such classification shall file with the department a statement under oath in response to a questionnaire, prepared and standardized for like classes of work, by the department together with a fee of \$10.00. The statement shall develop fully the financial ability, adequacy of plant and equipment, organization and prior experience of the prospective bidder, and also such other pertinent and material facts as may be deemed desirable.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-29. Classification by classes; notice to applicants

The department shall classify all such prospective bidders as to the character and amount of public work contracts on which they shall be qualified to submit bids. The department shall consider reports filed by boards of education pursuant to 18A:18A-15 as a basis for denial of a favorable classification to all prospective bidders. The classification shall be made and an immediate notice thereof shall be sent to the prospective bidder or bidders by registered mail within a period of 15 days after the date of receipt of the statement in response to the questionnaire; provided, however, that if the department shall require additional information from the prospective bidder, the classification shall be made and the notice sent within 15 days after receipt of such additional information.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-30. Appeal from determination as to classification; hearings; change

Any person, after being notified of his classification, being dissatisfied therewith or with the classification of another person or persons, may request in writing a hearing before the department, and may present such further evidence with respect to his financial ability, plant and equipment or prior experience, or that of the other person or persons, as might tend to justify a different classification.

Where the request for a hearing is related to the classification of another person, the applicant for the hearing shall notify such other person, by registered mail, of the time and place of hearing and at the hearing shall present to the department satisfactory evidence that such notice was given before any matters pertaining to the classification of such other person shall be taken up.

After the hearing the department may change or affirm the classification or classifications, the subject of the hearing.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-31. Change in classification as affecting bids; review and reconsideration of classification

Where there have been developments subsequent to the qualification and classification of a bidder which in the opinion of the board of education would affect the responsibility of the bidder, information to that effect shall forthwith be transmitted to the department for its review and reconsideration of the classification. Before taking final action on any such bid, the board of education concerned shall notify the bidder and give him an opportunity to present to the department any additional information which might tend to substantiate the existing classification.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-32. Bidders not submitting statements within one year ineligible to bid; affidavit of no change in status to accompany bid; reports as to performance, etc.

No person shall be qualified to bid on any public work contract with the board of education, the entire cost whereof will exceed \$20,000.00, who shall not have submitted a statement as required by N.J.S. 18A:18A-28 within a period of one year preceding the date of opening of bids for such contract. Every bidder shall submit with his bid an affidavit that subsequent to the latest such statement submitted by him there has been no material adverse change in his qualification information except as set forth in said affidavit.

L.1977, c. 114, s. 1, eff. June 2, 1977. Amended by L.1983, c. 266, s. 4, eff. July 14, 1983.

18A:18A-33. Penalties for false statements

Any person who makes, or causes to be made, a false, deceptive or fraudulent statement in the questionnaire required to be submitted, or in the course of any hearing under this article shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine of not less than \$100.00 nor more than \$1,000.00; or, in the case of an individual or the officer or employee charged with the duty of making such questionnaire for a person, firm, copartnership, association or corporation, to pay such fine or undergo imprisonment, not exceeding 6 months, or both. All such persons and any copartnership, association, corporation or joint stock company of which any such person is a partner or officer or director, and any corporation of which he owns more than 25% of the stock, shall for 5 years from the date of such conviction be disqualified from bidding on all public work in this State.

The board of education shall cause the forfeiture as liquidated damages to the board of any certified check or certificate of deposit deposited as bid security by any person who makes or causes to be made any false, deceptive or fraudulent statement in the questionnaire or bid affidavit required to be submitted, or in the course of any hearing under this chapter.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-36 Time for making awards, deposits returned.

18A:18A-36. Time for making awards, deposits returned. a. The board of education shall award the contract or reject all bids within such time as may be specified in the invitation to bid, but in no case more than 60 days, except that the bids of any bidders who consent thereto may, at the request of the board of education, be held for consideration for such longer period as may be agreed. All bid security except the security of the three apparent lowest responsible bidders shall, if requested, be returned after 10 days from the opening of the bids, Sundays and holidays excepted and the bids of such bidders shall be considered as withdrawn. Within three days after the awarding of the contract and the approval of the contractor's performance bond the bid security of the remaining unsuccessful bidders shall be returned to them forthwith, Sundays and holidays excepted.

b. The contract shall be signed by all parties within the time limit set forth in the specifications, which shall not exceed 21 days, Sundays and holidays excepted, after the making of the award; provided, however, that all parties to the contract may agree to extend the limit set forth in the specifications beyond the 21-day limit required in this subsection. The contractor, upon written request to the board of education, is entitled to receive, within seven days of the request, an authorization to proceed pursuant to the terms of the contract on the date set forth in the contract for work to commence, or, if no date is set forth in the contract, upon receipt of authorization. If for any reason the contract is not awarded and the bidders have paid for or paid a deposit for the plans and specifications to the board of education, the payment or deposit shall immediately be returned to the bidders when the plans and specifications are returned in reasonable condition within 90 days of notice that the contract has not been awarded.

L.1977, c.114; amended 1999, c.440, s.72.

18A:18A-37 Award of purchases, contracts or agreements.

18A:18A-37. Award of purchases, contracts or agreements. All contracts enumerated in this section shall be awarded as follows:

a. For all contracts that in the aggregate are less than the bid threshold but 15 percent or more of that amount, and for those contracts that are for subject matter enumerated in subsection a. of N.J.S.18A:18A-5, except for paragraph (1) of that subsection concerning professional services and paragraph (3) of that subsection concerning work by employees of the board of education, the purchasing agent shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to a vendor whose response is most advantageous, price and other factors considered. The purchasing agent shall retain the record of the quotation solicitation and shall include a copy of the record with the voucher used to pay the vendor.

b. When in excess of the bid threshold, and after documented effort by the purchasing agent to secure competitive quotations, a contract for extraordinary unspecifiable services may be awarded when the purchasing agent has determined in writing that solicitation of competitive quotations is impracticable. Any such contract shall be awarded by resolution of the board of education.

c. If authorized by the board of education by resolution, all contracts that are in the aggregate less than 15 percent of the bid threshold may be awarded by the purchasing agent without soliciting competitive quotations.

d. Whenever two or more responses to a request of a purchasing agent offer equal prices and are the lowest responsible bids or proposals, the board of education may award the contract to the vendor whose response, in the discretion of the board of education, is the most advantageous, price and other factors considered. In such a case, the award resolution or purchase order documentation shall explain why the vendor selected is the most advantageous.

L.1977, c.114; amended 1983, c.171, s.6; 1999, c.440, s.73.

18A:18A-40 Form and execution of contracts and bonds.

18A:18A-40. Form and execution of contracts and bonds. All contracts for the provision or performance of goods or services shall be in writing. The State Board of Education may, subject to the requirements of law, prescribe the forms and manner in which contracts shall be made and executed, and the form and manner of execution and approval of all guarantee, indemnity, fidelity and other bonds.

L.1977, c.114; amended 1999, c.440, s.74.

18A:18A-40.1 Partial payments.

1. Any contract, the total price of which exceeds \$100,000.00, entered into by a board of education involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the board of education pursuant to section 2 of P.L.1987, c.343 (C.18A:18A-40.2).

L.1987,c.343,s.1; amended 1999, c.440, s.75.

18A:18A-40.2. Withholding, deposit of negotiable bearer bonds, notes

Whenever any contract, the total price of which exceeds \$100,000.00, entered into by a board of education for the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the board of education negotiable bearer bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or

notes to be deposited shall be subject to approval by the board of education. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld shall be credited to the board of education.

L. 1987,c.343, s.2.

18A:18A-40.3 Withholding of partial payments.

3. With respect to any contract entered into by a board of education pursuant to section 1 of P.L.1987, c.343 (C.18A:18A-40.1) for which the contractor shall agree to the withholding of payments pursuant to section 2 of P.L.1987, c.343 (C.18A:18A-40.2), 5% of the amount due on each partial payment shall be withheld by the board of education pending completion of the contract if the contractor does not have a performance bond. If the contractor does have a performance bond, 2% of the amount due on each partial payment shall be withheld by the board of education when the outstanding balance of the contract exceeds \$500,000, and 5% of the amount due on each partial payment shall be withheld by the board of education when the outstanding balance of the contract is \$500,000 or less.

L.1987,c.343,s.3; amended 1993, c.18; 1999, c.440, s.76.

18A:18A-41. Liquidated damages; void provisions as to contractor's remedies

18A:18A-41. Liquidated damages. Any contract made pursuant to chapter 18A of Title 18A of the New Jersey Statutes may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of chapter 18A of Title 18A of the New Jersey Statutes. Notwithstanding any other provision of law to the contrary, it shall be void, unenforceable and against public policy for a provision in a contract entered into under Chapter 18A of Title 18A of the New Jersey Statutes to limit a contractor's remedy for the contracting unit's negligence, bad faith, active interference, tortious conduct, or other reasons unanticipated by the parties that delay the contractor's performance, to giving the contractor an extension of time for performance under the contract. For the purposes of this section, "contractor" means a person, his assignees or legal representatives with whom a contract with a contracting unit is made.

L.1977, c.114; amended 1999, c.440, s.77; 2001, c.206, s.2.

18A:18A-42 Multiyear contracts.

18A:18A-42. All contracts for the provision or performance of goods or services shall be awarded for a period not to exceed 24 consecutive months, except that contracts for professional services pursuant to paragraph (1) of subsection a. of N.J.S.18A:18A-5 shall be awarded for a period not to exceed 12 consecutive months. Any board of education may award a contract for longer periods of time as follows:

a. Supplying of:

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

(2) Fuel or oil for use of automobiles, autobuses, motor vehicles or equipment, for any term not exceeding in the aggregate, three years;

(3) Thermal energy produced by a cogeneration facility, for use for heating or air conditioning or both, for any term not exceeding 40 years, when the contract is approved by the Board of Public Utilities. For the purposes of this paragraph, "cogeneration" means the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam; or

b. Plowing and removal of snow and ice, for any term not exceeding in the aggregate, three years; or

c. Collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, three years; or

d. Data processing service, for any term of not more than seven years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management program or related services provided by a school board insurance group, or participation in an insurance fund established by a county pursuant

to N.J.S.40A:10-6, or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), for any term of not more than three years; or

f. Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind and textbooks and non-consumable instructional materials, for any term not exceeding in the aggregate, five years; except that contracts for the leasing of school buses may be awarded for any term not exceeding in the aggregate ten years. Contracts awarded pursuant to this subsection shall be awarded only subject to and in accordance with rules and regulations promulgated by the State Board of Education; or

g. Supplying of any product or the rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or

h. (Deleted by amendment, P.L.1999, c.440.)

i. Driver education instruction conducted by private, licensed driver education schools, for any term not exceeding in the aggregate, three years; or

j. The provision or performance of goods or services for the purpose of conserving energy through energy efficiency equipment or demand response equipment, including combined heat and power facilities, in, at, or adjacent to, buildings owned by any local board of education, the entire price of which shall be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; except that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings. As used in this subsection, "combined heat and power facilities" means facilities designed to produce both heat and electricity from a single heat source; or

k. Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction; or

l. Laundry service and the rental, supply and cleaning of uniforms for any term of not more than three years; or

m. Food supplies and food services for any term of not more than three years; or

n. Purchases made under a contract awarded by the Director of the Division of Purchase and Property in the Department of the Treasury for use by counties, municipalities or other contracting units pursuant to section 3 of P.L.1969, c.104 (C.52:25-16.1), for a term not to exceed the term of that contract; or

o. The provision or performance of goods or services for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by any local board of education, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

Any contract for services other than professional services, the statutory length of which contract is for three years or less, may include provisions for no more than one two-year, or two one-year, extensions, subject to the following limitations: a. the contract shall be awarded by resolution of the board of education upon a finding by the board of education that the services are being performed in an effective and efficient manner; b. no such contract shall be extended so that it runs for more than a total of five consecutive years; c. any price change included as part of an extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and d. the terms and conditions of the contract remain substantially the same.

All multiyear leases and contracts entered into pursuant to this section, including any two-year or one-year extensions, except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk management programs or related services of a school board insurance group, participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or contracts for thermal energy authorized pursuant to subsection a. above, and contracts for the provision or performance of goods or services to promote energy conservation through energy efficiency equipment or demand response equipment, including combined heat and power facilities, authorized pursuant to subsection j. of this section, or the production of class I renewable energy, authorized pursuant to subsection o. of this section, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause. All contracts shall cease to have effect at the end of the contracted period and shall not be extended by any

mechanism or provision, unless in conformance with the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., except that a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires.

Amended 1983, c.13; 1983, c.108, s.8; 1983, c.281, s.3; 1983, c.554; 1984, c.49, s.1; 1988, c.143, s.4; 1998, c.55, s.2; 1999, c.440, s.78; 2001, c.146, s.2; 2008, c.83, s.1.

18A:18A-43. Supervision of school building repairs

Repairs of all school buildings shall be supervised by the business manager of the district, if there be one, as provided by N.J.S. 18A:17-28, but if the district has no business manager, the board may delegate such power to any appropriate officer of the board as provided by N.J.S. 18A:16-1.2.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-44 Inspection, condemnation and rejection of work and materials.

18A:18A-44. All goods and services provided or performed under contract shall be inspected by the purchasing agent of the district, if there be a purchasing agent of the district, but if there be no purchasing agent of the district, they may be inspected by an appropriate officer employed by the board to whom such power shall have been delegated by the board, and subject to the approval of the board the purchasing agent or such officer, as the case may be, shall condemn any goods or services which in his judgment do not conform to the specifications of the contract therefor.

L.1977, c.114; amended 1999, c.440, s.79.

18A:18A-45 Manner and method of sale.

18A:18A-45. Manner and method of sale. Any board of education may, by resolution and by sealed bid or public auction, authorize the sale of its personal property not needed for school purposes.

a. If the estimated fair value of the property to be sold exceeds 15 percent of the bid threshold in any one sale and it is neither livestock nor perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale, shall be published once in an official newspaper. Such sale shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another board of education, any body politic, any foreign nation which has diplomatic relations with the United States, or any governmental unit in these United States by private sale without advertising for bids.

d. If no bids are received the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the board of education may if it so elect, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the board of education to continue storage or maintenance of any personal property not needed for school purposes to be sold pursuant to this section.

e. A board of education may reject all bids if it determines such rejection to be in the public interest. In any case in which the board of education has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale, pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at private sale be less than the highest price of any bid rejected at the preceding two public sales and provided further that in no event shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed the applicable bid threshold established pursuant to subsection a. of this section in any one sale or is either livestock or perishable goods, it may be sold at private sale without advertising for bids.

g. Notwithstanding the provisions of this section, by resolution of the board of education, a purchasing agent may include the sale of personal property no longer needed for school purposes as part of specifications to offset the price of a new purchase.

L.1977, c.114; amended 1983, c.171, s.7; 1999, c.440, s.80.

18A:18A-46. No action for damages for action by officials

No action for damages shall lie against the State board, any State official, or any board of education or any of its officers because of any action taken by virtue of the provisions of this chapter.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-46.1 Limitation on withholding of State funds from school districts for certain violations of public school contracts law.

1. a. Notwithstanding any law to the contrary, except as otherwise provided in this section, the Commissioner of Education shall not withhold State funds from any school district, or require any school district to remit any State funds previously paid to that district, because of any act or omission by the district which the commissioner determines to have been taken or permitted to occur in violation of the extraordinary unspecifiable services exception to the requirements for public advertisement and bidding as set forth in N.J.S.18A:18A-5, unless the commissioner determines that:(1)the act or omission was the result of any collusion between any officer or employee of the district and any contract vendor; or (2) the act or omission was prompted by an intent on the part of any officer or employee of the district to evade the public advertisement and bidding requirements of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.; or (3) a prior act or omission resulted in a withholding of State funds or a remission of State funds due to a violation of the extraordinary unspecifiable services exception to the requirements for public advertisement and bidding as set forth in N.J.S.18A:18A-5.

b. If the commissioner determines that the violation was caused by negligence and none of the provisions in paragraph (3) in subsection a. are met, the amount of State funds withheld shall not exceed 10% of the contract amount, or in the case of multiple contracts, 10% of the total amount of the contracts, or \$25,000, whichever is less.

c. Any school district from which the commissioner withheld funds or has sought to collect funds prior to the effective date of this act due to a determination that the district acted or permitted an action to occur in violation of the extraordinary unspecifiable services exception to the requirements for public advertising and bidding as set forth in N.J.S.18A:18A-5 may apply to the commissioner for restoration of funds so withheld. If the commissioner determines that none of the provisions set forth in paragraph (1), (2) or (3) in subsection a. or in subsection b. applies, the commissioner shall remit to the school district the applicable funds previously withheld or forgive any amounts pending collection.

d. The limitations placed upon the commissioner pursuant to this act shall not restrict the commissioner's authority to supervise the compliance by school districts with the requirements of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., and to seek all other remedies pursuant to Title 18A of the New Jersey Statutes.

L.1999,c.55,s.1.

18A:18A-47. Indemnity agreement with the United States, etc.

Any board of education may enter into an agreement indemnifying the United States of America, or any board, body, officer or agency thereof, from loss or damage to the property of others resulting from the furtherance of any project, undertaken or to be undertaken by the Federal Government for the benefit of such board of education where the cost or any part thereof is to be paid out of Federal funds.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-48. Contracts, etc.; validated and confirmed

Any action, purchase, sale, contract or agreement taken, made or entered into prior to the effective date of this chapter pursuant to any of the acts, amendments and supplements repealed by this chapter are hereby validated and confirmed, provided that in no event shall a lease of personal property entered into prior to the effective date of this chapter be renewed or extended, except in accordance with the terms and provisions of this chapter.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-49. Approval required for school building

18A:18A-49. The board of education of a school district shall be required to secure the approval of its final plans and specifications as required by the State Uniform Construction Code for the erection or alteration of any school building or vocational school building or any part thereof by the Bureau of Facility Planning Services in the Department of Education or an appropriately licensed municipal code official.

L.1977, c.114; amended 1990,c.23,s.2.

18A:18A-49.1. Transportation of pupils to and from schools

The provisions of this chapter shall not apply to contracts for the transportation of pupils to and from school, which contracts are regulated by Chapter 39 of this Title.

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-49.2 Rules.

81. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Local Government Services in the Department of

Community Affairs, after consultation with the Commissioner of Education, may adopt rules implementing the provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

L.1999,c.440,s.81.

18A:18A-49.3 Contract for taking yearbook pictures, use of other photographers' photos permitted.

1. A board of education may enter into a contract with a photographer for the taking of pupil yearbook pictures. The hiring of a photographer shall not prohibit a pupil from engaging a photographer of the pupil's choice nor prevent a picture taken by that photographer from appearing in the yearbook if the picture meets the specifications of the yearbook staff.

L.2003,c.313,s.1.

18A:18A-50. Statutes repealed

The following sections, chapters and acts, together with all amendments and supplements thereto, are hereby repealed:

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

Laws of 1969, c. 104, s. 2 (C. 18A:18-1.6);

Laws of 1971, c. 42 (C. 18A:18-2.1; C. 18A:18-2.2).

L.1977, c. 114, s. 1, eff. June 2, 1977.

18A:18A-51. Definitions

As used in this act:

a. "Minority" means a person who is:

(1) Black, which is a person having origins in any of the black racial groups in Africa; or

(2) Hispanic, which is a person of Spanish or Portuguese culture, with origins in Mexico, South America, Central America, or the Caribbean Islands, regardless of race; or

(3) Asian-American, which is a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, Hawaii, or the Pacific Islands; or

(4) American Indian or Alaskan native, which is a person having origins in any of the original peoples in North America;

b. "Women's business enterprise" means a business which is independently owned and operated, which is qualified pursuant to N.J.S. 18A:18A-27 and which is:

(1) A sole proprietorship owned and controlled by a woman;

(2) A partnership or joint venture owned and controlled by women in which at least 51% of the ownership is held by women and the management and daily business operations of which are controlled by one or more women who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more women who own it, and which is at least 51% owned by women, or if stock is issued, at least 51% of the stock is owned by one or more women;

c. "Minority business enterprise" means a business which is independently owned and operated, which is qualified pursuant to N.J.S. 18A:18A-27 and which is:

(1) A sole proprietorship, owned and controlled by a minority;

(2) A partnership or joint venture owned and controlled by minorities in which at least 51% of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or

(3) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least 51% owned by one or more minorities, or if stock is issued, at least 51% of the stock is owned by one or more minorities;

d. "Small business enterprise" means a business which is independently owned and operated, which is qualified pursuant to N.J.S. 18A:18A-27 and which is a sole proprietorship, partnership or corporation which is a size and type defined by the Commissioner of the Department of Commerce, Energy and Economic Development;

e. "Set-aside contract" means (1) a contract for goods, equipment, construction, or services which is designated as a contract for which bids are invited and accepted only from small business enterprises, minority business enterprises or women's business

enterprises, as appropriate, (2) a portion of a contract when that portion has been so designated, or (3) any other purchase or procurement so designated; and

f. "Total procurements" means all purchases, contracts or acquisitions of a board of education, whether by competitive bidding, single source contracting, or other method of procurement, as prescribed or permitted by law.

P.L. 1985, c. 490, s. 1; amended 1988,c.37,s.2.

18A:18A-52. Set-aside programs

a. A board of education may, by resolution, establish a minority business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to minority business enterprises.

b. A board of education may, by resolution, establish a women's business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to women's business enterprises.

c. A board of education may, by resolution, establish a small business enterprise set-aside program. In authorizing such a program, the board of education shall establish a goal of setting aside a certain percentage of the dollar value of total procurements to be awarded as set-aside contracts to small business enterprises.

P.L. 1985, c. 490, s. 2; amended 1988,c.37,s.3.

18A:18A-53. Attainment of goals

a. Any goal established pursuant to section 2 of this act may be attained by requiring that a portion of a contract shall be subcontracted to a small business enterprise, minority business enterprise or women's business enterprise, in addition to designating entire contracts to these enterprises.

b. Each board of education shall make a good faith effort to attain any goal established.

P.L. 1985, c. 490, s. 3; amended 1988,c.37,s.4.

18A:18A-54. "Public School Contracts Law" applicable

All provisions of the "Public School Contracts Law," N.J.S. 18A:18A-1 et seq., and any supplements thereto, shall apply to purchases, contracts and agreements made pursuant to this act unless otherwise superseded by the provisions of this act.

L. 1985, c. 490, s. 4, eff. Jan. 17, 1986.

18A:18A-55. Designation of contracts

Notwithstanding the provisions of any law to the contrary, a board of education which has established a small business enterprise set-aside program, a minority business enterprise set-aside program or a women's business enterprise set-aside program shall designate that a contract, subcontract or other means of procurement of goods, services, equipment, or construction shall be awarded to a small business enterprise, a minority business enterprise or a women's business enterprise, if the board is likely to receive bids from at least two small business enterprises, minority business enterprises or women's business enterprises, as appropriate, at a fair and reasonable price.

The designations shall be made prior to any advertisement for bids, if required. Once designated, the advertisement for bids, if necessary, shall indicate that the contract to be awarded is a small business enterprise set-aside contract, a minority business enterprise set-aside contract or a women's business enterprise set-aside contract, as appropriate. All advertisements for bids shall be published in at least one newspaper which will best provide notice thereof to small business enterprises, minority business enterprises or to women's business enterprises, as appropriate, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but shall not be published less than 10 days prior to that date.

P.L. 1985, c. 490, s. 5; amended 1988,c.37,s.5.

18A:18A-56. Withdrawal of designation

a. If the board of education determines that two bids from small businesses, minority or women's businesses cannot be obtained, the board may withdraw the designation of the set-aside contract and resolicit bids on an unrestricted basis pursuant to the provisions of N.J.S. 18A:18A-1 et seq. The cancelled designation shall not be considered in determining whether or not the board attained its goal established pursuant to section 2 of this act.

b. If the board of education determines that the acceptance of the lowest responsible bid will result in the payment of an unreasonable price, the board shall reject all bids and withdraw the designation of the set-aside contract. Small business enterprises, minority business enterprises or women's business enterprises, as appropriate, shall be notified in writing of the set-aside cancellation, the reasons for the rejection and the board's intent to resolicit bids on an unrestricted basis pursuant to the provisions of N.J.S. 18A:18A-1 et seq. The cancelled bid solicitation shall not

be considered in determining whether or not the board attained its goal established pursuant to section 2 of this act.

P.L. 1985, c. 490, s. 6; amended 1988,c.37,s.6.

18A:18A-57. Annual report

Any board of education which has established a small business set-aside program, a minority business enterprise set-aside program or a women's business enterprise set-aside program shall prepare a report by January 31 of each year describing the board's efforts in attaining the set-aside goals and the percentage of the dollar value of total procurements awarded in the immediately preceding local fiscal year. The board of education shall publish a list of its attainments in at least one newspaper circulating in the school district by March 1 of each year.

P.L. 1985, c. 490, s. 7; amended 1988,c.37,s.7.

18A:18A-58. Rules, regulations

The State Board of Education, or any State department or agency the State board may designate, may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to effectuate the purposes of this act.

L. 1985, c. 490, s. 8, eff. Jan. 17, 1986.

18A:18A-59. False information; penalties

Where the local board of education determines that a business has been classified as a small business enterprise, minority business enterprise or women's business enterprise on the basis of false information knowingly supplied by the business and has been awarded a contract to which it would not otherwise have been entitled under this act, the local board of education shall have the authority to:

- a. Assess the business any difference between the contract amount and what the local board of education's cost would have been if the contract had not been awarded in accordance with the provisions of this act;
- b. In addition to the amount due under subsection a., assess the business a penalty in an amount of not more than 10% of the amount of the contract involved; and
- c. Order the business ineligible to transact any business with the local board of education for a period to be determined by the local board of education.

Prior to any final determination, assessment or order under this section, the local board of education shall afford the business an opportunity for a hearing on the reasons for the imposition of the penalties set forth in subsection a., b. or c. of this section.

L.1985, c.490, s.13; amended 1988,c.37,s.11.

18A:18B-1 Definitions.

1. For the purposes of this act:

- a. "Fund" means a joint self-insurance fund established by a school board insurance group pursuant to this act. The joint self-insurance fund is a fund of public moneys from contributions made by members of a school board insurance group for the purpose of securing insurance protection, risk management programs, or related services as authorized by this act;
- b. "School board insurance group" or "group" means an association formed by two or more boards of education or the New Jersey School Boards Association for the development, administration, and provision of risk management programs, joint self-insurance fund or funds, and related services;
- c. "Risk management program" means a plan, and activities carried out under the plan, by a school board insurance group to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund pursuant to this act, including safety engineering and other loss prevention and control techniques. Risk management program also includes the administration of one or more funds, including the processing and defense of claims brought against or on behalf of members of the group;
- d. "Trustees" or "board of trustees" means the board of trustees established pursuant to the bylaws of the school board insurance group to govern or manage the risk management programs, joint self-insurance fund or funds and related services of the group;
- e. "Contributions" mean the moneys paid by a member of a school board insurance group in amounts as may be set by the board of trustees or other officers as provided in the group's bylaws for the purpose of participating in a joint self-insurance fund or funds, securing risk management programs or related services;
- f. "Certified audit" means an audit upon which an auditor expresses his professional opinion that the accompanying statements present fairly the financial position of a fund in conformity with generally accepted accounting principles

consistently applied, and accordingly including tests of the accounting records and other auditing procedures as considered necessary in the circumstances;

g. "Commissioner" means the Commissioner of Banking and Insurance.

L.1983, c.108, s.1; amended 2007, c.312.

18A:18B-2 Insurance authorized.

2. Insurance authorized. Any board of education is authorized to insure, contract or provide for any insurable interest of the district or board in the manner authorized by section 3 of P.L.1983, c.108 (C.18A:18B-3), for the following:

a. Any loss or damage to its property, real or personal, motor vehicles, equipment or apparatus;

b. Any loss or damage from liability resulting from the use or operation of motor vehicles, equipment or apparatus owned or controlled by it;

c. Any loss or damage from liability for its own acts or omissions and for acts or omissions of its officers, employees or servants arising out of and in the course of the performance of their duties, including, but not limited to, any liability established by the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq., or by any federal or other law;

d. Loss or damage from liability as established by Chapter 15 of Title 34 of the Revised Statutes, Labor and Workers' Compensation (R.S.34:15-1 et seq.);

e. Expenses of defending any claim against the board, district, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim;

f. Benefits pursuant to contributory or non-contributory group health insurance or group term life insurance, or both, for employees or their dependents, or both, through self insurance, the purchase of commercial insurance or reinsurance, or any combination thereof. The maximum risk to be retained for group term life insurance by a joint insurance fund on a self insured basis shall not exceed a face amount of \$5,000 per covered employee or dependent or such greater amount as approved by the Commissioners of Banking and Insurance and Education. Notwithstanding any other provision of law to the contrary, the board or joint insurance fund shall be subject to the surcharge levied pursuant to section 3 of P.L.1993, c.8 (C.52:14-17.38c) for claims paid within the retained amount. For any claims paid in excess of the retained amount, the surcharge shall be paid by the entity insuring the excess amount;

g. Loss from liability associated with sick leave payment for service connected disability as provided by N.J.S.18A:30-2.1;

h. Any loss or damage from liability resulting from loss or theft of money or securities;

i. Blanket bond coverage for certain school board officers, employees, and volunteer organizations serving a school board for faithful performance and discharge of their duties;

j. Bodily injury and property damage claims arising from environmental impairment liability and legal representation therefor to the extent that such coverages, as approved by the Commissioner of Banking and Insurance, are provided by the purchase of insurance and no risk is retained by the fund; and

k. Student accident coverage to the extent approved by the Commissioner of Banking and Insurance.

As used in this section:

(1) "life insurance" means life insurance as defined in N.J.S.17B:17-3;

(2) "health insurance" means health insurance as defined in N.J.S.17B:17-4 or benefits provided by hospital service corporations, medical service corporations or health service corporations authorized to do business in this State; and

(3) "dependents" means dependents as defined pursuant to section 1 of P.L.1979, c.391 (C.18A:16-12).

L.1983,c.108,s.2; amended 1995, c.74, s.1; 1999, c.435.

18A:18B-3. School board insurance group

a. Any two or more boards of education may form and become members of a school board insurance group. A board of education may take this action by resolution of the board. Through membership in a school board insurance group, a board of education may participate in any joint self-insurance fund or funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish a fund or funds for coverages authorized in section 2 of this act and to

jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint self-insurance funds, joint insurance purchases, and related services.

b. The bylaws of the school board insurance group shall provide that any board of education may join the group, provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A school board insurance group may sue or be sued and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner of the appointment.

d. A school board insurance group is not an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of joint self-insurance fund or funds, risk management programs and related services does not constitute the transaction of insurance nor doing an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3, Insurance, of the Revised Statutes.

L.1983, c. 108, s. 3, eff. March 15, 1983.

18A:18B-4. Bylaws of the group; trustees; powers

4. Bylaws of the group; trustees; powers.

a. The bylaws of any school board insurance group shall:

(1) Set forth a statement of purposes of the group;

(2) Set forth provisions for organization of the group, including governance by a board of trustees;

(3) Provide for the delivery of a risk management program in conjunction with any joint self-insurance fund or funds which the board of trustees shall establish. The risk management program shall include, but not be limited to:

(a) the perils of liabilities to be insured against;

(b) limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance;

(c) the amount of risk to be retained by the fund;

(d) the amount of reserves to be established;

(e) the proposed method of assessing contributions to be paid by each member of the fund;

(f) procedures governing loss adjustment and legal fees;

(g) coverage to be purchased from a commercial insurer, if any;

(h) reinsurance to be purchased, if any, and the amount of premium therefor; and

(i) such other procedures and information as the commissioner may require by rule or regulation;

(4) Set forth procedures to enforce the collection of any contributions or payments in default;

(5) Set forth membership standards as required in section 3 of P.L.1983, c.108 (C.18A:18B-3);

(6) Require that, for each joint self-insurance fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained;

(7) Set forth procedures for:

(a) Withdrawal from the group and a fund by a member;

(b) Termination of the group or fund and disposition of assets; and

(c) Determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;

(8) Require an annual certified audit to be prepared and filed with the commissioner;

(9) Require that any joint self-insurance fund or funds be developed and operated in accordance with accepted and sound actuarial practices;

(10) Provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund;

(11) Set forth other provisions as desired for operation and governance of the group;

(12) Provide for expulsion of a member; and

(13) Comply with any requirement established by the commissioner by rule or regulation.

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

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

(2) To invest moneys held in trust under any fund in investments which are approved for investment by regulation of the State Investment Council for surplus moneys of the State or, at the discretion of the board, to transfer moneys held in trust under any fund to the Director of the Division of Investment in the Department of the Treasury for investment on behalf of the board in accordance with the standards governing the investment of other funds which are managed under the rules and regulations of the State Investment Council. However, any moneys transferred to the director for investment may not thereafter be withdrawn except upon withdrawal of a member from the group or a fund or termination of the group or a fund or in specific amounts in payment of specific claims, administrative expenses or member dividends upon affidavit of the director or other chief executive officer of the group;

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

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

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

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

(7) To prepare, or cause to be prepared, a risk management program for the joint insurance group;

(8) As the need arises, from time to time, to amend the bylaws or risk management program of the fund; except that no such amendment shall take effect until approved in the following manner:

(a) The trustees shall file with the commissioner, for his approval: a copy of any amendment to the bylaws of the fund, upon approval by resolution of three-fourths of the member school boards or in such other manner as established by the fund and approved by

the commissioner; or any amendment to the risk management program, upon adoption by the trustees.

(b) Within 60 days of receipt, the commissioner shall either approve or disapprove any amendment to the bylaws or risk management program. If the commissioner fails to either approve or disapprove the amendment within that 60 day period, the amendment shall be deemed approved;

(c) If any amendment is disapproved, the commissioner shall set forth, in writing, the reasons for disapproval. Upon the receipt of the notice of disapproval, the trustee of the affected joint insurance fund may request a public hearing. The public hearing shall be convened by the commissioner in a timely manner;

(d) Within 90 days after the effective date of any amendment to the bylaws, a member school board which did not approve the amendment may withdraw from the fund, except that it shall remain liable for its share of any claim or expense incurred by the fund during its period of membership;

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

L.1983,c.108,s.4; amended 1992,c.53,s.1; 1995,c.74,s.2.

18A:18B-5. Trustees; number and qualifications

The board of trustees of any school board insurance group shall have no fewer than three nor more than 15 trustees. Each trustee shall be a natural person 18 years of age or older who is a resident of this State. A majority of the trustees of any group shall be members or employees of member boards of education, provided that any trustee who ceases to be a member or employee of a board of education may be allowed to serve for not more than 90 days following cessation without violating this provision.

L.1983, c. 108, s. 5, eff. March 15, 1983.

18A:18B-6. Trustees; compensation

No trustee shall be paid a salary, except that the written trust instrument may provide for reimbursement for actual expenses incurred on behalf of the trust fund and for compensation not to exceed \$200.00 for any day or portion of a day spent at a meeting of the trustees. Except as otherwise provided in this act, no trustee shall enter into any contract with the group or receive any moneys or other compensation or thing of value whatsoever from the group for services performed for or on behalf of the group.

L.1983, c. 108, s. 6, eff. March 15, 1983.

18A:18B-7. Review of bylaws; investigations by the Commissioner of Insurance

7. Review of bylaws; investigations by the Commissioner of Insurance.

a. No school board insurance group, nor any joint self-insurance fund of the group, may begin functioning as a means of providing insurance coverage or protection for or among its members until the group's bylaws and risk management program have been filed with and approved by the commissioner. If the commissioner fails to approve or disapprove the bylaws or risk management program, or both, as the case may be, within 60 days following filing in his office, the bylaws or risk management program, or both, as the case may be, shall be deemed approved. If the commissioner disapproves the bylaws or risk management program, he shall set forth the reasons for his disapproval in writing. The reasonable costs of the commissioner's review of the bylaws and risk management program shall be chargeable to the boards of education seeking to establish the group.

b. Every school board insurance group shall file an annual report, on a form prescribed by the commissioner, at a time to be fixed by the commissioner. The report shall include a financial statement of the group's assets and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require. The commissioner may require more frequent reports as he deems necessary.

c. The commissioner shall have authority to examine the books, records and affairs of any school board insurance group or joint self-insurance fund for the purpose of determining compliance with this act. The reasonable costs of any examination or review shall be chargeable to the school board insurance group.

d. The commissioner may suspend or terminate the authority of any school board insurance fund or direct or take any action he may deem necessary for good cause, to enable a fund to meet its obligations, cover its expected losses, or liquidate, rehabilitate or otherwise modify its affairs. The commissioner may take such action in the event of:

(1) A failure to comply with the rules and regulations promulgated by the commissioner or with any of the provisions of P.L.1983, C.108 (C.18A:18B-1 et seq.);

(2) A failure to comply with a lawful order of the commissioner; or

(3) A deterioration of the financial condition of the fund to the extent that it causes an adverse effect upon the ability of the school board insurance fund to pay expected losses.

e. The commissioner may, in his discretion, require the trustees of any fund to file copies of any agreements or contracts entered into by the trustees of the fund or any other pertinent documents he may deem necessary.

L.1983,c.108,s.7; amended 1995,c.74,s.3.

18A:18B-7.1. Rules, regulations

5. Within 180 days after the effective date of this 1995 amendatory and supplementary act, the Commissioner of Insurance shall promulgate rules and regulations to effectuate its purposes pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The rules and regulations shall include, but not be limited to, the establishment, operation, modification and dissolution of school board insurance funds established pursuant to the provisions of this 1995 amendatory and supplementary act.

L.1995,c.74,s.5.

18A:18B-8. Joint insurance fund permitted

In any county which has established an insurance fund pursuant to N.J.S. 40A:10-6 or is a member of a joint insurance fund pursuant to P.L. 1983, c. 372 (C. 40A:10-36 et seq.), the board of education of the county vocational school located within that county may, at the option of the board of education, enter into a contract with the governing body of the county or joint insurance fund to participate in the county insurance fund or a joint insurance fund as the case may be.

L. 1988, c. 143, s. 1.

18A:18B-9. Minimum contract terms

Any contract entered into between the board and the governing body of the fund shall, at a minimum, specify the type and scope of coverage to be afforded, the premium basis for all insurance carried, and the terms and conditions for withdrawal by the board of education from the insurance fund.

L. 1988, c. 143, s. 2.

18A:18B-10. Current expense item

A board of education which enters into a contract pursuant to this act is authorized to pay the premiums required by that contract and shall include the funds necessary for the payment of these premiums as a current expense item in the annual school budget prepared and submitted to the board of school estimate pursuant to N.J.S. 18A:54-28.

L. 1988, c. 143, s. 3.

18A:19-1. Expenditure of funds on warrant only; requisites

The money or funds of the board in the custody of the treasurer of school moneys shall be expended by such treasurer by, and only by, warrants, each made payable to the order of the person entitled to receive the amount thereof and specifying the object for which is issued, signed by the president and secretary of the board and by such treasurer of school moneys,

(a) After audit of the account or demand to be paid, by the secretary, and after approval by the board, or

(b) In accordance with payrolls duly certified as provided by this title, or

(c) For debt service, or

(d) When provided by resolution of the board, after audit of the account or demand to be paid, and approval by a person designated by the board.

L.1967, c.271; amended by L.1979, c. 98, s. 1, eff. May 24, 1979; L.1981, c. 174, s. 10, eff. June 19, 1981; L.1982, c. 196, s. 1, eff. Dec. 8, 1982.

18A:19-2. Requirements for payment of claims; audit of claims in general

No claim or demand against a school district shall be paid by the treasurer unless it is authorized by law and the rules of the board of education of the district, is fully itemized and verified, has been duly audited as required by law, has been presented to, and approved by, the board at a meeting thereof, or presented to, and approved by, a person designated by the board for that purpose, and the amount required to pay the same is available for said purpose.

L.1967, c.271; amended by L.1981, c. 174, s. 11, eff. June 19, 1981; L.1982, c. 196, s. 2, eff. Dec. 8, 1982.

18A:19-3 Verification of claims, demands.

18A:19-3. All claims and demands, that equal or exceed 15% of the bid threshold amount established pursuant to N.J.S.18A:18A-3, except for payrolls and debt service, shall be verified by affidavit, or by a signed declaration in writing, contained therein or annexed thereto, to the effect that the same are correct in all particulars, that the articles have been furnished or the services rendered as stated therein and that no bonus has been given or received on account thereof.

Amended 1991, c.37; 2007, c.42, s.3.

18A:19-4. Audit of claims, etc., by secretary; warrants for payment

All claims and demands against the board, except such as are to be paid from funds derived from athletic events or other activities of pupil organizations, shall, unless otherwise provided by resolution of the board, be examined, audited and certified in writing by the secretary and presented by him to the board for its approval at a regularly called meeting, and if found to be correct, shall be ordered paid by the board, whereupon the secretary and the president of the board shall issue and sign a warrant in payment therefor. The secretary thereupon shall forward such warrant to the treasurer of school moneys of the district.

L.1967, c.271; amended by L.1979, c. 98, s. 2, eff. May 24, 1979; L.1981, c. 174, s. 12, eff. June 19, 1981; L.1982, c. 196, s. 3, eff. Dec. 8, 1982.

18A:19-4.1. Account or demand; audit; approval

A board of education may, by resolution, designate a person in addition to the secretary to audit any account and demand to be paid, and provide for approval of such account or demand by such person or the secretary prior to presentation to the board. Any such approval shall be presented to the board at their next meeting for ratification. The board may establish a maximum dollar amount for which payment may be authorized without prior board approval.

L.1982, c. 196, s. 4, eff. Dec. 8, 1982.

18A:19-9. Compensation of teachers, etc., payrolls

Payment of the compensation of teachers and other employees may be made on the basis of payrolls certified by the president and secretary of the board, stating the names and amounts to be paid to each, and delivered to the treasurer of school moneys with a warrant made to his order for the full amount of each payroll.

L.1967, c.271; amended by L.1981, c. 174, s. 13, eff. June 19, 1981.

18A:19-10. Payroll bank account; checks for compensation

The treasurer shall deposit the warrants in a separate bank account as a payroll account and payment shall be made to the teachers and others entitled thereto by individual checks drawn to their respective orders upon such account.

L.1967, c.271; amended by L.1981, c. 174, s. 14, eff. June 19, 1981.

18A:19-11. Signature of payroll checks by deputy

If the treasurer of the school moneys of the district is the custodian of the municipality composing it, such payroll checks may be signed by a deputy or a municipal officer who serves as such municipal custodian, if the deputy is bonded for the faithful performance of such duties in the same manner as is the treasurer.

L.1967, c.271; amended by L.1981, c. 174, s. 15, eff. June 19, 1981.

18A:19-12. Interest payable on certain warrants not immediately paid

When a warrant for the payment of current expenses of a public school is drawn and issued and there are no funds for payment of the same, the warrant shall bear legal interest until such time as the treasurer gives public notice of the fact that funds are provided for the payment thereof.

L.1967, c.271; amended by L.1981, c. 174, s. 16, eff. June 19, 1981.

18A:19-13. Petty cash funds

The provisions of this chapter shall not prevent the establishment and operation by a board of education of petty cash funds, pursuant to rules of the state board.

L.1967, c.271.

18A:19-14. Funds derived from pupil activities

All funds derived from athletic events or other activities of pupil organizations shall be administered, expended and accounted for pursuant to the rules of the state board.

L.1967, c.271.

18A:19-15. Listing of payments

Each board of education shall maintain a current and updated listing of payments made for: a. legal fees; b. consulting fees, including negotiating fees; and c. contracts for maintenance. Each list shall specify payees and amounts received during the previous and current school years.

Each of these lists shall be available for public inspection during normal business hours. Copies of the lists shall be made available to the public at a reasonable cost.

L. 1989, c. 46, s. 2.

18A:20-1. Title in board of education

The title to the property, real and personal, of each school district, and the title to all property, real and personal, which shall be acquired for school purposes in the district, is vested and shall vest in the board of education of the district and the board shall succeed to and be vested with all the property, rights and privileges not inconsistent with the provisions of this act heretofore vested in or possessed by any body heretofore having charge and control of the public schools or the public school property, of the district, or of the municipality or municipalities composing the district, and the board shall have the supervision, control and management of all such property.

L.1967, c.271.

18A:20-2. Purchase and sale of property in general

The board of education of any district may, in and by its corporate name, acquire, by purchase or lease, receive, hold, hold in trust and sell and lease real estate and personal property and may take and condemn lands and other property for school purposes in the manner provided by law relating to the taking and condemnation of property for public purposes, subject to the restrictions provided in this title.

L.1967, c.271.

18A:20-2.1. Transfer of title of painting or work of art to municipality; public display

The board of education of any school district owning a painting or other work of art may by resolution transfer title thereto to the municipality in which the school district is located and the board of education and the governing body of the municipality may enter into an agreement relative to their respective responsibilities and obligations in connection with the maintenance, restoration and preservation of the painting or other work of art to assure its appropriate public display.

L.1971, c. 53, s. 1, eff. March 19, 1971.

18A:20-2.2 Use of school district surplus funds for joint acquisition of land for recreation, conservation purposes.

2. a. A school district may expend any of its surplus funds for the joint acquisition of land for recreation and conservation purposes with a municipality, notwithstanding the participation of any other public entity in the purchase, provided that the transaction does not violate any federal or State law and has a direct nexus to, and substantially furthers the core mission of, the school district.

b. Nothing in this section shall interfere with or limit the oversight authority of any State agency over a school district.

c. For the purposes of this section, "recreation and conservation purposes" means the use of lands for beaches, biological or ecological study, boating, camping, fishing, forests, greenways, hunting, natural areas, parks, playgrounds, protecting historic properties, water reserves, watershed protection, wildlife preserves, active sports, or a similar use for either public outdoor recreation or conservation of natural resources, or both.

L.2001,c.283,s.2.

18A:20-3. Acquisition of outstanding interest in real property

Any district which holds any real estate or interest therein may acquire any outstanding interest therein by condemnation in the manner provided by law relating to the taking and condemnation of property for public purposes.

L.1967, c.271.

18A:20-4. Acceptance and use of gifts

The board of education may accept any gift or grant of land with or without improvement, and of money or other personal property, without additional authorization or authority, and may:

a. Expend any such money or use any such personal property, without any additional authorization or authority, in the equipment of any building for school purposes; or

b. Expend such moneys in the construction of a building for school purposes, or addition thereto, and the equipment thereof but only if such expenditure and the expenditures of any additional moneys required to be expended in connection with such construction shall be authorized in the manner prescribed by law for the construction of buildings for school purposes or additions thereto.

L.1967, c.271.

18A:20-4.1. Type II districts; acquisition of property without authorization of voters

The board of education of any Type II school district may without authority first obtained from the voters of the district:

(a) Rent, on a year-to-year basis, or for a term not to exceed 5 years, in case of emergency, buildings to use for school purposes; and

(b) Take an option not to exceed 1 year in duration, at a cost not to exceed the fair market value of such option, on the purchase of any land which the board could lawfully purchase after securing the consent of the legal voters to the purchase thereof, but such option may be exercised by the board only after authority to purchase the property covered by such option has been given at an annual or special school election.

L.1967, c.271; amended L.1968, c. 161, s. 1, eff. July 16, 1968; L.1971, c. 300, s. 1, eff. Aug. 27, 1971.

18A:20-4.2. Powers of boards concerning real property

18A:20-4.2. The board of education of any school district may, for school purposes:

(a) Purchase, take and condemn lands within the district and lands not exceeding 50 acres in extent without the district but situate in a municipality or municipalities adjoining the district, but no more than 25 acres may be so acquired in any one such municipality, without the district, except with the consent, by ordinance, of such municipality;

(b) Grade, drain and landscape lands owned or to be acquired by it and improve the same in like manner;

(c) Erect, lease for a term not exceeding 50 years, enlarge, improve, repair or furnish buildings;

(d) Borrow money therefor, with or without mortgage; in the case of a type II district without a board of school estimate, when authorized so to do at any annual or special school election; and in the case of a type II district having a board of school estimate, when the amount necessary to be provided therefor shall have been fixed, determined and certified by the board of school estimate; and in the case of a type I district, when an ordinance authorizing expenditures for such purpose is finally adopted by the governing body of a municipality comprised within the district; provided, however, that no such election shall be held nor shall any such resolution of a school estimate board or ordinance of a municipal governing body be introduced to authorize any lease of any building for a term exceeding one year, until the proposed terms of such lease have been reviewed and approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(e) Construct, purchase, lease or otherwise acquire a building with the federal government, the State, a political subdivision thereof or any other individual or entity properly authorized to do business in the State; provided that: (1) the noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education; (2) the portion of the building to be used as a school meets regulations of the Department of Education; (3) the board of education has complied with the provisions of law and regulations relating to the selection and approval of sites; and (4) in the case of a lease, that any lease in excess of five years shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(f) Acquire, with the approval of either the commissioner, or voters or board of school estimate, as applicable, improvements or additions to school buildings through lease purchase agreements not in excess of five years. The agreement shall be recorded as an expenditure of the General Fund of the district. The commissioner shall approve the agreement only upon a demonstration by the district that the lease purchase payments and any operating expenses related to the agreement can be included within the district's net budget spending growth limitation and will not result in the need for approval by the voters or board of school estimate, as appropriate, of additional spending proposals to maintain existing instructional programs and extracurricular activities. If the commissioner cannot approve the agreement, the board of education may frame a separate question to authorize the lease purchase agreement and obtain voter or board of school estimate approval to enter into the agreement. A district may, without separate prior approval of the commissioner, also acquire equipment through a lease purchase agreement not in excess of five years or in the case of a lease purchase agreement entered into for the acquisition of school buses not in excess of 10 years, provided that the amount of the first installment and each subsequent installment for the lease purchase payments is included in the budget that is advertised and submitted for approval to the voters of the district or the board of school estimate, as appropriate. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased equipment or improvements or additions to existing school buildings during or upon termination of the lease, with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease. As part of such a transaction, the board of education may transfer or lease land or rights in land, including any building thereon, after publicly advertising for proposals for the transfer for nominal or fair market value, to the party selected by the board of education, by negotiation or otherwise, after determining that the proposal is in the best interest of the taxpayers of the district, to construct or to

improve and to lease or to own or to have ownership interests in the site and the school building to be leased pursuant to such lease purchase agreement, notwithstanding the provisions of any other law to the contrary. The land and any building thereon which is described in a lease purchase agreement entered into pursuant to this amendatory act, shall be deemed to be and treated as property of the school district, used for school purposes pursuant to R.S.54:4-3.3, and shall not be considered or treated as property leased to another whose property is not exempt, and shall not be assessed as real estate pursuant to section 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement authorized by this section shall contain a provision making payments thereunder subject to the annual appropriation of funds sufficient to meet the required payments or shall contain an annual cancellation clause and shall require all construction contracts let by public school districts or let by developers or owners of property used for school purposes to be competitively bid, pursuant to N.J.S.18A:18A-1 et seq.;

(g) Establish with an individual or entity authorized to do business in the State a tenancy in common, condominium, horizontal property regime or other joint ownership arrangement on a site contributed by the school district; provided the following conditions are met:

(1) The individual or entity agrees to construct on the site, or provide for the construction thereon, a building or buildings for use of the board of education separately or jointly with the individual or entity, which shall be subject to the joint ownership arrangement;

(2) The provision of the building shall be at no cost or at a reduced cost to the board of education;

(3) The school district shall not make any payment for use of the building other than its pro rata share of costs of maintenance and improvements;

(4) The noneducational uses of the building are compatible with the establishment and operation of a school, as determined by the Commissioner of Education;

(5) The portion of the building to be used as a school, and the site, meet regulations of the Department of Education; and

(6) Any such agreement shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(h) Acquire through sale and lease-back textbooks and non-consumable instructional materials provided that the sale price and principal amount of the lease-back do not exceed the fair market value of the textbooks and instructional materials and that the interest rate applied in the lease-back is consistent with prevailing market rates or is less.

L.1967, c.271; amended 1968, c.175, s.1; 1971, c.292; 1981, c.410, s.1; 1986, c.183, s.1; 1991, c.477; 1998, c.55, s.1; 2000, c.72, s.35; 2001, c.146, s.1.

18A:20-4.3. Construction, alteration or repair work upon premises to be leased to board of education; public work

Any construction, reconstruction, demolition, alteration or repair work, or maintenance work, including painting and decorating, done under private contract for any person, firm, corporation or association acting under an express agreement or understanding with any board of education that, upon completion of the work contracted for the site, structure or premises upon which such work was done will be leased by said board of education for public school purposes under the provisions of section 18A:20-4.2 of the New Jersey Statutes shall be deemed a "public work" for the purposes of the "New Jersey Prevailing Wage Act" (P.L. 1963, c. 150) and subject to the applicable provisions of that act, excepting only such provisions as can be applicable only in cases where a public body is a direct party to a contract for a public work.

L.1968, c. 175, s. 2, eff. July 19, 1968.

18A:20-4.4. Contract provision for payment of prevailing wage rate; necessity

Every contract in excess of \$2,000.00 for any public work contracted for by a private party acting under an express agreement for subsequent lease by a board of education shall contain a provision stating the prevailing wage rate which can be paid (as determined pursuant to the applicable provisions of the "New Jersey Prevailing Wage Act" (P.L. 1963, c. 150)) to the workmen employed in the performance of the contract, and the contract shall contain a stipulation that such workmen shall be paid not less than such prevailing wage rate. No board of education shall enter into any such agreement or understanding except upon the condition that such provision and stipulation shall be included in the contract; and no such agreement or understanding shall be valid or shall be honored by any board of education if such provision and stipulation are not included in the contract.

L.1968, c. 175, s. 3, eff. July 19, 1968.

18A:20-4.5. Contractor's or subcontractor's failure to pay prevailing wage; determination and effect

If any public work shall be contracted for by a private party acting under an express agreement or understanding for subsequent lease by a board of education, and if it shall

be found prior to execution of a lease pursuant to such understanding or agreement that any workman or workmen employed by the contractor or any subcontractor covered by said contract has been paid a rate of wages less than the prevailing wage required to be paid by such contract, then the board of education involved in any such agreement or understanding shall not execute a lease pursuant thereto, nor make any payment in connection therewith, until all wages due and owing to any such workman or workmen in compliance with the stipulated prevailing wage rate have been paid; and such private party is hereby authorized to withhold from any contractor or subcontractor who shall have failed to pay the prevailing wage any sums due to such contractor or subcontractor to an amount sufficient to pay to any workman or workmen the balance of wages due him or them as a result of the contractor's failure to pay the prevailing wage, and to make such payments directly to such workman or workmen out of the sums thus withheld. For the purposes of this section, the fact and extent of a contractor's or subcontractor's failure to pay the prevailing wage shall be determined in accordance with the applicable provisions of the "New Jersey Prevailing Wage Act" (P.L. 1963, c. 150).

L.1968, c. 175, s. 4, eff. July 19, 1968.

18A:20-5 Disposition of property and title of purchaser.

18A:20-5. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any district by a recorded roll call majority vote of its full membership may dispose, by sale or otherwise, in the manner prescribed in this chapter, of any lands or any rights or interest therein, owned by it, which cease to be suitable or convenient for the use for which they were acquired or which are no longer needed for school purposes, whether acquired by purchase or through condemnation proceedings and the purchaser thereof shall acquire title thereto free from any use or purpose for which it may have been acquired by the board.

Amended 2007, c.137, s.44.

18A:20-6. Public sale; advertisement; exception

Any lands or rights or interests therein sold by any board of education, except lands conveyed as part of a lease purchase agreement pursuant to N.J.S. 18A:20-4.2(f), shall be sold at public sale, to the highest bidder, after advertisement of the sale in a newspaper published in the district, or, if none is published therein, then in a newspaper circulating in the district, in which the same is situate, at least once a week for two weeks prior to the sale, unless:

a. The same are sold to the State, or a political subdivision thereof, in which case they may be sold at private sale without advertisement; or

b. The sale or other disposition thereof in some other manner is provided for in this Title.

L.1967, c.271; amended by L. 1986, c. 183, s. 2, eff. Dec. 9, 1986.

18A:20-7. Sale at fixed minimum prices; rejection of bids

a. In the case of public sales the board may by resolution fix a minimum price with or without the reservation of the right, upon the completion of said public sale, to accept or reject the highest bid made thereat, a statement whereof shall be included in the advertisement of sale of the lands and public notice thereof shall be given at the time of sale, or it may by resolution provide without fixing a minimum price, that upon the completion of the public sale, the highest bid made thereat shall be subject to acceptance or rejection by the board, but the acceptance or rejection thereof shall be made not later than the second regular meeting of the board following the sale, and, if the board shall fail or refuse to accept or reject any such highest bid, as aforesaid, the said bid shall be deemed to have been rejected.

b. If no bid is received or if the bids which are received are rejected by the board, the board may enter into negotiations with any interested party or parties for the sale or other disposal of the property. The acceptance or rejection of the price arrived at through negotiations shall be by recorded roll call majority vote of the full membership of the board at a regularly scheduled meeting.

The board may reject any bid if it determines it to be in the public interest to do so, but shall afford the bidder a hearing upon his request before entering into negotiations as provided in this subsection.

L.1983, c. 555, s. 1, eff. Jan. 17, 1984.

18A:20-8 Exchange of lands.

18A:20-8. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any school district, by a recorded roll call majority vote of its full membership, may exchange any lands owned by it and not needed for school purposes for lands located in the school district and at least equal in value to the lands conveyed by the board in such exchange.

Amended 2007, c.137, s.45.

18A:20-8.1 Transfer of land for vocational school purposes.

1. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), the board of education of any school district or regional school district may, by resolution, transfer land to the board of education of a county vocational school district for the purpose of constructing a vocational school on such land.

L.1970, c.106, s.1; amended 2007, c.137, s.46.

18A:20-8.2 Lease of school lands.

1. a. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land, whether there is a building thereon or not, or part or all of a school building, is not necessary for school purposes, but which it does not desire to dispose of for reason that the property may, at some future time, again be required for school purposes, it may authorize the lease thereof for a term extending beyond the official life of the board; provided that the noneducational uses of such building or tract of land are compatible with the establishment and operation of a school, as determined by the Commissioner of Education, if joint occupancy of such site is considered. The lease shall be binding upon the successor board as follows:

(1) After advertisement of the request for bids to lease to the highest bidder in a newspaper published in the school district, or, if none is published therein, then in a newspaper circulating in the district in which the same is situate, at least once a week for two weeks prior to the date fixed for the receipt and opening of bids, unless:

(2) The same is leased to the federal government, State, a political subdivision thereof, another school district, any board, body or commission of a municipality within the school district, any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, or to a nonprofit hospital duly licensed under the laws of the State of New Jersey, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit senior citizen organization, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey, in which case the same may be leased by private agreement for a nominal fee without advertisement for bids.

b. Any lease in excess of five years shall be approved by the Commissioner of Education.

L.1978, c.91, s.1; amended 1979, c.47; 1981, c.410, s.2; 1987, c.65, s.2; 1988, c.161; 1991, c.172; 2007, c.137, s.47.

18A:20-9 Conveyance of certain school property for public, civic purposes for nominal consideration.

18A:20-9. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for school purposes it may authorize the conveyance thereof, whether there is a building thereon or not, for a nominal consideration, to the municipality or any board, body or commission thereof, or to any volunteer fire company or rescue squad actively engaged in the protection of life and property and duly incorporated under the laws of the State of New Jersey, or to any American Legion post, Veterans of Foreign Wars, or other recognized veterans' organization of the United States of America, located in the municipality or the county, as a meeting place for such organization, or to a nonprofit child care service organization duly incorporated under the laws of the State of New Jersey, to a nonprofit hospital duly licensed under the laws of the State, or to a nonprofit organization duly licensed under the laws of the State of New Jersey to provide emergency shelter for the homeless, or to a nonprofit historic preservation organization duly incorporated under the laws of the State of New Jersey to provide a place for educational, cultural and musical functions. The president and secretary of the board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such municipality, board, body or commission thereof for public purposes and by any such fire company for fire company purposes or by such rescue squad for rescue squad purposes or to any veterans' organization, or to any child care service organization, or to any nonprofit hospital, or to any provider of emergency shelter for the homeless, or to any nonprofit historic preservation organization, and in the event that the property shall cease to be used for any of the purposes contemplated by this section, such property shall thereupon revert to and the title thereof shall vest in the board of education making the conveyance thereof hereunder.

Amended 1977, c.447; 1985, c.260; 1987, c.65, s.1; 1995, c.29; 2007, c.137, s.48.

18A:20-9.1. Conveyance of certain sewer lines to a municipality

Upon the request or with the concurrence of the governing body of a municipality the board of education of any district is authorized to convey and transfer, without consideration, its right, title and interest in and to any trunk or other sewer line to the municipality in which it is situated subject to the continued right of the district to use the same together with such other use as may be authorized by the governing body of the municipality.

L.1967, c.271.

18A:20-9.2 Sale of school property to nonprofit private school for the handicapped.

1. Except as otherwise provided pursuant to section 14 of P.L.2007, c.137 (C.18A:7G-45), whenever any board of education shall by resolution determine that any tract of land is no longer desirable or necessary for public school purposes it may authorize the conveyance thereof, at no less than the fair market price, whether there is a building thereon or not, to a nonprofit private school for the handicapped duly incorporated under the laws of the State of New Jersey. As used in this section, market price shall equal the median of two or more appraisals conducted by qualified real estate appraisers. The president and secretary of the board shall be authorized to execute and deliver a conveyance for the same in the name and under the seal of the board, which conveyance may, in the discretion of the board, be made subject to a condition or limitation that said land shall be used by such nonprofit private school for the handicapped and in the event that the property shall cease to be used for the purposes contemplated by this section, such property shall first be offered for resale to the board of education making the conveyance thereof hereunder at the market price current at the time of resale.

L.1990, c.35, s.1; amended 2007, c.137, s.49.

18A:20-10. Lands conveyed on condition

Whenever any district has heretofore received a conveyance of lands subject to a recital or condition in the deed of conveyance, substantially providing that the land and premises conveyed are intended to be conveyed for the express purpose of building a public schoolhouse on the same and for the uses and purposes of a public school for said district, and the lands so conveyed have been held by the district for more than 30 years, and no public schoolhouse has ever been built or has stood for the past 20 years thereon, and the board of education of the district shall determine that the lands are not required for school uses and purposes, the board may sell and convey the said lands and make, execute and deliver a valid conveyance thereof, free of any such recital or condition and thereby vest a title in fee simple absolute in the grantee as fully as though such recital or condition was not contained in the deed of conveyance to the school district; provided, that no proceeding or action shall be commenced against said school district for the recovery of said lands or the enforcement of such recital or condition within a period of one year from the date of conveyance of said lands by the board.

L.1967, c.271.

18A:20-11. Property devised in trust

When any person dies and by his last will and testament gives, devises and bequeaths any real estate to any board of education, by whatever name or names the board may be designated, in trust to take and receive the rents, issues, and profits arising from the same, pay all expenses necessary to the maintenance and proper care of such premises, and the net income arising therefrom to invest in books or other school properties, or otherwise for and on behalf of the schools or any school in the district, and for the use and benefit of the pupils thereof, such real estate may be sold under the circumstances hereinafter enumerated and in the manner hereinafter prescribed.

L.1967, c.271.

18A:20-12. Proceedings to sell; when authorized

If any building upon the property so devised is or becomes old, dilapidated and greatly in need of extraordinary repairs, or if any such building is not well adapted or becomes not well adapted for business or other purposes for which it was built, or cannot be repaired or modernized so as to yield a good income without extraordinary expense, or when a fair rental, considering the value of the property, cannot be obtained for the same, or when the premises consist in whole or in part of vacant lots which cannot be rented for a fair price or at all, and when if sold the proceeds arising from the sale of the real estate could be invested and in that way yield a larger income than could be obtained by the renting or other use of the premises, then the board of education may institute a civil action in the superior court to direct such lands and other premises to be sold in fee simple absolute. The court may proceed in the action in a summary manner or otherwise.

L.1967, c.271.

18A:20-13. Sale of real estate charged with private bequest

When any such testator shall make a charge on any real estate so devised to any board of education, of any legacy or bequest to any other person in trust or otherwise, then no direction for the sale thereof shall be made by the court unless the beneficiary under the legacy or bequest is made a party defendant to the action; nor shall the sale be made unless it shall appear to the court that the rights and interests of the

beneficiary under such legacy or bequest will not be prejudiced thereby and if a sale is directed the court shall make all necessary orders for the conservation of such legacy or bequest with respect to the investment of moneys arising from the sale.

L.1967, c.271.

18A:20-14. Sale; when ordered

If it shall be made to appear to the court by any person or persons whom it may concern that such sale may be had without prejudice to the public welfare and the best interests of the school or schools for whose benefit the devise was made, and that it is advisable and best for the beneficiaries of the trust, and that their interests would be promoted by the sale, the court may direct the lands and other premises to be sold in fee either at public or private sale, and with such limitations as to price and as to credit for purchase money as it may deem proper to direct.

L.1967, c.271.

18A:20-15. Conveyance; title of purchaser

A deed given pursuant to such directions and made by such person as may be designated by the court shall convey to the purchaser an estate in fee simple absolute, freely and fully discharged from the trust and any charge thereon created by the will of the testator.

L.1967, c.271.

18A:20-16. Investment of proceeds under direction of superior court

The moneys arising from any such sale shall be invested, under the direction of the superior court, by and in the name of the board of education to whom the real estate so sold shall have been devised and shall be held by it in trust for the uses and purposes set forth in the will. The court may from time to time make such further orders and directions in the premises as shall conserve the purposes of the trust and be deemed necessary to carry out the will of the testator.

L.1967, c.271.

18A:20-17. Equipping and establishing playgrounds, etc., funds

The board of education of any district may establish public playgrounds and recreation places of such size and dimensions and in such locations within or without the district as it shall deem suitable, and may lease, purchase or condemn, or acquire by gift or otherwise, the lands necessary therefor, and any moneys required in payment or for erecting or repairing buildings thereon or otherwise improving the same and providing equipment therefor shall be raised by, or furnished to, the board of education in the same manner as moneys are raised by, or furnished to, the board for school purposes.

L.1967, c.271.

18A:20-18. Transfer by municipality to board of education

Whenever the governing body of a municipality, in which any public playground and recreation place has been established, shall determine by resolution that it is advisable that it be relieved of the maintenance, control, and management thereof, the governing body may, without consideration, convey the same to the board of education of the school district in the municipality, for use for public playgrounds and recreation places if said board shall by resolution consent to accept, maintain, control and manage the same. The real estate so transferred and conveyed shall be under the control of and shall be maintained and managed by the board of education.

L.1967, c.271.

18A:20-19. Funds for maintenance of playgrounds and recreation places

Whenever any board of education has established any public playground or recreation place, or has assumed the maintenance, control, and management of a public playground or recreation place, it shall include in its annual budget an itemized statement of the amount of money estimated to be necessary for the cost of maintenance and management of such playground and recreation place for the ensuing year.

L.1967, c.271.

18A:20-20. Control and regulation of playgrounds and recreation places

The board of education shall have full control over all lands, public playgrounds, and recreation places acquired or leased by it, pursuant to law, and may adopt suitable rules for the use thereof, and the conduct of all persons while on or using the same.

L.1967, c.271.

18A:20-21. Supervisors and other employees

The board shall appoint such supervisors, instructors, teachers, custodians, and employees as it shall think necessary for the proper maintenance, control, and management of such public playgrounds and recreation places, and shall fix their compensation and terms of employment.

L.1967, c.271.

18A:20-22. School districts joining with municipality or county in equipment and operation

The board of education of any district may join with the governing body of any municipality, or the board of chosen freeholders of the county in which the district is located, in acquiring, improving, equipping, operating and maintaining playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers, and may appropriate money therefor and may pay over to the said body or board such money as may be so appropriated to be disbursed for any of such joint purposes.

L.1967, c.271.

18A:20-23. Local improvement assessments; payment of

The board of education of any type II district may, in its discretion, pay assessments made against any of its real estate on account of special benefits conferred by any local improvement made by any municipality in which the district is located.

L.1967, c.271.

18A:20-24. Funds; how raised

The money with which to pay the assessments may be raised by the issuance of bonds or any other means authorized by law for raising of money for school purposes.

L.1967, c.271.

18A:20-25. Insurance of property

Every board of education shall keep all insurable property, real and personal, of the district insured against loss or damage by fire and, in its discretion, against other loss or damage.

L.1967, c.271.

18A:20-26. Board of education of city district may insure in municipal fund

Where a municipal insurance fund is established in any city and insurance fund commissioners appointed, the board of education of the city school district may in its discretion by resolution provide that from and after the adoption of the resolution, the school buildings and school property of the district be insured in the municipal insurance fund of the city.

L.1967, c.271.

18A:20-27. Each building and its contents insured separately

Each school building and its contents insured in such municipal insurance fund shall be insured separately and for definite and determined sums respectively, except where the insurance fund commissioners have insured the same in an insurance company as provided in this subarticle.

L.1967, c.271.

18A:20-28. Fixing and payment of premiums

The insurance fund commissioners of such city may fix reasonable rates of premium for all insurance carried on school buildings and school property of the school district by the fund, and the board of education shall pay forthwith to the insurance fund commissioners of the city the premium for any insurance carried by the municipal insurance fund on school buildings and school property of the city school district.

L.1967, c.271.

18A:20-29. Investment of premiums

All moneys received by the insurance fund commissioners for premiums on school buildings and school property insured in the municipal insurance fund of the city, except so much as may be necessary to pay premiums upon insurance placed upon any of such school buildings and school property with insurance companies as provided in this subarticle, shall be invested by the commissioners with the moneys of the municipal insurance fund and in the manner provided by law for the investment of such moneys.

L.1967, c.271.

18A:20-30. Appropriations to municipal fund

The body having control of the finances of any city wherein the school buildings and other school property of the city school district are insured in the municipal insurance fund may, from time to time, if in its judgment advisable, appropriate additional sums of money to the municipal insurance fund of the city from moneys under its control not otherwise appropriated, or by raising such sums in the tax levies for the years in which they are severally appropriated.

L.1967, c.271.

18A:20-31. Adjustment and payment of losses

In case of loss incurred by fire or other casualty insured against on any building or contents insured in the municipal insurance fund and not insured in an insurance company, if the loss be total, the commissioners shall pay the whole sum from the fund

to the board of education of the district within 60 days. If the loss be partial, the sum to be paid shall be fixed and adjusted by a commission of adjustment consisting of a commissioner of the municipal insurance fund, the president of the board of education of the school district and the presiding officer of the board or body having control of the finances of the city.

L.1967, c.271.

18A:20-32. Commissioners may insure buildings and property in insurance companies

Whenever the insurance fund commissioners of any city deem it expedient, they may place insurance on school buildings and school property, insured in the municipal insurance fund, with insurance companies authorized to do business in this state. The premiums for such insurance in excess of the rates of premium thereon fixed by the commissioners shall be paid forthwith to the commissioners by the board of education of the district. The policies of insurance shall provide that the loss be payable to the board of education of the school district.

L.1967, c.271.

18A:20-33. Insurance money; use for reconstruction or repair

Whenever any of the school buildings and the furnishings thereof in any school district have been or shall have been partially or totally destroyed by fire or other casualty, the insurance moneys received by the board of education by reason thereof, whether payable from a municipal insurance fund or otherwise, may be used by the board for the repair, reconstruction, or rebuilding of the building and the purchase and repair of the furnishings and contents thereof, but the board shall not use the money for the erection of a building on a site other than that occupied by the building destroyed without the authority of the appropriating power. The board of education shall not enter into a contract for the construction of a building to cost more than the amount of insurance moneys received until the additional amount required shall have been authorized for expenditure for such purpose and regularly appropriated.

L.1967, c.271.

18A:20-34. Schoolhouse, rooms; permitted usage

18A:20-34. The board of education of any district may, pursuant to rules adopted by it, permit the use of any schoolhouse and rooms therein, and the grounds and other property of the district, when not in use for school purposes, for any of the following purposes:

a. The assembly of persons for the purpose of giving and receiving instruction in any branch of education, learning, or the arts, including the science of agriculture, horticulture, and floriculture;

b. Public library purposes or stations of public libraries;

c. The holding of such social, civic, and recreational meetings and entertainments and such other purposes as may be approved by the board;

d. Such meetings, entertainments, and occasions where admission fees are charged as may be approved by the board;

e. Polling places, holding elections, registration of voters, and holding political meetings;

f. Child care services provided by the board of education, or a board approved sponsor, or a child care program licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), before or after regular school hours, for any school aged child who attends school within the school district.

L.1967, c.271; amended 1999,c.83.s.1.

18A:20-34.1 Rules, regulations relative to child care services, programs

3. The State Board of 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.

L.1999,c.83, s.3.

18A:20-36. Commissioner may order alteration or abandonment of buildings

The commissioner may direct the entire or partial abandonment of any building used for school purposes and may direct the making of such changes therein as to him may seem proper.

L.1967, c.271.

18A:20-37. Purchase of certain types of securities; definitions

1. a. When authorized by resolution adopted by a majority vote of all its members the board of education of any school district may use moneys, which may be in hand, for the purchase of the following types of securities which, if suitable for registry, may be registered in the name of the school district:

(1) Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America;

(2) Government money market mutual funds;

(3) Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligations bear a fixed rate of interest not dependent on any index or other external factor;

(4) Bonds or other obligations of the school district or bonds or other obligations of the local unit or units within which the school district is located;

(5) Bonds or other obligations, having a maturity date of not more than 397 days from the date of purchase, approved by the Division of Investment in the Department of the Treasury for investment by school districts;

(6) Local government investment pools;

(7) Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4); or

(8) Agreements for the repurchase of fully collateralized securities, if:

(a) the underlying securities are permitted investments pursuant to paragraphs (1) and (3) of this subsection a.;

(b) the custody of collateral is transferred to a third party;

(c) the maturity of the agreement is not more than 30 days;

(d) the underlying securities are purchased through a public depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and for which a master repurchase agreement providing for the custody and security of collateral is executed.

b. Any investment instruments in which the security is not physically held by the school district shall be covered by a third party custodial agreement which shall provide for the designation of such investments in the name of the school board and prevent unauthorized use of such investments.

c. Purchase of investment securities shall be executed by the "delivery versus payment" method to ensure that securities are either received by the school district or a third party custodian prior to or upon the release of the school district's funds.

d. Any investments not purchased and redeemed directly from the issuer, government money market mutual fund, local government investment pool, or the State of New Jersey Cash Management Fund, shall be purchased and redeemed through the use of a national or State bank located within this State or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities.

e. For the purposes of this section:

(1) a "government money market mutual fund" means an investment company or investment trust:

(a) which is registered with the Securities and Exchange Commission under the "Investment Company Act of 1940," 15 U.S.C. s.80a-1 et seq., and operated in accordance with 17 C.F.R. s.270.2a-7;

(b) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section; and

(c) which is rated by a nationally recognized statistical rating organization.

(2) a "local government investment pool" means an investment pool:

(a) which is managed in accordance with 17 C.F.R. s.270.2a-7;

(b) which is rated in the highest category by a nationally recognized statistical rating organization;

(c) the portfolio of which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. s.270.2a-7 and repurchase

agreements that are collateralized by such U.S. Government securities in which direct investment may be made pursuant to paragraphs (1) and (3) of subsection a. of this section;

(d) which is in compliance with rules adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) by the Local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of the investments;

(e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value ; and

(f) which purchases and redeems investments directly from the issuer, a government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities .

f. Investments in, or deposits or purchases of financial instruments made pursuant to this section shall not be subject to the requirements of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

L.1977,c.177,s.1; amended 1991, c.458, s.1; 1997, c.148, s.1.

18A:20-38. Record of receipt; report; filing; transmittal of securities to depository

When said securities are received by the school district, the secretary shall duly record the receiving thereof in an appropriate manner and at the next regular or special meeting after such receipt, he shall transmit a written report to the board of education, setting forth the amount of securities so received, the series, date and the numbers and interest periods, if any, thereof and at the same time, transmit said securities to such depository, person or persons as the board of education shall direct for safekeeping. Such written report shall be recorded in the minutes at such meeting, and a certified copy of such minute record shall forthwith be filed with the Bureau of Financial Regulation and Assistance in the Department of the Treasury.

L.1977, c. 177, s. 2, eff. Aug. 16, 1977.

18A:20-39. Securities not to be canceled; sale; resolution

Securities of a school district, purchased by it, shall not be canceled but may be sold as and when directed by resolution adopted by a majority vote of all the members of the board of education.

L.1977, c. 177, s. 3, eff. Aug. 16, 1977.

18A:20-40. Testing for radon in public school building

3. a. Except as may be provided pursuant to subsection b. of this section, every public school building used as a public school in the State shall be tested for the presence of radon gas or radon progeny at least once every five years. If the public school has been tested less than five years prior to the effective date of this act, then the test shall be performed within five years of that test and once every five years thereafter.

b. The Commissioner of Education, in consultation with the Department of Environmental Protection, shall determine the extent of testing required and the locations for the testing, provided that at least every public school building used as a public school in which a child care center is operated by a nonprofit organization is tested by the school in which the child care center is operated for the presence of radon gas or radon progeny at least once every five years. The superintendent of each school district in the State, in consultation with the Department of Environmental Protection and the principal of each school to be tested, shall determine the buildings to be tested, the locations within each building to be tested, the method of testing, and the procedures concerning notification and circulation of the testing results.

L.2000,c.122,s.3.

18A:21-1. Capital projects; description

The capital projects which may be undertaken by a board of education, for any lawful purposes, the cost whereof may be provided for from taxes, or by the issuance of bonds, as provided by this chapter, are as follows:

1. The acquisition by purchase or condemnation of lands;

2. The grading, draining and landscaping of lands owned or to be acquired by the board and the improvement thereof in any like manner;

3. The acquisition, construction, reconstruction, remodeling, alteration, enlargement or major repair of buildings; and

4. The purchase of the original furniture, equipment and apparatus, or of major renewals of furniture, equipment and apparatus, for any building used or to be used for such purposes.

L.1967, c.271.

18A:21-2. Authorization; establishment of accounts

18A:21-2. The board of school estimate of any district having such a board and the board of education of any other district may establish a capital reserve account pursuant to this article which may be maintained and used as in this article provided.

L.1967, c.271; amended 1990,c.52,s.38.

18A:21-3 Earnings credited to capital reserve accounts.

18A:21-3. The account shall be established by resolution of the board of school estimate or the board of education, as the case may be, in such form as shall be prescribed by the commissioner, a true copy of which shall be filed with the department. The account shall include the earnings attributable to the investment of the assets of the account.

Amended 1990, c.52, s.39; 1993, c.80, s.2; 1996, c.138, s.51; 2007, c.260, s.51.

18A:21-4. Use of capital reserve accounts

18A:21-4. A board of education may in any school year draw against its capital reserve account, up to the amount of the balance therein, to the extent that the withdrawal is anticipated as a revenue in the school budget for the then current school year or approved by the commissioner for good cause; provided, that no money drawn from the account may be used for current expenses of the general fund or debt service payments but shall be used exclusively for capital expenses of the general fund or capital projects fund when expressly authorized as part of a referendum.

L.1967, c.271; amended 1990, c.52, s.40; 1996, c.138, s.52.

18A:21-5. Maintenance of capital reserve accounts

18A:21-5. The capital reserve account of each district shall be maintained by the local district, in accordance with procedures to be established by the commissioner.

L.1967, c.271; amended 1990,c.52,s.41

18A:22-1. Number of members; appointments; vacancies

There shall be in each type I district a board of school estimate, which shall consist of two members of the board of education appointed by it, two members of the governing body of the municipality appointed by it, and the mayor or other chief executive officer of the municipality or if there be no chief executive officer then an additional member appointed by the governing body. Appointments shall be made annually in December, and vacancies shall be filled immediately by appointment as the original appointments were made for the unexpired terms.

L.1967, c.271; amended by L.1978, c. 136, s. 6, eff. Oct. 30, 1978.

18A:22-2. Secretary

The secretary of the board of education shall serve as secretary of the board of school estimate without additional compensation.

L.1967, c.271.

18A:22-3. Application of subarticle

The provisions of this subarticle shall apply to every type II local district having within its territorial limits more than one municipality, and having a population of more than 10,000, in which there is now a board of school estimate.

L.1967, c.271.

18A:22-4. Membership; terms; vacancies

The board of school estimate shall consist of the chief executive officer of the governing body of each municipality and the president of the board of education of the district ex officio, and two members of the governing body of each municipality, to be chosen by their respective governing bodies and one member of the board of education of the district, to be chosen by said board, all of whom shall be chosen during the month of January and shall serve for one year from February 1 and until their successors are chosen. Vacancies occurring in the board shall be filled in like manner for the unexpired terms.

L.1967, c.271.

18A:22-5. Majority of all members

When it is required by law that any action shall be taken by at least a majority of the full membership of the board of school estimate, such majority must include a majority of the members, representing the respective municipal governing bodies and the action shall be certified accordingly.

L.1967, c.271.

18A:22-6. Secretary

The secretary of the board of education shall be the secretary of the board of school estimate, but shall receive no compensation as such.

L.1967, c.271.

18A:22-7. Budgets; preparation

18A:22-7. The board of education of every school district having a board of school estimate shall prepare and deliver to each member of the board of school estimate, on or before March 22 in each year, and the board of education of every other school district shall prepare a budget for the school district for the ensuing year, on or before March 22.

L.1967, c.271; amended 1978,c.136,s.7; 1979,c.23,s.12; 1992,c.159,s.12; 1995,c.278,s.37.

18A:22-8 Contents of budget; format.

18A:22-8. The budget shall be prepared in such detail and upon such forms as shall be prescribed by the commissioner and to it shall be annexed a statement so itemized as to make the same readily understandable, in which shall be shown:

a. In tabular form there shall be set forth the following:

(1) The total expenditure for each item for the preceding school year, the amount appropriated for the current school year adjusted for transfers as of February 1 of the current school year, and the amount estimated to be necessary to be appropriated for the ensuing school year, indicated separately for each item as determined by the commissioner;

(2) The amount of the surplus account available at the beginning of the preceding school year, at the beginning of the current school year and the amount anticipated to be available for the ensuing school year;

(3) The amount of revenue available for budget purposes for the preceding school year, the amount available for the current school year as of February 1 of the current school year and the amount anticipated to be available for the ensuing school year in the following categories:

(a) Total to be raised by local property taxes

(b) Total State aid

(i) Equalization aid

(ii) Special education categorical aid

(iii) Transportation aid

(iv) Preschool education aid

(v) Security aid

(vi) Adjustment aid

(vii) Other (detailed at the discretion of the commissioner)

(c) Total federal aid

(i) Elementary and Secondary Education Act of 1965 (20 U.S.C.s.2701 et seq.)

(ii) Handicapped

(iii) Impact Aid

(iv) Vocational

(v) Other (detailed at the discretion of the commissioner)

(d) Other sources (detailed at the discretion of the commissioner).

b. (Deleted by amendment, P.L.1993, c.117).

c. In the event that the total expenditure for any item of appropriation is equal to \$0.00 for: (1) the preceding school year, (2) the current school year, and (3) the amount estimated to be necessary to be appropriated for the ensuing school year, that item shall not be required to be published pursuant to N.J.S.18A:22-11.

d. The instruction function of the budget shall be divided at a minimum into elementary (K-5), middle school (6-8), and high school (9-12) cost centers, each of which shall be further divided by the core curriculum content areas. The commissioner shall phase in these requirements as soon as practicable.

e. The budget as adopted for the school year pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) shall be provided for public inspection on the school district's Internet site, if one exists, and made available in print in a "user-friendly" format using plain language. The Commissioner of Education shall promulgate a "user-friendly," plain language budget summary format for the use of school districts for this purpose.

Amended 1968, c.295, s.5; 1970, c.123, s.1; 1979, c.294; 1989, c.46, s.1; 1989, c.217; 1990, c.52, s.43; 1993, c.117; 1996, c.138, s.53; 2007, c.53, s.18; 2007, c.260, s.52.

18A:22-8a "User-friendly" plain language budget summary forms for school districts; information; submission; availability.

2. a. The Commissioner of Education shall promulgate "user-friendly," plain language budget summary forms for the use of school districts. The commissioner shall also promulgate a procedure for the submission by each school district of the required budget summary form to the Department of Education following the approval of the budget.

b. The plain language budget summary shall provide the public with information in summary form about the budget of the school district and shall include, in addition to an abbreviated version of the formal budget adopted by the school district, such statistical information as the commissioner determines to be useful for the public's understanding of the school district's fiscal matters and condition, and shall also include, but not be limited to, the following information for both the district's budget year and the prebudget year: all line items of appropriation aggregated by item type; the school tax rate; the equalized school tax rate; revenues by major category; the amount of available surplus; a description of unusual revenues or appropriations, with a description of the circumstances of the revenues or appropriations; and a list of shared service agreements in which the district is participating.

c. The plain language budget summary shall be submitted to the Department of Education in such form as determined by the commissioner, and, upon its receipt of the summary, the department shall make the summary available to the public through an Internet website maintained by the department in an easily accessible location. The information on the web site shall be presented as data that can be downloaded by the public for comparative purposes using commonly-used software.

L.2007, c.53, s.2.

18A:22-8b Required promulgation of forms, procedures.

3. Not later than the first day of the sixth month next following the enactment of P.L.2007, c.53 (C.18A:55-3 et al.), the Commissioner of Education shall promulgate the "user friendly," plain language budget summary forms and procedures required pursuant to section 2 of P.L.2007, c.53 (C.18A:22-8a).

L.2007, c.53, s.3.

18A:22-8c Rules, regulations to effectuate certain budgeting, fiscal procedures.

7. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to effectuate the budgeting and fiscal procedures under chapter 22 of Title 18A of the New Jersey Statutes which shall be effective for a period not to exceed 12 months following the effective date of P.L.2008, c.37 (C.18A:11-13 et al.). The regulations shall thereafter be amended, adopted, or readopted by the commissioner in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.); and the commissioner shall, at a minimum, hold at least one public hearing in each of the north, central, and southern regions of the State within 60 days of the public notice of any regulations proposed by the commissioner to be amended, adopted, or readopted pursuant to that act.

L.2007, c.37, s.7.

18A:22-8.1 Transfer of funds, conditions.

2. Except as otherwise provided pursuant to this section, whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education approved by a two-thirds affirmative vote of the authorized membership of the board; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are

necessary between meetings of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. Transfers of surplus amounts or any other unbudgeted or underbudgeted revenue to line items and program categories shall require the approval of the Commissioner of Education and shall only be approved between April 1 and June 30 for line items and program categories necessary to achieve the thoroughness standards established pursuant to section 4 of P.L.2007, c.260 (C.18A:7F-46); except that upon a two-thirds affirmative vote of the authorized membership of a board of education, the board may petition the commissioner for authority to transfer such revenue prior to April 1 due to an emergent circumstance and the commissioner may authorize the transfer if he determines that the transfer is necessary to meet such emergency. Transfers from any general fund appropriation account that, on a cumulative basis, exceed 10% of the amount of the account included in the school district's budget as certified for taxes shall require the approval of the commissioner. In a school district wherein the Commissioner of Education has directed an in-depth evaluation pursuant to subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain the written approval of the executive county superintendent of schools prior to implementing any board authorized transfer of funds.

L.1979, c.294, s.2; amended 1987, c.196; 1987, c.398, s.4; 2004, c.73, s.6; 2005, c.235, s.34; 2007, c.260, s.53.

18A:22-8.2. Certain transfers not allowed

3. No transfer may be made under this section from appropriations or surplus accounts for:

a. Interest and debt redemption charges;

b. Capital reserve account;

c. Items classified as general fund expenses except to other items so classified, or to the capital projects fund to supplement the proceeds from a bond authorization or lease purchase agreement upon application to and a formal finding by the commissioner that the transfer is in the best interests of both the students and taxpayers of the district after consideration of alternative corrective actions.

L.1979, c.294, s.3; amended 1990, c.52, s.44; 1991, c.62, s.22; 1993, c.83, s.5; 1996, c.138, s.54.

18A:22-9. Categories of expenditures; fixing

The commissioner shall, with the approval of the state board, prescribe the items of expenditure to be included in each category of appropriation mentioned in subsection a. of section 18A:22-8 in accordance with the terms thereof any may, upon request, decide in which category a proposed item of expenditure shall be included.

L.1967, c.271.

18A:22-10. Fixing date, etc., for public hearing

18A:22-10. Upon the preparation of its budget, each board of education shall fix a date, place and time for the holding of a public hearing upon said budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year and the various items and purposes for which the same are to be appropriated. In districts having a board of school estimate, the hearing shall be held before the board of school estimate between March 22 and March 29 and in districts having no board of school estimate the hearing shall be held before the board of education between March 22 and March 29.

L.1967, c.271; amended 1978, c.136, s.8; 1990, c.52, s.46; 1992, c.159, s.13; 1995, c.278, s.39.

18A:22-11. Notice of public hearing

18A:22-11. The board of education shall cause notice of such public hearing and the statement annexed to the budget to be published at least once in at least one newspaper published in the district and if no newspaper be published therein, then in at least one newspaper circulating in said district not less than four days prior to the date fixed for such public hearing.

L.1967, c.271; amended 1995, c.278, s.41.

18A:22-12. Contents of notice

The notice shall also set forth that said budget will be on file and open to the examination of the public between reasonable hours to be fixed therein and at a place to be named therein, from the date of said publication until the date of the holding of the public hearing, that in any district having a board of school estimate the public hearing will be held before the board of school estimate and in other districts that the public hearing will be held before the board of education and that at said public hearing said budget will be on file and open to the examination of the public accordingly and will be produced for the information of those attending the same.

L.1967, c.271.

18A:22-13. Public hearing; objections; heard, etc.

On the date and at the time and place, so fixed, the board of school estimate or the board of education, as the case may be, shall hold such public hearing at which the taxpayers and other interested persons shall have an opportunity to present objections and to be heard with respect to said budget and the amounts of money necessary to be appropriated and the various items and purposes for which the same are to be appropriated for the use of the public schools in the district for the ensuing school year.

L.1967, c.271.

18A:22-14. Board of school estimate of type I district to determine appropriation amount

18A:22-14. At or after the public hearing but not later than April 8, the board of school estimate of a type I district shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), exclusive of the amount which shall have been apportioned to it by the commissioner and shall make two certificates of the amount signed by at least three members of the board, one of which shall be delivered to the board of education and the other to the governing body of the district. Within 15 days after receiving the certificate the board of education shall notify the board of school estimate and governing body of the district if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money requested pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

L.1967, c.271; amended 1973, c.265, s.1; 1978, c.136, s.9; 1981, c.511, s.10; 1992, c.159, s.14; 1996, c.138, s.55.

18A:22-15. Appropriations, how made

The governing body of each municipality comprising a type I district shall, upon the receipt of the certificate of the board of school estimate:

a. Appropriate the amount, so certified, for the use of the public schools in the district for the ensuing school year, if such appropriations in the district are not made upon a calendar year basis; or

b. Appropriate not less than one half of the amount, so certified, if such appropriations in the district are made upon a calendar year basis, and in any year except the first in which such appropriation is so made, appropriate also the unappropriated balance, if any, of the sum previously certified by the board of school estimate for the current school year.

L.1967, c.271.

18A:22-16. Resumption of school year appropriations

Nothing in this article shall prevent the resumption by the governing body of each municipality comprising such district of the method of making appropriations for the use of the public schools in the district on the school year basis and thereafter the annual appropriations for such purposes shall be budgeted, certified and made and shall be assessed, levied and raised by taxation in such manner as may be necessary to give effect to such change.

L.1967, c.271.

18A:22-17. Tax ordinance; assessment, levy and collection of appropriations; notice of intent to appeal amount of appropriation

The governing body of the municipality shall include the amount so appropriated in its tax ordinance, and the same shall be assessed, levied and collected in the same manner as other moneys appropriated are assessed, levied and collected, but the governing body shall not be required so to appropriate any amount in excess of 1 1/2 % of the assessed valuation of the ratables of the municipality, but may do so if it so determines by resolution.

Within 20 days after the governing body of the municipality appropriates in its tax ordinance an amount for the use of the public schools of the district for the ensuing school year, the board of education shall notify the governing body if it intends to appeal to the commissioner the amount so appropriated.

L.1967, c.271; amended by L.1973, c. 265, s. 2, eff. Nov. 29, 1973.

18A:22-18 Capital projects; appropriations; estimation.

18A:22-18. When a board of education of a type I district shall determine by resolution that it is necessary to sell school bonds to raise money for any capital project authorized by law, it shall prepare and deliver to each member of the board of school estimate a statement of the amount of money estimated to be necessary for such purpose. The statement shall include the amount needed to be raised by school bonds, the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000,c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6), and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs.

L.1967, c.271; amended 1993, c.83, s.6; 2000, c.72, s.36.

18A:22-19 Determination of local share amount.

18A:22-19. The board of school estimate shall fix and determine the local share amount necessary for said purpose and shall certify such amount separately to the board of education and to the governing body of the municipality.

L.1967, c.271; amended 2000, c.72, s.37.

18A:22-20. Capital projects; appropriations; how raised

18A:22-20. The governing body of the municipality shall, subject to the limitations hereinafter contained, borrow the sum or sums determined pursuant to N.J.S.18A:22-19, and secure repayment thereof, with interest thereon, at a rate not to exceed 6% per annum, by the authorization and issuance of bonds in the corporate name of the municipality, in accordance with law.

The governing body shall not be required to appropriate any amount which if added to the net school debt of the district at the date of the appropriation shall exceed 1 1/2 % of the average equalized valuations of taxable property as defined in section 18A:24-1, but may do so if it so determines by resolution.

L.1967, c.271; amended 1993,c.83,s.7.

18A:22-21. Additional appropriations; purposes; estimation

When a board of education of a type I district shall determine by resolution that it is necessary to raise in any school year funds additional to those set forth in its annual budget for such year for:

(1) current expenses or repair or furnishing of buildings made necessary because the amount requisite therefor was underestimated in the budget; or

(2) repair or utilization of property destroyed or made unusable by accident or other unforeseen cause; or

(3) meeting emergencies arising since the making of such budget;

the board shall prepare and deliver to each member of the board of school estimate a statement of the amount of money determined to be necessary therefor.

L.1967, c.271.

18A:22-22. Additional appropriations; fixing and certifying

The board of school estimate shall meet within a reasonable time after the delivery of the statement and fix and determine the amount necessary for such purpose or purposes and shall certify the same separately to the board of education and to the governing body of the municipality.

L.1967, c.271.

18A:22-23. Additional appropriations; raising

Upon receipt of the certificate, the governing body of the municipality shall immediately appropriate the sum or sums for the purpose or purposes and shall raise such sum or sums in the manner provided by law for the raising of such funds by the municipality in emergencies, and the raising of the funds required by such certificate, in such a case, shall be considered an emergency. Upon raising the funds, the governing body shall cause the sum or sums to be paid forthwith to the custodian of school moneys of the district for such purpose or purposes.

L.1967, c.271.

18A:22-24. Charter limitations on tax rate, etc., inapplicable

No limitation imposed by charter in any municipality, as to the amount or rate of taxes or as to any other matter, shall apply to the raising of money under this chapter.

L.1967, c.271.

18A:22-25. Borrowing against appropriation on notes

The board of education may, after July 1 and before January 1, borrow a sum not exceeding one half of the amount appropriated for the current expenses of the schools and for the repair of schoolhouses under its control, and execute and deliver promissory notes therefor, and pay the amount so borrowed together with interest thereon, at a rate not exceeding 6% per annum.

L.1967, c.271.

18A:22-26. Board of school estimate of type II district to determine appropriation amount

18A:22-26. At or after the public hearing but not later than April 8, the board of school estimate of a type II district having a board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of the amount signed by at least a majority of all members of the board, which shall be delivered to the board of education and a copy thereof, certified under oath to be correct and true by the secretary of the board of school estimate, shall be delivered to the county board of taxation on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the district having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes voted to be raised at an annual or special election of the legal voters in type II districts and shall be paid to the treasurer of school moneys of the district for such purposes.

Within 15 days after receiving the certificate the board of education shall notify the board of school estimate, the governing body of each municipality within the territorial limits of the school district, and the commissioner if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money requested pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

L.1967, c.271; amended 1973, c.265, s.3; 1978, c.136, s.10; 1992, c.159, s.15; 1996, c.138, s.56.

18A:22-27 Type II districts with boards of school estimate; estimate by board of education; certification of estimate.

18A:22-27. Whenever the board of education in a type II school district having a board of school estimate shall, by resolution adopted by recorded roll call affirmative vote of two thirds of its full membership, determine that it is necessary to sell school bonds to raise money for any capital project, it shall, by such resolution, estimate the amount necessary to be raised for such project or projects, itemizing such estimate so as to make it readily understandable, and the secretary of the board of education shall certify a copy of such resolution to each member of the board of school estimate of the district. The resolution shall include the amount needed to be raised by school bonds, the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6) , and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs.

L.1967, c.271; amended 1993, c.83, s.8; 2000, c.72, s.38.

18A:22-28 Public hearing by board of school estimate; notice.

18A:22-28. The board of education of such district shall also, upon delivery of such certificate to the members of the board of school estimate, fix a date, place and time for the holding of a public hearing by the board of school estimate with respect to the amount of money to be raised locally for such project or projects, which date shall be not less than 15 nor more than 30 days after the date of such delivery, and shall cause notice of such public hearing and such resolution, including a statement that said resolution will be on file and open to examination to the public between reasonable hours to be fixed and at a place to be named therein from the date of such notice until the date of said public hearing, to be published at least once and not less than seven days before such public hearing in at least one newspaper, published in each municipality comprised within the school district, and if no newspaper is published in any such municipality, then, as to such municipality, in at least one newspaper circulating in the municipality, and said board of education shall cause said resolution to be on file and open to the examination of the public accordingly and to be produced at said public hearing for the information of those attending the same.

L.1967, c.271; amended 2000, c.72, s.39.

18A:22-29 Public hearing, public participation.

18A:22-29. On the date and at the time and place so fixed for such public hearing, the board of school estimate shall grant the taxpayers and other interested persons an opportunity to present objections and to be heard with respect to said resolution and the amount of money necessary to be raised locally for such project or projects and with respect to the various items and projects for which the same is to be raised.

L.1967, c.271; amended 2000, c.72, s.40.

18A:22-30 Determination of amount to be raised locally.

18A:22-30. At or after such hearing the board of school estimate shall fix and determine the amount of money necessary to be raised locally for said project or projects, and the secretary of said board shall certify said amount to the board of education of the district and to the board or body of each municipality comprised therein which has power to make appropriations of money to be raised by taxes in such municipality. The board of education of the district and the governing body of each such municipality comprising the district shall apportion the amount so to be appropriated, assessed, levied and raised in each of such municipalities, as nearly as may be, on the same basis and by the application of the same standards as are provided by law for apportionment of appropriations by county tax boards.

L.1967, c.271; amended 2000, c.72, s.41.

18A:22-31. Determination of amounts by board of school estimate

In any district in which the amounts to be raised, levied and collected by taxes for school purposes are fixed and determined by a board of school estimate, the secretary of the board of education shall certify the amounts so estimated to be necessary for said purposes, itemizing the same so as to make the same readily understandable, to each member of the board of school estimate of the district and said board of school estimate shall meet within seven days after the delivery of said certificates and by a recorded roll call majority vote of its full membership, shall fix and determine the amounts necessary to be raised for said purposes, and the secretary of said board shall certify, within five days, said amounts to the board of education, to the board or body of each municipality situate within the district which has power to make appropriations of money to be raised by taxes in such municipality, to the county board of taxation and to the county superintendent of schools.

L.1967, c.271.

18A:22-32. Appropriation determination for certain type II districts

18A:22-32. At or after the public hearing on the budget but not later than 18 days prior to the election, the board of education of each type II district having no board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money to be raised pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) and any additional amounts to be voted upon by the legal voters of the district at the annual election pursuant to section 5 of that act, which sum or sums shall be designated in the notice calling the election as required by law.

L.1967, c.271; amended 1977, c.190, s.1; 1978, c.136, s.11; 1995, c.278, s.42; 1996, c.138, s.57.

18A:22-33. Submission of budget and authorization of tax

18A:22-33. The board of education of each type II district not having a board of school estimate shall at each annual school election, submit to the voters of the district, the amount of money fixed and determined in its budget pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), excluding therefrom the sum or sums stated therein to be used for interest and debt redemption charges, in the manner provided by law, to be voted upon for the use of the public schools of the district for the ensuing school year, which amount shall be stated in the notice of the election, and the legal voters of the district shall determine at the election, by a majority vote of those voting upon the proposition, the sum or sums, not exceeding those stated in the notice of the election, to be raised by special district tax for said purposes, in the district during the ensuing school year and the secretary of the board of education shall certify the amount so determined upon, if any, and the sums so stated for interest and debt redemption charges, to the county board of taxation of the county within two days following the certification of the election results and the amount or amounts so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district for such purposes; except that, in the case of a district which, following the school election and the approval by the voters of the sum to be raised by special district tax for the schools of the district, determines that it has a greater surplus account available for the school year than estimated when the sum to be raised by special district tax was presented to the voters, the secretary of the board of education, with the approval of the commissioner, may between the date of the school election and the delivery of tax bills pursuant to R.S.54:4-64 re-certify to the county board of taxation the sum or sums to be raised by special district tax in the district during the ensuing school year, if the sum is lower than that approved by the voters in the school election, and if the reduction is equivalent to the additional amount available in the surplus account to be applied towards the district's budget. The amount re-certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district.

L.1967, c.271; amended 1968, c.295, s.6; 1978, c.136, s.12; 1993, c.83, s.9; 1996, c.138, s.58; 1999, c.346.

18A:22-34. Appropriations; how assessed, levied and raised

2. The amount so certified shall be assessed, levied and raised in the municipality or municipalities composing the district, as follows:

a. In districts in which such appropriations are not made upon a calendar year basis, the full amount thereof, if the district consists of but one municipality, or the portion thereof apportioned to the municipality, if the district is composed of more than one municipality, shall be so assessed, levied and raised therein; or

b. In districts in which the appropriations for the use of the public schools are made upon a calendar year basis, not less than one half, as determined by the governing body of the municipality, of the amount so certified, if the district consists of but one municipality, or not less than one half, as determined by the governing body, of the portion thereof apportioned to the municipality, if the district is composed of more than one municipality, shall be so assessed, levied and raised therein, and in the first year in which such appropriations are made upon said basis, the amount certified to the municipality for the payment of the interest on any note or bond of the district, temporary or permanent, and any part of the principal thereof falling due between July 1 and December 31 of the current school year, or the amount thereof apportioned to the municipality, also, shall be so assessed, levied and raised, and in any year, except the first, in which the appropriations are made upon said basis, the balance, if any, of the sum previously certified to the municipality by the board of school estimate, or the portion thereof apportioned to the municipality for the current school year, and the amount required of the municipality for the payment of the interest upon any note or bond of the district or any part of the principal thereof falling due in the calendar year, shall be so assessed, levied and raised.

L.1967,c.271, s.18A:22-34, eff. Jan.11, 1968.

18A:22-35. Resumption of school year appropriations

Nothing in this article shall prevent the resumption by the governing body of each municipality comprising any such school district of the method of making appropriations for the use of the public schools in the district on the school year basis and thereafter the annual appropriations made upon such basis shall be assessed, levied and raised by special district taxes in such manner as may be necessary to give effect to such change.

L.1967, c.271.

18A:22-37. Determination by municipalities

18A:22-37. If the voters reject any of the items submitted at the annual school election, the board of education shall deliver the proposed school budget pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) to the governing body of the municipality, or of each of the municipalities included in the district within two days thereafter. The governing body of the municipality, or of each of the municipalities, included in the district shall, after consultation with the board, and by May 19, determine the amount which, in the judgment of the body or bodies, is necessary to be appropriated for each item appearing in the budget, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) and certify to the county board of taxation the totals of the amount so determined to be necessary for each of the following:

- a. General fund expenses of schools; or
- b. Appropriations to capital reserve account.

Within 15 days after the governing body of the municipality or of each of the municipalities included in the district shall make the certification to the county board of taxation, the board of education shall notify the governing body or bodies if it intends to appeal to the commissioner pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) the amount which the body or bodies determined to be necessary to be appropriated for each item appearing in the proposed school budget.

L.1967, c.271; amended 1968, c.295, s.7; 1969, c.250, s.2; 1973, c.265, s.4; 1978, c.136, s.13; 1983, c.119, s.2; 1992, c.159, s.16; 1993, c.83, s.10; 1995, c.94, s.2; 1996, c.138, s.59.

18A:22-38 Failure to certify; commissioner to act; amount included in tax levy.

18A:22-38. If the governing body or bodies fail to certify any amount determined to be necessary pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) for any item rejected at the annual school election, or in the event that the governing bodies of the municipalities comprising a school district, shall certify different amounts, then the commissioner shall determine the amount or amounts which in his judgment, are necessary to be appropriated, for each of the items appearing in the budget, submitted to the governing body or bodies, and certify to the county board of taxation the totals of the amount determined to be necessary for the general fund expenses of the schools; and the amount certified shall be included in the taxes to be assessed, levied and collected in the municipality or municipalities for those purposes.

Amended 1968, c.295, s.8; 1969, c.250, s.3; 1993, c.83, s.11; 1996, c.138, s.60; 2007, c.260, s.54.

18A:22-39 Type II districts without board of school estimate; submission of capital projects.

18A:22-39. Whenever the undertaking of any capital project or projects to be paid for from the proceeds of an issue or issue of bonds is submitted to the voters of a type II district at an annual or special school election for their approval or disapproval, the board shall frame and adopt by a recorded roll call majority vote of its full membership the question or questions to be submitted so that each project is submitted in a separate question, or all or any number of them are submitted in one question, which shall state the project or projects so submitted and the amounts to be raised for each of

the projects so separately submitted or for each or for all of the projects so jointly submitted, as the case may be, but any proposal for the purchase of land shall be sufficient to authorize the taking and condemning of such land. If the project is to be constructed by the New Jersey Schools Development Authority or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the local share and shall disclose the final eligible costs of the project as approved by the commissioner pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and in the case of a demonstration project pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6), and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs. If the school facilities project is not to be constructed by the New Jersey Schools Development Authority or a redevelopment entity or by the district with a grant pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed as a single question, request approval for the total costs of the project, shall disclose State debt service aid for the project and, if applicable, the amount of any costs of the project which are in addition to the final eligible costs of the project. When a project is framed in more than one question, a summary shall be included in the explanatory statement which accompanies the questions that includes the total costs of the project, total State debt service aid, and, if applicable, the amount of the costs of the project which are in addition to the final eligible costs of the project, and any individual question containing costs in addition to the final eligible costs shall include the amount of those additional costs.

The statement of additional costs in any ballot question and in any explanatory statement that accompanies a ballot question shall describe the additional costs as follows: "This project includes \$(insert amount) for school facility construction elements in addition to the facilities efficiency standards developed by the Commissioner of Education."

Amended 1977, c.190, s.2; 1993, c.83, s.12; 2000, c.72, s.42; 2007, c.137, s.50.

18A:22-40. Raising additional sums by taxes

18A:22-40. Whenever a board of education shall determine that it is necessary to raise additional sums of money, over and above the amount fixed and determined in the last annual school budget, by special district tax, for general fund expenses, it shall estimate the amount so deemed necessary to be raised, levied and collected and, if the board shall desire to borrow upon its promissory note in anticipation of taxes to be raised, levied and collected to provide for said expenditures, it shall estimate also the amount of interest to be paid upon said notes.

L.1967, c.271; amended 1993,c.83,s.13.

18A:22-41. Submission of question to voters

18A:22-41. In any district in which the amount, with any interest to be paid thereon, to be raised, levied and collected by taxes for school purposes is determined by the voters of the district, the board shall cause the question, whether or not the amount so estimated shall be so raised, to be submitted to the legal voters of the district at a special school election, to be held on such date as shall be determined upon by the board, and if at said election the question shall be adopted, the secretary shall certify that the amount so determined upon has been authorized to be raised in said manner to the county board of taxation within five days after the date of the holding of such election.

L.1967, c.271; amended 1993,c.83,s.14.

18A:22-42. Borrowing upon notes in anticipation of taxes

The board of education of any such district may borrow in anticipation of taxes to be raised, levied and collected to provide for said expenditures, or any part thereof, the sum or sums so authorized, upon its promissory notes bearing interest at a rate or rates not to exceed 6% per annum, maturing not later than December 31 of the year in which such taxes shall be raised, levied and collected, and the principal and interest of the notes shall be paid out of the sum so raised not later than the date of maturity of said notes.

L.1967, c.271.

18A:22-43. Year in which amount certified is to be raised

If any such certificate shall be delivered to the county board of taxation in any year, the amount so certified shall be raised, levied and collected by taxes in the next year.

L.1967, c.271; amended by L.1978, c. 136, s. 14, eff. Oct. 30, 1978.

18A:22-44. Payment of amounts raised to custodian; use

The amounts so raised, levied and collected shall be paid to the custodian of school moneys for the district as other school moneys are paid and shall be used to pay the principal and interest due upon any notes which may have been issued in anticipation thereof as they severally mature and for the purposes so authorized.

L.1967, c.271.

18A:22-44.1. Borrowing by Type II district for current expenses and repairs; payment

The board of education of any Type II district may, after July 1 and before January 1, borrow a sum not exceeding 1/2 of the amount appropriated for the current expenses of the schools and for the repair of schoolhouses under its control, and execute and deliver promissory notes therefor, and pay the amount so borrowed together with interest thereon, at a rate not exceeding 6% per annum.

L.1968, c. 384, s. 1, supplementing art. 3B, c. 22, Title 18A, eff. Dec. 27, 1968.

18A:22-44.2 State school aid payments not made until following school budget year; borrowing.

1. a. Notwithstanding any provision of law, rule, or regulation to the contrary, in the event that a State school aid payment for the current school budget year is not made until the following school budget year, the payment shall be recorded as revenue for budget purposes only in the current school budget year.

b. Notwithstanding the provisions of N.J.S.18A:22-25 and section 1 of P.L.1968, c.384 (C.18A:22-44.1) or any other law, rule, or regulation to the contrary, if a board of education of a school district is notified by the Commissioner of Education that a June State school aid payment will not be made until the following school budget year, and the district demonstrates through a written application to the commissioner the need to borrow and the commissioner approves that application, the board may borrow on or before June 30 of the current school budget year but not earlier than June 22 of the current school budget year a sum not exceeding the amount of the delayed State school aid payment, and may execute and deliver promissory notes therefore through private sale or delivery thereof. The district shall pay the amount so borrowed together with interest thereon and costs thereof. The promissory notes shall mature on or prior to the date of payment of the delayed June State school aid payment, may be redeemable prior to maturity, shall have such terms and conditions as shall be accepted by the board, and shall be authorized by resolution adopted by the board, which resolution may be adopted prior to application to the commissioner contingent upon approval by the commissioner. The amount so borrowed shall constitute a general obligation of the board and shall not constitute gross debt for purposes of N.J.S.40A:2-43.

c. If a school district's application to the commissioner contains a determination letter from a lending bank certifying to the interest charges on the borrowing and if the district's application is approved by the commissioner, the State shall pay on behalf of the district the approved interest on the promissory notes in an amount calculated from the date of borrowing through the date of payment by the State of the delayed June State school aid payment and other approved costs of issuance. Any obligations of the State to make payments pursuant to this section shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution. Any payments required to be made by the State pursuant to this section shall be subject to appropriation.

d. Each school district which issues promissory notes pursuant to this section shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, interest rate, and date of payment of debt service on the promissory notes within three days after the date of issuance of the promissory notes. Following receipt of the certification, the State Treasurer shall withhold from the amount of State school aid payable to the district an amount sufficient to pay the principal on the maturity date of the promissory notes. In the event that there are interest or issuance costs which are not approved by the commissioner pursuant to subsection c. of this section, the State Treasurer shall also withhold an amount sufficient to pay those unapproved costs. The State Treasurer shall, on or before the maturity date, forward the withheld amount to the paying agent for the purpose of paying the debt service on the promissory notes. Notwithstanding any provision of this section to the contrary, the State Treasurer's obligation to pay the paying agent pursuant to this subsection, other than those payments required to be made pursuant to subsection c. of this section, shall not exceed the amount of State school aid payable to the school district or the municipality.

e. Any negative unreserved, undesignated general fund balance that may be recorded as a direct result of a State aid payment for the current school budget year which is not made until the following school budget year shall not be considered a violation of any law or regulation and in need of corrective action.

f. The State Treasurer may, at his discretion, establish procedures and forms necessary to implement the provisions of this section. The State Treasurer may also 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 this section.

L.2003,c.97,s.1.

18A:22-45. Moneys transferred from municipality to district; application thereof

18A:22-45. Whenever a board of education of a district has received moneys transferred to it, by the governing body or bodies of the municipality or municipalities comprising the district, from unappropriated surplus revenue, or from unappropriated anticipated receipts, of the municipality or municipalities, the board of education shall, subject to the provisions of section 18A:22-46, apply the moneys so received, so far as the same shall be sufficient:

- a. To the payment of interest on the bonded indebtedness of the district becoming due and payable during the next ensuing school fiscal year;
- b. To the payment of the principal of the bonded indebtedness of the district maturing in such school fiscal year; and
- c. To any of the purposes for which bonds of the district shall have been authorized but not issued to an amount not exceeding the face value of such bonds not issued; or
- d. To the payment of general fund expenses of the district during said school fiscal year; or

said board may, subject to the provisions of said section, apply the whole or any part of said moneys, not in excess of \$50,000.00 in any one year, to the retirement of bonds maturing in any year or years subsequent to said school fiscal year, with the approval of the director of the division of local finance in the department of community affairs and the commissioner of education and the consent of the bondholders.

L.1967, c.271; amended 1993,c.83,s.15.

18A:22-46. Amounts to be used in reduction of taxes; when required

When the governing body or bodies of the municipality or municipalities have imposed a condition upon such transfer that said funds shall be credited on account of the amount of the school tax due or to become due in such municipality or municipalities in any year, the board shall give credit accordingly and the moneys so transferred shall be used as and when the moneys credited on said school tax could have been used and the secretary in certifying the amount to be raised by local tax for school purposes shall reduce the amount or amounts to be raised in such municipality or municipalities accordingly.

L.1967, c.271.

18A:22-47. Reduction of local taxes by sums received

The secretary of the board of education of the district shall certify to the proper taxing officials the amount of the funds so transferred which are available, and are to be used, for meeting the interest on, and the principal of,

- a. The bonds of the district becoming due and payable during the next ensuing school fiscal year,
- b. The bonds of the district maturing in any year or years subsequent to said school fiscal year, separately stating the amounts which will be so used for each of said years,

and the amounts to be raised by local taxes for such purposes for said next ensuing school fiscal year and for each of said years in which the bonds would otherwise have matured, as the case may be, shall be reduced accordingly notwithstanding that the local tax has been voted by the district.

L.1967, c.271.

18A:22-48. Balance credited to general fund

18A:22-48. Any balance remaining of such funds when received shall be credited upon the amount recommended by the board to be voted upon, or if voted upon, upon the amount to be levied and collected, to meet the general fund expenses of the district during the next ensuing school fiscal year.

L.1967, c.271; amended 1993,c.83,s.16.

18A:23-1. Audit when and how made

The board of education of every school district shall cause an annual audit of the district's accounts and financial transactions to be made by a public school accountant employed by it, which audit shall be completed not later than 4 months after the end of the school fiscal year.

L.1967, c.271; amended by L.1981, c. 5, s. 1, eff. Jan. 23, 1981.

18A:23-2. Scope of audit

Each annual audit shall include an audit of the books, accounts and moneys, and a verification of all cash and bank balances, of the board and of any officer or employee thereof and of moneys derived from athletic events or the activities of any organization of public school pupils conducted under the auspices of the board, from the date of the last annual audit to the date of the audit in question. Such audit shall also include a determination of the extent to which the school board has used contracts entered into by the State Division of Purchase and Property pursuant to P.L.1969, c. 104 (C. 52:25-16.1 et seq.) in the purchase of materials, supplies or equipment for the school district.

L.1967, c.271; amended by L.1975, c. 212, s. 31, eff. July 1, 1976.

18A:23-2.1 Annual audit to assure income tax compliance on reporting compensation.

9. The annual audit conducted pursuant to N.J.S.18A:23-1 shall include test measures to assure that documentation prepared for income tax related purposes complies fully with the requirements of federal and State laws and regulations regarding the compensation which is required to be reported.

L.2007, c.53, s.9.

18A:23-3. Filing; summary of recommendations; publication

The report of each annual audit shall be filed, by the public school accountant making the same, with his recommendations with the board of education of the district, and such accountant shall within 5 days thereafter file two duplicate copies thereof certified under his signature in the office of the commissioner. The commissioner annually shall publish a summary of such recommendations as made for each school district and the steps which have been taken in each district for their implementation.

L.1967, c.271; amended by L.1975, c. 212, s. 32, eff. July 1, 1976.

18A:23-4. Preparation and distribution of synopsis or summary

The secretary of the board shall prepare or have prepared a synopsis or summary of the annual audit and recommendations, prior to the holding of the meeting of the board of education to take action thereon; a copy of which synopsis or summary shall be available for distribution to interested parties at the meeting.

L.1967, c.271.

18A:23-5. Meeting of board; discussion of report

Within 30 days following the receipt of the report of the annual audit the board of education of the district shall, at a regularly scheduled public meeting, cause the recommendations of the auditor to be read and to be discussed and the discussion duly noted on the minutes of said board.

L.1967, c.271.

18A:23-6. Annual audit by commissioner on failure of board to make

If the board of education of any district fails to cause an annual audit to be made and completed, within the time limited therefor by this chapter, the commissioner may cause an audit to be made, by a public school accountant designated by him, which shall be taken to be the annual audit of the district, and shall be paid for from funds of the district as a liability of the district on bills rendered therefor.

L.1967, c.271.

18A:23-7. Report signed by auditor, not to employ nonlicensed auditors

All reports of audit of accounts of school districts shall be signed by the auditor or accountant making the audit or in charge of the same, holding a license as herein provided, whether such audit or statement of account is made by any person employing such auditor or accountant, or otherwise, and the licensing or the revocation of the license of any such auditor shall not be construed to affect the contracting with any school district by any person employing auditors or accountants; but upon the revocation of the license of an auditor or accountant, for the purposes herein specified and authorized, such person shall not employ in such work such auditors or accountants but only such persons as may be licensed as herein required, except that the auditor or accountant whose license may have been revoked may be employed in a subordinate capacity.

If any person shall willfully employ any person not holding a license in full force and effect as auditor or accountant in school district work within the purview of this chapter, the commissioner may direct the school districts to refuse to employ such person in such work during the continuance of such violation.

L.1967, c.271.

18A:23-8. Audit made by licensed public school accountant; fee

The auditing of the accounts of school districts, when required by law, shall be made only by a registered municipal accountant of New Jersey or a certified public accountant of New Jersey who shall hold an uncanceled registration license as a public school accountant for New Jersey. Such registration licenses shall be issued to qualified persons annually by the New Jersey state board of public accountants, who shall charge a fee of \$5.00 for each license, and each such license shall state that the holder thereof has complied with the statutory requirements and is authorized to make audits of accounts of school districts of the state of New Jersey until January 1 following unless sooner canceled as herein provided. The New Jersey state board of public accountants may refuse to issue any such license for any cause authorizing a cancellation thereof as herein provided, or for any other stated cause which it may determine to be good and sufficient.

L.1967, c.271.

18A:23-9. Declaration of accountant

No person shall undertake the auditing of the accounts of any school district unless he shall have qualified as a public school accountant for New Jersey upon proof that he

is either a registered municipal accountant or a certified public accountant, of New Jersey, and by subscribing to the following declaration:

a. That he is fully acquainted with the laws governing the fiscal affairs of school districts of New Jersey and is a competent and experienced auditor; and

b. That he will honestly and faithfully audit the books and accounts of any school district when engaged to do so, and report any error, omission, irregularity, violation of law, discrepancy or other nonconformity to the law, together with his recommendations, to the board of education of such school district.

L.1967, c.271.

18A:23-10. Cancellation of license; review

Upon proof that any public school accountant shall have knowingly omitted to report any error, omission, irregularity, violation of law or discrepancy found in the books or accounts, or shall have issued false reports of his audit of any school district; that is to say, shall have issued audits of such a nature as not to show an accurate, intelligent and complete statement of the financial condition of the school district, or of such a nature as not to comply with the requirements of the commissioner, or if such auditor or accountant shall fail to file such report and recommendations as required by section 18A:23-3, or neglect or refuse to carry out any agreement or contract for audit, his license as a public school accountant may be canceled by the state board of public accountants. Such cancellation shall not affect the accountant's right to practice as a registered municipal accountant or as a certified public accountant.

Upon cancellation or refusal of a license pursuant to this section, a person aggrieved thereby shall have the right to have the matter reviewed by a proceeding in the superior court in lieu of prerogative writ.

L.1967, c.271.

18A:23-11. Audit contrary to law; penalty

Any person who shall make, or begin to make, any audit of accounts of any school district as required by this chapter contrary to the provisions hereof, or without a license therefor in full force and effect, shall be liable to a penalty of \$100.00 for every audit of account so made, to be recovered in a civil action instituted by the state board of public accountants in any court of competent jurisdiction.

L.1967, c.271.

18A:24-1. Definitions

In this chapter unless the context otherwise indicates:

a. "Average equalized valuation of taxable property" in a district comprising one municipality means the amount stated in the supplemental debt statement required to be filed prior to the authorization of the bonds of the district, as the average of the last three preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, as stated in the annual debt statement of the municipality or revision thereof last filed, and in a district comprising more than one municipality means the sum of all such amounts so stated in the supplemental debt statements so required to be filed;

b. "Borrowing margin" of a municipality means the excess, if any, of 3 1/2 % of the amount stated in the supplemental debt statement required by this article to be filed prior to authorization of bonds of a district, as the average of the last three preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, over the net debt of the municipality as stated in such supplemental debt statement after adjustment of such net debt so as to disregard the proposed authorization of bonds of the district;

c. "District or school district" means a local district, a district composed of two or more municipalities or a regional district and also, in the case of any district other than a type I district, when required by the context, the board of education of such district;

d. "Equalized valuation" of a municipality means the sum total of

(1) The aggregate equalized valuation of real property (together with improvements) as certified in the table of equalized valuations by the director of the division of taxation in the department of the treasury, on October 1 of each year, pursuant to chapter 86 of the laws of 1954, and

(2) The assessed valuation of class II railroad property as set forth in the table of equalized valuations referred to in (1) above;

e. "Net debt" of a municipality means the amount stated in the supplemental debt statement required by this article to be filed prior to the authorization of bonds of a district as the net debt of the municipality;

f. "Net school debt" of a municipality or of a district means the amount of school bonds, for the payment of the principal and interest of which, such municipality or district is liable less the amount of any sinking fund held for the payment of same;

g. "School bonds" means promissory notes and bonds authorized for school purposes, whether issued or unissued, for the payment of the principal and interest of which, a municipality or district is liable; and

h. "Supplemental debt statement" means the statement of the debt condition of a municipality provided for in section 40A:2-42 of the local bond law (N.J.S. 40A:2-1 et seq.), and prepared, made and filed as in said law directed.

L.1967, c.271.

18A:24-2. Borrowing on tuition due from another district

Any board of education may borrow upon its promissory note or notes bearing interest at not to exceed 6% per annum such sum or sums not exceeding 80% of the amount due it for tuition from any school district and upon assignment, as collateral, of the delinquent tuition and the tuition so assigned shall, when and as received, be applied to the repayment of the amount borrowed, with the interest, until the same has been fully repaid.

L.1967, c.271.

18A:24-3. Borrowing in anticipation of issuance of bonds

Whenever an issue of bonds has been authorized pursuant to this chapter, the governing body of a municipality comprising a Type I school district, or the board of education of a Type II school district, may, in anticipation of the issuance of permanent bonds, by resolution, authorize the issuance of temporary notes or loan bonds of the municipality or district, as the case may be, as money is required by the board of education of the district for the projects for which the permanent bonds are authorized, in such principal sums (not exceeding in the aggregate the total principal amount of the permanent bonds), at such rates of interest and having such maturities (not exceeding 1 year and renewable, for not more than 1 year periods each, from time to time for not exceeding 5 years from the date of the original temporary notes or loan bonds; provided, however, that no such notes or temporary loan bonds shall be renewed beyond the third anniversary date of the originals unless an amount of such notes or temporary loan bonds equal to the first legally payable installment of the bonds in anticipation of which said temporary obligations were issued is paid and retired in each year subsequent to said third anniversary date from funds other than the proceeds of obligations) and upon such other terms and conditions as shall be fixed in the respective resolutions authorizing the issuance of such temporary notes or loan bonds, in which resolutions may be set forth any other matters relating to the issuance thereof which may be requisite.

L.1967, c.271; amended by L.1969, c. 20, s. 1, eff. April 16, 1969; L.1969, c. 201, s. 1, eff. Dec. 1, 1969.

18A:24-3.1. Rules and regulations

The local finance board shall adopt, in the manner prescribed by law, such rules and regulations as are necessary for the implementation and execution of this act.

L.1969, c. 20, s. 2, eff. April 16, 1969.

18A:24-4. Payment of principal of temporary bonds from proceeds of permanent bonds

The principal of any temporary notes or loan bonds shall be paid from the proceeds of the permanent bonds, in anticipation of the issuance of which they were issued, or from funds from time to time appropriated for such payments, and the interest upon such temporary notes or loan bonds shall be paid in the same manner as interest is paid upon permanent bonds.

L.1967, c.271.

18A:24-4.1. Borrowing funds for transportation of pupils to and from school saved

Chapter 75 of the laws of 1967 is saved from repeal. [This act authorizes boards of education to borrow, in anticipation of taxes, additional sums of money over the fixed annual school budget for the 1967-1968 fiscal year, upon its promissory notes for purposes of transporting pupils to and from school and provides for reimbursement by the state of the interest paid on said notes in the fiscal year in which said interest is paid.]

L.1967, c.271.

18A:24-5. Purposes and maturities for which bonds may be issued

The projects for which bonds may be issued under this chapter and the periods of maturity thereof, shall be as follows:

a. The acquisition or construction of buildings for any lawful purposes and the improvement of the sites thereof, with or without the original furniture, equipment and apparatus required therefor, if such buildings be of--

1. Type A--frame construction--that is, a building or structure of which the structural members, exterior walls, or a portion thereof, are constructed of wood, or other combustible material, or a building sheathed with combustible material and partially or entirely covered with four inches or less masonry or other noncombustible material, at maturities of or within 20 years;

2. Type B--noncombustible construction--that is, a building or structure of which the outer walls, columns, piers, beams, lintels, girders and interior bearing partitions are of noncombustible materials (laminated wood beams, columns or trusses of not less than six inches by 10 inches nominal dimensions shall be permitted), at maturities of or within 30 years;

3. Type C--fire resistive construction--that is, a building or structure of which all structural members including walls, partitions, columns, piers, beams, lintels, girders, trusses and floors are of noncombustible materials, and in which the floors, stair towers and all places of assembly are built entirely of noncombustible materials, and in which no woodwork, supporting material or other combustible material is used in any of the partitions, floorings or ceilings; but this definition shall include a building in which there is used, elsewhere than in the stair towers and corridors, wooden floorings and sleepers laid directly on top of a fire resistive floor, or having wooden doors, window sash, wooden jambs, frames, casing or trim in other than stair towers, corridors and exit passages, or wooden rafters, at maturities of or within 40 years;

b. The reconstruction, remodeling, alteration, enlargement, or additions to or major repair of buildings for any lawful purposes and the improvement of the sites thereof, with or without the furniture, equipment and apparatus required therefor, if the original building or buildings are of--

1. Type A construction--at maturities of or within 15 years;

2. Type B construction--at maturities of or within 20 years;

3. Type C construction--at maturities of or within 30 years.

c. The acquisition by purchase or condemnation of lands for school purposes and the grading, draining and landscaping or the improvement in any like manner thereof, at maturities of or within 40 years;

d. The purchase of furniture, equipment and apparatus for any building used or to be used for school purposes, or any major renewal of furniture, equipment and apparatus for such use, except such as may be included in an issue of bonds for the purposes described in subsections a. and b. of this section, at maturities of or within 10 years.

When bonds are issued for more than one of such projects, they shall mature within such a period not exceeding the average of the different periods hereinbefore assigned to the several projects for which they are to be issued, as shall be determined by the governing body of the municipality, by which the bonds are to be issued or the board of education of the district, by taking into consideration the amount of bonds to be issued on account of each, and such determination shall be conclusive in any action or proceeding involving the validity of the bonds.

L.1967, c.271.

18A:24-6. Bonds payable in installments

All bonds issued under this chapter shall be payable in annual installments commencing not more than two years from their date, and no installment shall be more than 100% in excess of the amount of the smallest prior installment.

L.1967, c.271; amended by L.1983, c. 458, s. 1, eff. Jan. 12, 1984.

18A:24-7. Change of maturities; application to local finance board

If the governing body of any municipality comprising a type I school district or the board of education of a type II school district shall determine that the limits of maturities or amounts of annual installments, or both, applicable according to law to any bonds proposed to be authorized or theretofore authorized but remaining unissued, would adversely affect the financial position of such municipality or school district, it may make application in writing to the local finance board in the division of local finance in the department of community affairs setting forth such determination and the grounds therefor and requesting approval of a schedule of maturities and annual installments for such bonds.

L.1967, c.271.

18A:24-8. Change of maturities; approval or disapproval by local finance board

If the local finance board, after consultation with the commissioner, shall be satisfied and shall find by resolution that the issuance of bonds described in such application at the maturities prescribed by law would, and that the issuance thereof at the maturities described in such schedule will not, materially impair the credit of the municipality or school district or substantially reduce its ability during the ensuing 10 years to pay punctually the principal and interest of its debts and to supply essential public improvements and services, said board shall, within 60 days after the receipt of

the application, cause its approval to be endorsed upon said application; otherwise, it shall cause its disapproval to be endorsed thereon.

L.1967, c.271.

18A:24-9. Issuance of bonds in accordance with maturities approved by local finance board

If such application shall be so approved such bonds shall thereafter be issued only at the maturities and in the annual installments set forth in said schedule, and the same shall be valid notwithstanding any limitations on maturities or annual installments set forth in this chapter or in any proposal, ordinance, resolution, certificate, proposition or other proceeding for the authorization of such bonds theretofore adopted, made, or taken.

L.1967, c.271.

18A:24-9.1. Inclusion of redemption provisions in temporary loan notes or bonds and school bonds

Any obligation issued pursuant to this chapter, may be issued subject to redemption prior to maturity with or without premium at such redemption price or prices and under such terms and conditions as shall be fixed by resolution of the governing body of the municipality, or of the board of education of the district, issuing the same, which price or prices shall not exceed the principal amount of such obligations plus interest accrued to the date of redemption unless the local finance board in the division of local finance in the department of community affairs, after consultation with the commissioner and after consideration of the redemption price or prices, including any redemption premium applicable thereto, the time or times of the proposed issuance thereof, the rate or maximum rate of interest borne or to be borne thereby, the maturity or maturities thereof and the earliest date of redemption thereof, shall by resolution, find that such redemption price or prices and such redemption premium, if any, are not unreasonable or exorbitant, and shall assent to the issuance of such obligations, subject to redemption at such redemption price or prices and at such redemption premium, if any.

L.1967, c.271.

18A:24-10. School bonds, when deemed to be authorized

School bonds are deemed to be authorized by the fact, and at the time, that

a. an ordinance is finally adopted by the governing body of a municipality comprised within a type I district, or

b. a proposal is finally adopted by resolution by a recorded roll call majority vote of the full membership of the board of education of a type II district having a board of school estimate, or

c. a proposal is adopted by resolution by the board of education, by a recorded majority vote of its full membership and is also adopted by the legal voters, of any other type II district, including a regional district,

authorizing the issuance of such bonds by the municipality or the district, as the case may be, as provided in this article, except that if such issuance of bonds is not permissible under this article without the adoption of a proposition confirming such ordinance, or a proposal authorizing the issuance of such bonds, by the qualified voters of the municipality comprised within the type I district or the qualified voters of the district, as the case may be, then by the fact, and at the time, such proposition or proposal is so adopted by the voters.

L.1967, c.271; amended by L.1977, c. 190, s. 3, eff. Aug. 24, 1977.

18A:24-11. Type I districts; authorization of bonds; appropriations and borrowings; procedure to be followed

School bonds shall be authorized and may be issued, for the purposes of any type I district, pursuant to ordinance, adopted by the governing body of the municipality comprised within the district, authorizing the issuance thereof in the principal amount certified to said governing body by the board of school estimate of the district, in accordance with sections 18A:22-18 to 18A:22-20, but no such bonds shall be authorized or issued if the principal sum thereof shall exceed the limits prescribed in section 18A:24-19, except upon compliance with the provisions of this article applicable thereto.

In the authorization of any bonds for the purposes of a type I district pursuant to this chapter and in making any appropriation or borrowing any moneys in connection therewith, it shall not be necessary for the governing body of the municipality comprised within the district to comply with any procedure other than that applicable to such municipality contained in this title and in chapter 49 of Title 40, Municipalities and Counties, of the Revised Statutes, except that this section shall not be construed to make unnecessary any procedure required by chapter 27 of Title 52, State Government, Departments and Officers, of the Revised Statutes relating to the municipal finance commission.

L.1967, c.271.

18A:24-11.1. Newark; school bonds; authorization

In cities of the first class with a population in excess of 300,000, according to the 1980 Federal Census, that change the local school district governmental structure from a Type I to a Type II district, any bond authorization process begun, under the provisions of N.J.S. 18A:22-18, prior to the referendum authorizing the change from a Type I to a Type II district shall be subject to the laws, rules and regulations governing the authorization, issuance and sale of bonds in Type I school districts and such bonds may be issued and sold and the proceeds disposed of in the manner provided by law at the time said proceedings were begun as if the city had remained under the Type I school district structure.

L.1983, c. 1, s. 1, eff. Jan. 13, 1983. Amended by L.1983, c. 218, s. 1, eff. June 22, 1983.

18A:24-11.2. Bond authorization process continued

In municipalities with a population in excess of 125,000 according to the 1980 Federal Census, that change the local school district governmental structure from a Type I to a Type II district, any bond authorization process begun, under the provisions of N.J.S. 18A:22-18, prior to the referendum authorizing the change from a Type I to a Type II district shall be subject to the laws, rules and regulations governing the authorization, issuance and sale of bonds in Type I school districts and such bonds may be issued and sold and the proceeds disposed of in the manner provided by law at the time said proceedings were begun as if the city had remained under the Type I school district structure.

L. 1988, c. 10, s. 1.

18A:24-12. Type II districts; authorization of bonds

School bonds shall be authorized and may be issued:

a. by a type II district having a board of school estimate whenever the board of school estimate shall fix and determine the amount of money necessary to be raised for any capital project or projects and shall certify said amount pursuant to section 18A:22-30, the board of education may, by resolution, authorize the issuance of bonds to an amount not exceeding the amount so certified for such purpose or purposes; or

b. by a type II district not having a board of school estimate pursuant to a proposal adopted by resolution by the board of education of the district in a principal sum determined therein and upon approval of the proposal contained in such resolution, by the legally qualified voters of the district, upon its submission to them for their approval or rejection at an annual school election, held after the date of the adoption of said resolution by the board of education, or at a special school election held for that purpose,

but no such bonds shall be authorized or issued if the principal sum thereof shall exceed the limitations prescribed in section 18A:24-19 except upon compliance with the provisions of this article applicable thereto.

L.1967, c.271.

18A:24-13. Combining issues of bonds

Bonds authorized in any district to be issued to finance separate projects may be combined, sold and issued as one issue.

L.1967, c.271.

18A:24-13.1. Attorneys; compensation; services on issuance of bonds

No school district shall compensate an attorney for services rendered in connection with the issuance of bonds other than at a reasonable rate agreed on prior to the rendering of the services.

L.1973, c. 114, s. 2.

18A:24-16 Supplemental debt statements; necessity for and contents.

18A:24-16. No school bonds or refunding bonds shall be authorized unless there shall be prepared and filed in accordance with section 18A:24-17 a supplemental debt statement in the form provided by law, setting forth the amounts of all bonds and notes of the district issued and outstanding, or authorized but not issued, and determining the net school debt of the district and giving effect to the proposed authorization of school bonds. With respect to refunding bonds, the supplemental debt statement shall reflect either new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded.

L.1967, c.271; amended 1978, c.71, s.1; 2003, c.264, s.1.

18A:24-17. Supplemental debt statement; preparation with respect to various municipalities; filing

Upon request by the secretary of the board of education, the chief financial officer of each municipality comprising a school district shall prepare a supplemental debt statement with respect to authorization of school bonds by ordinance or proposal as follows:

a. With respect to a municipality comprising a Type I district, the statement shall be prepared as of the date of introduction of the ordinance authorizing the bonds for school purposes. Copies of such statement shall be filed in the office of the clerk of the municipality and in the office of the secretary of the board of education prior to introduction of the ordinance, and a copy of such statement shall be filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs prior to final adoption of the ordinance.

b. With respect to each municipality comprising a Type II district having a board of school estimate, the statement shall be prepared as of the date the board of education adopts the resolution authorizing the issuance of bonds pursuant to section 18A:24-12 a. or, if the bonds are to be authorized pursuant to the provisions of section 18A:24-21 or section 18A:24-23, as of the date the board of education adopts a resolution authorizing the issuance of bonds and providing for the submission of said resolution to the legally qualified voters of the school district. Copies of such supplemental debt statement shall be filed in the office of the clerk of each such municipality and in the office of the secretary of the board of education prior to the adoption of the resolutions referred to above and a copy of such statement shall be filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs as of the date of the adoption of the resolution authorizing the bonds.

c. With respect to Type II districts without a board of school estimate, supplemental debt statements shall be prepared as of the date the board of education by resolution approves and adopts the proposal or proposals to be submitted to the legal voters of the district. Copies of such statement shall be filed in the office of the clerk of each municipality comprising the school district and in the office of the secretary of the board of education prior to the adoption of the resolution. Copies of such debt statement shall be filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs prior to the date of the election at which the proposal or proposals are submitted to the voters.

L.1967, c.271; amended by L.1978, c. 71, s. 2, eff. July 7, 1978.

18A:24-18. Presumption of filing and correctness of statements

18A:24-18. Every such supplemental debt statement shall be conclusively presumed to be accurate and correct and to be timely filed as the basis for the issuance of any bond or other obligation, authorized, within the principal amount of bonds to which effect is given therein, by an ordinance or resolution adopted in connection therewith, and shall not be rebutted, and the correctness, sufficiency and timeliness of such debt statements shall not be contested or questioned in any action or proceeding relating to any such bond or other obligation or the levy or collection of taxes for the payment of the same.

L.1967, c.271; amended 1978,c.71,s.3; 1993,c.146,s.1.

18A:24-19. School district bonds

Except as otherwise provided in sections 18A:24-20 to 18A:24-27, no bonds shall be authorized for the purposes of any school district if the principal amount thereof shall, when added to the net school debt of the district exceed the percentage of the average equalized valuation of taxable property in such district as herein provided:

- (1) From kindergarten grade (or grade 1)
- through grade 6.....2 1/2%
- (2) From kindergarten grade (or grade 1) through grade 8....3 %
- (3) From kindergarten grade (or grade 1) through grade 9....3 1/2%
- (4) From kindergarten grade (or grade 1) through grade 12...4%
- (5) From grade 7 through grade 9.....1 1/2%
- (6) From grade 10 through grade 12.....2%
- (7) From grade 9 through grade 123%
- (8) From grade 7 through grade 123 1/2%

Each school district prior to the issuance of bonds shall secure from the State Commissioner of Education a certificate of the grade levels of instruction provided or to be provided by said school district.

Provided, however, that except as otherwise provided in sections 18A:24-20 to 18A:24-27, bonds may be authorized for the purposes of a school district in a city of the first class if the principal amount thereof shall, when added to the net school debt of the district, not exceed 8% of the average equalized valuation of taxable property in such district.

Further provided, that except as otherwise provided in sections 18A:24-20 to 18A:24-27, bonds may be authorized for the purposes of a school district in a city of the second class with a population in excess of 80,000, according to the latest federal decennial census if the principal amount thereof shall, when added to the net school debt of the district, not exceed 6% of the average equalized valuation of taxable property in such district.

L.1967, c.271; amended by L.1968, c. 379, s. 1, eff. Dec. 27, 1968; L.1969, c. 259, s. 1, eff. Jan. 7, 1970; L.1971, c. 322, s. 1, eff. Oct. 28, 1971; L.1981, c. 462, s. 16.

18A:24-20. Authorization of bonds in excess of limits prescribed in section 18A:24-19; exception of type I districts

School bonds may be authorized and issued in the manner prescribed in section 18A:24-21, notwithstanding the provisions of section 18A:24-19, by, or for the purposes of, any district other than a regional district, within the limitations and upon compliance with the provisions of this article to the extent that the percentage of net debt as stated in a supplemental debt statement required to be filed as to such authorization, and prior thereto, shall not exceed 3 1/2 %.

L.1967, c.271; amended by L.1968, c. 163, s. 2, eff. July 16, 1968; L.1968, c. 295, s. 9, eff. Sept. 9, 1968.

18A:24-21. Manner of authorization of bonds in excess of certain limitations

Such bonds shall be authorized and may be issued:

a. for the purposes of a type I district, when--

(1) an ordinance authorizing the issuance of said bonds which shall conform with the provisions of section 18A:24-22, shall be adopted by the recorded roll call affirmative vote of two thirds of the full membership of the governing body of the municipality comprised within the district; or

(2) such ordinance shall be adopted by a recorded roll call affirmative majority vote of the full membership, of such governing body, of less than a two-thirds affirmative vote of such full membership and subsequently a proposition confirming said ordinance is adopted by the legally qualified voters of the municipality upon its submission to them, for their approval or rejection in the form prescribed in section 18A:24-22 at a municipal or general election or at a special election held for the purpose pursuant to section 18A:24-29; or

b. by a type II district, when a proposal authorizing the issuance of said bonds which conforms with the provisions of section 18A:24-22, shall be adopted by resolution of the board of education of the district, and shall be approved by the legally qualified voters of the district, upon its submission to them for their approval or rejection in the form conforming with the provisions of section 18A:24-22, at a regular school election or a special election held for the purpose.

L.1967, c.271.

18A:24-22. Form of ordinance, proposition for confirmation of ordinance or proposal for issuance of bonds under sections 18A:24-20 and 18A:24-21

Every ordinance, and every proposition confirming an ordinance, and every proposal, authorizing the issuance of bonds under sections 18A:24-20 and 18A:24-21 shall after stating any matters or things authorized or required by law, disclose the effect of such proposal, ordinance or resolution on the borrowing margin of every municipality comprised within the district and such disclosure shall show the amount of such borrowing margin before adoption of the proposal, ordinance or resolution and the amount thereof which would be used up by such final adoption and shall be sufficient if in substantially the following form with appropriate figures inserted:

a. In the case of an ordinance--

The authorization of the \$ (insert amount of bonds to be issued) bonds provided for by this ordinance uses up \$ (insert amount of borrowing margin to be used) of the \$ (insert amount of borrowing margin before adoption of ordinance) borrowing margin of the (insert name of municipality) previously available for other improvements;

b. In the case of a proposition confirming an ordinance--

Shall the ordinance of the (insert name of municipality) adopted on (insert date of adoption) authorizing the issuance of \$ (insert amount of bonds to be issued) bonds for school purposes and using up \$ (insert amount of borrowing margin to be used) of the \$ (insert amount of borrowing margin before adoption of ordinance) borrowing margin of the (insert name of municipality) previously available for other improvements be approved;

c. In the case of a resolution--

Resolved that the board of education does hereby determine, subject to the approval of the legal voters of the district:

To * * *; and

To issue bonds of the school district for said purpose (or purposes) in the principal amount of \$ (insert amount of bonds to be issued), thus using up \$ (insert amount of borrowing margin to be used) of the \$ (insert amount of borrowing margin before adoption of resolution) borrowing margin of the (insert name of municipality) previously available for other improvements, and (if there be other municipality or municipalities comprised within such school district) \$ (insert amount of borrowing margin to be used) of the \$ (insert amount of borrowing margin before adoption of proposal) borrowing margin of the (insert name of municipality), et cetera, et cetera.

L.1967, c.271.

18A:24-23. Authorization of bonds in excess of limitations prescribed by section 18A:24-19

School bonds may be authorized and issued notwithstanding the provisions of section 18A:24-19:

a. For the purposes of a Type I district, when an ordinance, authorizing the issuance of such bonds and conforming with the provisions of section 18A:24-24, has been finally adopted by the governing body of the municipality comprised within the district, by the recorded affirmative vote of a majority of all the members thereof, upon a copy of which there shall have been endorsed, prior to such adoption, the consents of the commissioner and the local finance board, provided for in sections 18A:24-25, 18A:24-26 and 18A:24-27, and by the adoption subsequently of a proposition confirming such ordinance, conforming with the provisions of section 18A:24-24, by the qualified voters of such municipality by a majority of the legal votes cast thereon upon its submission to them for their approval or rejection; or

b. By a Type II district, when a proposal authorizing the board of education to issue such bonds has been adopted by resolution by the board of education of the district and such proposal has been adopted by the legal voters of the district by a majority of the legal votes cast thereon upon its submission to them for their approval or rejection after there has been endorsed upon a copy thereof the consents of the commissioner and the local finance board, as provided in sections 18A:24-25, 18A:24-26 and 18A:24-27.

L.1967, c.271; amended by L.1968, c. 295, s. 10, eff. Sept. 9, 1968.

18A:24-24. Form of ordinance, proposition for confirmation of ordinance or proposal for issuance of bonds under section 18A:24-23

Every ordinance, and every proposition confirming an ordinance, and every proposal, authorizing the issuance of bonds under section 18A:24-23, except such a proposal authorizing the issuance of bonds of a regional school district shall, after stating any other matters or things required by law, disclose the effect of such ordinance or proposal contained in such resolution on the borrowing margin of every municipality comprised within the school district, and such disclosure shall include and state the amount, if any, of such borrowing margin before final approval of the ordinance or proposal and the amount of such borrowing margin, if any, which would be used up by final approval thereof and the amount, if any, of net debt, in excess of the measure of such borrowing margin, which would result after the final approval of the ordinance or resolution, and such disclosure shall be sufficient if in substantially the following form with appropriate figures inserted:

a. In the case of an ordinance--

The authorization of the \$ (insert amount of bonds to be issued) bonds provided for by this ordinance uses up all of the \$ (insert amount of borrowing margin before adoption of ordinance), or, in an appropriate case, increases the existing deficit in the borrowing margin of the (insert name of municipality) previously available for other improvements and raises its net debt to \$ (insert amount, after adoption of ordinance, of net debt of the municipality in excess of 3 1/2 % of the amount stated in the supplemental debt statement required by this article to be filed prior to the authorization of the bonds to be issued as the average of the 3 last preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, as stated in the annual debt statement of the municipality or revision thereof last filed) beyond such borrowing margin;

b. In the case of a proposition confirming such an ordinance--

Shall the ordinance of the (insert name of municipality) adopted on (insert date of adoption) authorizing the issuance of \$ (insert amount of bonds to be issued) bonds for school purposes and using up all of the \$ (insert amount of borrowing margin before adoption of ordinance), or, in an appropriate case, increasing the existing deficit in the borrowing margin of the (insert name of municipality) previously available for other improvements and raising its net debt to \$ (insert amount, after adoption of ordinance, of net debt of the municipality in excess of 3 1/2 % of the amount stated in the supplemental debt statement required by this article to be filed prior to the authorization of the bonds to be issued as the average of the 3 last preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, as stated in the annual debt statement of the municipality or revision thereof last filed) beyond such borrowing margin, be approved;

c. In the case of a proposal contained in a resolution--

Resolved that the board of education does hereby determine, subject to the approval of the legal voters of the district:

To * * *; and

To issue bonds of the school district for said purpose (or purposes) in the principal amount of \$ (insert amount of bonds to be issued), thus using up all of the \$ (insert amount of borrowing margin before adoption of resolution), or in an appropriate case, increasing the existing deficit in the borrowing margin of the (insert name of municipality) previously available for other improvements and raising its net debt to \$ (insert amount, after adoption of resolution, of net debt of the municipality in excess of 3 1/2 % of the amount stated in the supplemental debt statement required by this article to be filed prior to the authorization of the bonds to be issued as the average of the 3 last preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, as stated in the annual debt statement of the municipality or revision thereof last filed) beyond such borrowing margin, and (if there be other municipality or municipalities comprised within such school district) using up all (or, in an appropriate case, an amount) of the \$ (insert amount of borrowing margin before adoption of resolution), or, in an appropriate case, increasing the existing deficit in the borrowing margin of the (insert name of municipality) previously available for other improvements and (in every case where all borrowing margin is used) raising its net debt to \$ (insert amount after adoption of proposal, of net debt of the municipality in excess of 3 1/2 % of the amount stated in the supplemental debt statement required by this article to be filed prior to the authorization of the bonds to be issued as the average of the 3 last preceding equalized valuations of the taxable real estate (together with improvements) of the municipality, as stated in the annual debt statement of the municipality or revision thereof last filed) beyond such borrowing margin, et cetera, et cetera.

L.1967, c.271; amended by L.1968, c. 295, s. 11, eff. Sept. 9, 1968.

18A:24-25. Submission to commissioner and local finance board; limiting conditions

A copy of any ordinance or proposal authorizing the issuance of any school bonds under section 18A:24-23 shall be submitted to the commissioner and the local finance board, for their consideration, and the commissioner or the local finance board, in considering the copy of any ordinance or proposal submitted to them as required by section 18A:24-23, and before endorsing his or their consent thereon, may require the governing body, or the board of education, submitting such copy to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the commissioner or local finance board to affect any estimate made or to be made by him or them in accordance with sections 18A:24-26 and 18A:24-27, and every such resolution so adopted shall constitute a valid and binding obligation of the municipality or the school district, as the case may be, running to and enforceable and releasable by the commissioner or the local finance board, as the case may be.

L.1967, c.271.

18A:24-26. Approval or disapproval by commissioner

Within 60 days after such submission to him, the commissioner shall endorse his consent upon such copy, if he shall be satisfied, and shall record in writing his estimates, that existing educational facilities in the district are, or within five years will be, less than 80% adequate, that the new educational facilities to be financed pursuant to such ordinance or proposal are, or within 10 years will be, fully utilized and that under existing statutes there is no more economical alternative method of providing such new educational facilities, but if the commissioner is not so satisfied he shall endorse his disapproval on such copy within said period of 60 days.

L.1967, c.271.

18A:24-27. Approval or disapproval by local finance board

Within 60 days after such submission to it, the local finance board shall cause its consent to be endorsed upon such copy, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the new educational facilities to be financed pursuant to such ordinance or proposal are not unreasonable or exorbitant, and that issuance of the bonds, proposed to be authorized by such ordinance or proposal, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services and that said issue of bonds cannot lawfully be authorized in compliance with the provisions of sections 18A:24-19 and 18A:24-21, and that, taking into consideration trends in population, in value and uses of property, and in needs for educational facilities, the net school debt of such district will, at some date within 20 years, as stated in the supplemental debt statements which might be filed on such date, be less than the percentage of equalized valuation of taxable property in such district as provided in section 18A:24-19, but if the local finance board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1967, c.271.

18A:24-27.1. Authorization to commissioner to certify required grade levels of instruction

For any purpose under the provisions of this title, or of the local bond law, the commissioner is authorized and empowered to certify, or to cause to be certified, the grade level of instruction then being provided, or to be thereafter provided, by the school facilities of any school district, or the amount of bonds authorized or issued, or to be authorized or issued, by any school district for the purpose of providing school facilities to provide any higher grade level of instruction than being provided by such school district.

L.1967, c.271.

18A:24-28. Charter limitations on indebtedness inapplicable

If the charter of any municipality shall limit the amount of indebtedness in such municipality, or by its terms prevent the carrying out of the provisions of this chapter, the charter provisions shall be held not to apply to the issuing of bonds under the provisions of this chapter.

L.1967, c.271.

18A:24-28.1. Certain bonds, etc., issued to June 22, 1964 saved

P.L.1964, c. 73, s. 8 (C. 18:5-84.2) is saved from repeal.

[This section provides that any proceedings for the authorization of bonds by any school district initiated prior to June 22, 1964 by:

(a) adoption of a resolution of the board of education of a school district calling a special school district election; or

(b) endorsement of a bonding proposal by the commissioner; or

(c) passage on first reading of an ordinance of any municipality authorizing bonds for school purposes pursuant to section 18:6-61 of the Revised Statutes;

may in each instance proceed to the completion of the authorization of such bonds in accordance with the provisions of Title 18, Education, of the Revised Statutes, as if chapter 73 of the Laws of 1964 had not taken effect and any such bonds, promissory notes or temporary loan bonds issued in anticipation of such bonds so authorized prior to said date shall be valid and in full effect.]

L.1967, c.271.

18A:24-29. Issuance of bonds; ordinance, submission to voters

18A:24-29. A proposal for the confirmation of any ordinance, required by this article to be approved by the qualified voters of the municipality comprised within a district, shall be submitted to such voters at a general, special or municipal election to be held therein, whenever the governing body of the municipality shall have, by resolution or ordinance, directed that the same be so submitted and, in the case of a special election, specified the day, which shall be not less than 41 days after the passage of such ordinance, and the time thereof, the place or places thereof and the polling districts therefor by reference to the general election districts established and used in the municipality, and the hours (which need include only four consecutive hours) during which the polls at such election shall be open. It shall be the duty of the clerk of the municipality to give notice of any such election, setting forth the proposition to be submitted and the day and time and place or places thereof and the polling districts therefor and the hours during which the polls at such election will be open. At least seven days before the date thereof, the clerk shall post not less than seven copies of such notice, one on each schoolhouse within the municipality and the others at such other public places in the municipality as he may select, and shall publish said notice in a newspaper published in the municipality if there be one or, if there be no such newspaper, in a newspaper published in the county and circulating in the municipality. No other or different notice of said election shall be required to be posted, published, delivered or otherwise given in any manner, except those required to be given by R.S.19:12-7. Such election shall be held and the result of the balloting on such question ascertained and determined in accordance with the provisions of Title 19, Elections, of the Revised Statutes, which are not inconsistent with this section and are applicable to the holding in such municipality of a general, special or municipal election, as the case may be, but any notice or demand therein required to be given to or made upon any person or body for the performance of an official duty with regard to such election shall be sufficient, if given or made at least 10 days before the date of such election, except as otherwise required by this section.

L.1967, c.271; amended 1995,c.278,s.44.

18A:24-30. Transmission of certified copy of bond proposal

18A:24-30. Whenever bonds are authorized to be issued by a type II school district under this chapter, the secretary of the board of education of the district shall transmit to the commissioner a certified copy of the bond proposal adopted by resolution of the board of education and approved by a majority of the legally qualified voters of the district voting on the proposal at an annual or special school election.

L.1967, c.271; amended 1993,c.146,s.2.

18A:24-31. Form; type I districts

All bonds of a type I school district, issued in accordance with this chapter, shall be designated "school bonds" and shall be in either registered or coupon form, or both, and of such denomination as the governing body of the municipality, comprising the district, shall determine, and such bonds, within the limitations and provisions of this chapter, shall mature and be payable in such years and amounts as said governing body shall determine in the ordinance authorizing issuance of the bonds or by subsequent resolution.

L.1967, c.271.

18A:24-32. Form and execution; type II districts

All obligations of a type II school district, issued in accordance with this chapter, shall be issued in the corporate name of the district and shall be executed by the manual or facsimile signature of the president or vice president of the board of education of the district and attested by the manual signature of the secretary or assistant secretary thereof and shall bear the seal of the district affixed, imprinted, or reproduced thereon, and any bonds so issued shall be numbered and a proper registry thereof shall be kept by said secretary and if such bonds are in coupon form they shall have coupons attached for current payment of interest which shall be authenticated by the manual or facsimile signature of the secretary or assistant secretary and numbered to correspond to the several bonds to which they are severally attached.

L.1967, c.271; amended by L.1977, c. 180, s. 1, eff. Aug. 18, 1977.

18A:24-33. Coupon and registered bonds; conversion, etc.

Bonds, other than temporary loan bonds, of a type II school district, issued in accordance with this chapter, may be in either registered or coupon form and if in coupon form may contain provision for registration as to principal only or provision for registration as to both principal and interest, or may contain both such provisions and bonds issued in fully registered form may contain provision for conversion into bonds in coupon form, and bonds issued in coupon form, with provision for registration as to both principal and interest, may contain provision for reconversion when fully registered into coupon form, at the request and expense of the registered owner or his duly authorized attorney or legal representative.

L.1967, c.271.

18A:24-34. Conversion or reconversion of unmatured bonds; lost, defaced or destroyed bonds; reissuance

The provisions of this section shall apply to all unmatured bonds (other than temporary loan bonds) heretofore or hereafter issued by the board of education of any school district, under this title or any other law.

a. Bonds containing provisions for registration or conversion or reconversion shall from time to time be registered or converted or reconverted in accordance with such provisions.

b. Bonds issued in coupon form without provision for registration as to both principal and interest shall be converted at the request of the holder into bonds registered as to both principal and interest, by removing and cancelling all the unmatured coupons and by executing conversion certificates written or stamped on the back of the bonds.

c. Bonds issued in coupon form and subsequently converted into bonds registered as to both principal and interest shall be reconverted into bonds in coupon form at the written request of the registered owner or his authorized attorney or legal representative, who shall pay the reasonable costs of such reconversion. Such reconversion shall be effected by the preparation and substitution of new bonds bearing the same rate of interest and being otherwise of the same tenor as the original bonds, or shall be effected by attaching to such bonds, when registered to bearer, new coupons for the unmatured interest of the same form and tenor as those originally authorized.

Bonds reconverted as herein provided may again be converted into fully registered bonds and when so converted may again be reconverted into bonds in coupon form, from time to time, in the manner hereinabove provided.

d. Bonds originally issued in fully registered form without the privilege of conversion into coupon form shall at the written request of the registered owner or his authorized attorney or legal representative be converted into bonds in coupon form of the same or different denominations, by the preparation and substitution of new bonds with all privileges of registration, conversion and reconversion and bearing the same rate of interest and being otherwise of the same tenor as the original bonds.

e. If lost or completely destroyed, bonds shall be reissued in the form and tenor of the lost or destroyed bonds upon the owner furnishing, to the satisfaction of the board of education, (1) proof of ownership, (2) proof of loss or destruction, (3) an adequate surety bond, and (4) payment of the cost of preparing the new bonds.

f. If defaced or partially destroyed, bonds shall be reissued in the form and tenor of the defaced or partially destroyed bonds, to the bearer (or, if registered, to

the registered owner) on surrender of the defaced or partially destroyed bonds and upon proof of ownership and payment of the cost of preparing the new bonds.

g. In the case of conversion or reconversion pursuant to subsection c. or d. of this section, the resolution of the board of education providing for the conversion or reconversion shall set forth the written request of the registered owner or his authorized attorney or legal representative, and the date, maturities, interest rate, denomination and numbers of the old and the new bonds. In the case of the issuance of bonds in substitution for lost, defaced or destroyed bonds, pursuant to subsection e. or f. of this section, the resolution of the board of education, providing for the reissuance, shall set forth the name of the holder or owner, and the date, maturities, interest rate, denomination and numbers of the old and the new bonds, the amounts and terms of the surety bonds, and any other conditions imposed by the board of education. The new bonds shall be signed by the president of the board of education and attested by the secretary in office at the time of such conversion, reconversion or reissuance, and the new coupons shall be authenticated by the facsimile signature of such secretary. Upon effecting such conversion, reconversion or reissuance, the officer effecting the same shall execute a certificate identifying the bonds and coupons, and shall file such certificate in the office of the secretary or other officer having custody of the minutes of the board of education.

L.1967, c.271.

18A:24-35. Type I districts

Bonds of a type I school district, authorized and issued in accordance with this chapter, shall be sold in the same manner as other municipal bonds are sold, as provided in chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes.

L.1967, c.271.

18A:24-36 Public sale of bonds.

18A:24-36. a. All bonds authorized and issued by type II school districts in accordance with chapter 24 of Title 18A of the New Jersey Statutes, except bonds of authorized issues of \$1,000,000 or less, shall be sold at public sale upon the submission of sealed bids or through the submission of electronic proposals provided that a summary of the notice of public sale of these bonds as described in subsection b. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a nationally recognized local government bond marketing publication or electronic information service carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds and a notice of public sale containing the provisions described in subsection a. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a newspaper published in the county and having a substantial circulation in the school district. Bonds of authorized issues of \$1,000,000 or less may be sold at private sale without previous public offering.

b. If the board of education of the district determines to conduct the public sale through the submission of electronic bids or proposals, the electronic bids or proposals shall be submitted in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service and in accordance with such rules as may be promulgated by the State Board of Education. The State board may adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Local Finance Board in the Department of Community Affairs, regulating the terms and conditions of the submission of electronic bids or proposals.

c. The board of education of the district, by resolution, may allow or otherwise delegate to the school business administrator the authority to postpone a public sale without readvertisement, provided that the notice pursuant to subsection a. of this section contained precise information concerning the postponement and rescheduling procedure. The postponement and rescheduling procedure shall provide that a public sale may be postponed upon not less than 24 hours' notice, and that if the public sale is postponed, it may be recommenced upon not less than 48 hours' notice without further notice of sale. A public sale may not be postponed for more than 60 days without readvertisement.

d. The board of education of the district, by resolution, may allow the adjustment of, or otherwise delegate to the school business administrator the authority to adjust, the maturity schedule of the bonds, up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids; provided that no maturity schedule adjustment shall exceed 10% of the principal for any maturity with the aggregate adjustment to maturity not to exceed 10% of the principal for the overall issue. When an adjustment has been made to a maturity schedule previously approved by the Local Finance Board in the Department of Community Affairs, a copy of the final maturity schedule which meets or complies with the limitations in this subsection shall be filed with the Local Finance Board within 30 days of the sale and shall be conclusively deemed to have been approved by the Local Finance Board.

L.1967, c.271; amended 1992, c.178, s.1; 2003, c.264, s.2.

18A:24-37 Notice of sale of bonds.

18A:24-37. a. The notice of sale of Type II school district bonds required to be advertised pursuant to N.J.S.18A:24-36 shall describe the bonds and set forth in substance the postponement provisions and the other terms and conditions of sale, including the type of sale to be conducted, through the submission of either sealed or electronic bids or proposals, the principal amount, date, denomination and maturities, and authorization for adjustments to the maturities pursuant to subsection d. of N.J.S.18A:24-36 of the bonds offered for sale and such other provisions as may be determined by the Type II school district. As to interest to be borne by the bonds, it shall specify a rate or rates or maximum rate, and the method of calculation of interest cost pursuant to subsection b. of N.J.S.18A:24-39, which rate or the maximum rate shall in no event exceed 6% per annum. If proposals are invited at more than one interest rate, the notice shall also state that no proposals will be considered for bonds of a rate higher than the lowest rate at which a legally acceptable proposal is received.

b. A summary of the notice of public sale of Type II school district bonds required to be advertised pursuant to N.J.S. 18A:24-36 shall set forth: the principal amount, date, denomination and maturities of the bonds offered for sale; the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds; a reference to where additional terms and conditions of the public sale may be obtained; and the type of sale to be conducted, through the submission of either sealed or electronic bids or proposals.

L.1967, c.271; amended 1992, c.178, s.2; 2003, c.264, s.3.

18A:24-38. Contents of notice when proposals are the same

Such notice of sale shall state in substance that as between proposals at the same interest rate, the bonds will be sold to the bidder offering to pay a sum equal to the par value of the bonds offered and to accept therefor the least amount of bonds, the bonds to be accepted being those first maturing, and that if two or more bidders offer to accept the same least amount, then to the bidder or bidders offering to pay therefor the highest additional price.

L.1967, c.271.

18A:24-39 Special provisions for two or more issues.

18A:24-39. In case of a sale of more than one issue such notice of sale may, after describing the separate issues, provide in substance for one of the following methods of sale, namely:

a. The notice may state the combined maturities of all of said issues and request bids only for such combined maturities as if such combined maturities constituted a single issue, in which event the provisions of sections 18A:24-36 to 18A:24-46 shall apply as though the combined maturities constituted a single issue; or

b. The notice may state that bidders may name a single rate, or different rates, of interest for the different issues of bonds included in such sale, but if different rates are permitted, the notice may require a single rate for all the bonds of one issue, and that all issues will be awarded to the bidder on whose bid the total loan may be made at the lowest net interest cost or the true interest cost to the school district. The board of education of the district shall specify in its notice of public sale advertised pursuant to N.J.S.18A:24-37 whether the award shall be based on net interest cost or true interest cost. The net interest cost shall be computed by adding to the total principal amount of the bonds which the bidder offers to accept, the total interest cost to maturity which will be paid under the terms of the bid, after deducting from such interest cost the amount of cash premium, if any bid, which shall not exceed \$1,000.00 as to any one issue or the addition thereto of the amount of discount, if any, bid. The true interest cost shall be computed in each instance by determining the interest rate, compounded semi-annually, necessary to discount the debt service payments to the date of the bonds and to the price bid, excluding interest accrued to the delivery date.

c. The board of education of the district, by resolution, may allow or otherwise delegate to the school business administrator the authority to permit a bidder to aggregate the consecutive principal maturities for which such bidder bid in the same interest rate into term bonds, provided that mandatory sinking funds for which redemptions in lieu of the principal maturities are provided. For the purposes of this subsection, "term bond" means a bond that is due in a certain year but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.

L.1967, c.271; amended 2003, c.264, s.4.

18A:24-40. Cash premium not to exceed \$1,000.00

The price for which bonds of any one issue of a type II district shall be sold shall not exceed by more than \$1,000.00 the par value of the bonds of such issue offered for sale. In order that the amount bid at such sale shall not exceed such price, a sufficient number of the last maturing bonds shall be of the denomination of \$1,000.00 or less.

L.1967, c.271.

18A:24-41 Deposit by bidders.

18A:24-41. a. The notice of sale shall require all bidders to deposit a certified or cashier's or treasurer's check for 2% of the amount of bonds, drawn upon a bank or trust company for said amount, partially to secure the school district from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.

b. The State Board of Education, in consultation with the Local Finance Board in the Department of Community Affairs, may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to permit school districts to accept a financial surety bond in lieu of a certified, cashier's or treasurer's check as required in subsection a. of this section.

L.1967, c.271; amended 2003, c.264, s.5.

18A:24-42 Sealed bids, proposals opened publicly.

18A:24-42. All sealed bids or proposals shall be opened publicly and all bids or proposals transmitted electronically shall be received at the time and place stated in such notice of sale, and not before, and shall be publicly announced, except upon a postponement and recommencement of the public sale made in accordance with the provisions of subsection c. of N.J.S.18A:24-36, in which case such bids or proposals shall be publicly opened, received and announced, as appropriate, at the postponed and recommenced date.

L.1967, c.271; amended 2003, c.264, s.6.

18A:24-43. Rejection of proposals

All bids received may be rejected, and any bid not complying with the terms of such notice may be rejected.

L.1967, c.271.

18A:24-44. Sale or delivery in installments

An issue of a type II district may be sold at one time or in installments at different times. In the case of bonds sold in installments the maturities offered for sale, combined with maturities, if any, previously sold, shall be such as to comply with the requirements of this chapter in accordance with which the maturities of the entire issue were determined. Any unsold part of an issue or installment may be reoffered, or may be offered, and sold, notwithstanding the fact that the maturities, when considered alone, do not comply with the provisions of this chapter.

L.1967, c.271.

18A:24-45. Private sale if no bids at public sale

If no legally acceptable bid is received for the bonds of a type II district advertised to be sold at public sale, said bonds or any of them may be sold without further advertisement at private sale within 30 days after the advertised date for public bidding; provided, however, that--

a. Said bonds shall not bear interest at a rate which is higher than the rate or maximum rate specified in the notice of sale, nor contain substantially different provisions from those specified in said notice;

b. Each block of bonds sold shall, considered together with any previous blocks sold, comply with the same provisions of law restricting maturities as apply to the entire issue; and

c. Any such sale or sales shall be made or confirmed within said 30 days by resolution of the board of education of the district adopted by the recorded roll call affirmative vote of two thirds of its full membership.

Such resolution shall set forth the date, maturities, interest rate and price of the bonds, and the name of the purchaser. Unless said bonds shall be sold to a board or other public body as provided in section 18A:24-46, the purchaser of bonds at private sale shall be required to deposit, with his bid, a certified or cashier's or treasurer's check, drawn upon a bank or trust company in an amount equal to 5% of the amount of bonds bid for, to be applied in accordance with the provisions of section 18A:24-41.

L.1967, c.271.

18A:24-46. Private sale to public agencies

Notwithstanding any provisions of this or any other law any such bonds of a type II school district may be sold at not less than their par value and accrued interest, without any previous public offering, to, and be purchased by, the trustees of the school fund, the board of trustees of the teachers' pension and annuity fund or to any board, body or official of the state, authorized to purchase such bonds.

L.1967, c.271.

18A:24-47. Payment to custodian; application

The proceeds of any bonds authorized and issued under this chapter shall be paid to the custodian of school moneys of the district, who shall, in no event, disburse them except to pay the expenses of issuing and selling the bonds and for the purpose or purposes for which the bonds were issued and for temporary investment as and in the manner prescribed by law, pending the carrying out of the purpose or purposes for which the bonds were issued and for such other purpose or purposes as are prescribed in this article.

L.1967, c.271.

18A:24-48. Application of proceeds to new purpose; in districts having boards of school estimate; certification by boards of education

If the board of education of any school district having a board of school estimate shall determine, by resolution, that all or any part of the proceeds of bonds issued for school purposes of the district are not necessary for the purpose or purposes for which the bonds were issued and that such proceeds are required for any other purpose or purposes for which bonds could be issued pursuant to this chapter, it shall prepare and deliver to each member of the board of school estimate of the district a statement of such other purpose or purposes out of the amount of such proceeds estimated to be necessary for such other purpose or purposes, itemizing the same so as to make it readily understandable. No such statement shall be delivered to the members of, or be acted upon by, the board of school estimate of a type II district unless the proceeds of said bonds have been on hand not less than one year and not more than six years after the time of issuance or sale of such bonds, nor shall such a statement be so delivered if any of such bonds mature beyond the periods prescribed by section 18A:24-5 with respect to such other purpose or purposes (computed from the date of the submission of such certificate) unless prior thereto the commissioner shall endorse upon a certified copy thereof his consent to the issuance of such statement, based upon his written estimate made pursuant to the provisions of section 18A:24-52.

L.1967, c.271.

18A:24-49. Application of proceeds to new purpose in type I district; determination by board of school estimate

The board of school estimate of a type I school district, upon receipt of such statement, shall fix and determine the amount of such proceeds necessary for such other purpose or purposes and shall certify the same to the board of education of the district and to the governing body of the municipality comprising the district, whereupon such proceeds, to the amount so fixed and determined by the board of school estimate, may be used for such other purpose or purposes.

L.1967, c.271.

18A:24-50. New purpose; determination by board of school estimate in type II districts

The board of education of a type II school district having a board of school estimate shall, upon certification of such statement, fix a date, place and time for the holding of a public hearing by the board of school estimate with respect to the amount of such proceeds to be used for such other purposes or purposes, which date shall be fixed and notice thereof published and which hearing by the board of school estimate shall be held in the manner provided in sections 18A:22-28 and 18A:22-29 with respect to the amount of money to be raised by the issuance of bonds, and the board of school estimate shall, at or after said hearing, fix and determine the amount of such proceeds to be used for such other purpose or purposes and shall certify the same to the board of education of the district and to the governing body of each municipality comprised within the district, whereupon such proceeds to the amount so fixed and determined by the board of school estimate, may be used for such other purpose or purposes.

L.1967, c.271.

18A:24-51. New purpose; submission to voters in type II districts having no boards of school estimate

If the board of education shall determine, by resolution, that all or any part of the proceeds of school bonds, issued for a type II school district not having a board of school estimate, on hand one year or longer after the time of issuance or sale of such bonds, are not necessary for the purpose or purposes for which the bonds were issued and that such proceeds are required for any other purpose or purposes for which bonds could be issued pursuant to this chapter, said board shall frame a question to be submitted to the legal voters of the district which shall state such other purpose or purposes, the amount of such proceeds to be expended for such other purpose or purposes and the source of such proceeds and such question shall be submitted to the legal voters of the district at an annual or special school election held not more than six years after the time of issuance or sale of such bonds, which election shall be called and held, and the result thereof ascertained, recorded and made known in the manner provided with respect to authorization of the issuance of school bonds of the district, but if any of such bonds mature beyond the period prescribed by section 18A:24-5 with respect to such other purpose or purposes (computed from the date of such annual or special election), such question shall not be submitted to the legal voters unless prior thereto the commissioner shall endorse, upon a certified copy thereof, his consent to the submission thereof as prescribed in this article.

L.1967, c.271.

18A:24-52. Approval of submission by commissioner

The commissioner shall so endorse his consent to the submission of such question to the legal voters of the district, if he shall determine in writing his estimate: (a) either that application of such proceeds to the purpose or purposes for which the bonds were issued will not satisfactorily carry out said purpose or purposes or that such purpose or purposes have been carried out; and, if such bonds were issued pursuant to a resolution upon which the commissioner endorsed his consent in accordance with section 18A:24-23, that (b) the carrying out of such other purpose or purposes is necessary in order to provide educational facilities in the district which are, or, within five years, will be, needed in the district. If the commissioner shall not so determine, he shall endorse his disapproval on such certified copy.

L.1967, c.271.

18A:24-53. Approval by voters

If at such election the question shall be adopted by the legal voters of the district, such proceeds may be used for such other purpose or purposes.

L.1967, c.271.

18A:24-54. Transfer of remaining unapplied balance

18A:24-54. If all or any part of the proceeds of any bonds authorized and issued under this chapter for any school district are not applied to or necessary for the purpose or purposes for which the bonds were issued or for any other purpose or purposes authorized pursuant to this article, the board of education of the district may transfer the balance remaining unapplied to the general fund or the debt service fund of the district.

L.1967, c.271; amended 1993,c.83,s.17.

18A:24-55. Contracts made before issuance of bonds

18A:24-55. After school bonds have been authorized in accordance with this chapter, the board of education may, within the amount and for the purposes of such authorization, make contracts notwithstanding that the moneys to be raised therefor by the issuance of such bonds, or notes or temporary loan bonds in anticipation thereof, are not in hand.

L.1967, c.271; amended 1993,c.146,s.3.

18A:24-56. Lien of bonds of type II district

Obligations of a type II school district, issued pursuant to this chapter, shall be a lien upon the real estate situate in the district, the personal estates of the inhabitants of the district and the property of the district, and such estates and property shall be liable for the payment thereof.

L.1967, c.271.

18A:24-57. Payment of interest and principal from taxes

The amount of interest upon any obligation issued for school purposes, and of any part of the principal thereof not provided to be paid in any other manner, falling due in any one year shall be:

1. Certified to the governing body of each municipality comprising a type I district by the clerk of the municipality for inclusion in the budget of the municipality and shall be included in the annual tax levy and shall be raised by taxation in the municipality; or

2. Included in the budget of each type II district for such year and shall be separately certified by the secretary of the board of education to the county board of taxation of the county and in each district consisting of but one municipality, the whole amount thereof shall be raised by special tax in the district and in each district composed of more than one municipality, the amount apportioned to such municipality according to law shall be raised by special tax in the municipality.

L.1967, c.271.

18A:24-58. Borrowing to pay principal and interest

If funds are not available to pay the principal or interest falling due on any obligation of a type II district, in full or in part, for the reason that no such certified statement or an incorrect statement was transmitted to the county board of taxation, the board of education of the district shall execute and deliver promissory notes for the amount thereof not so certified and pay the amount so borrowed together with interest thereon at a rate not exceeding 6% per annum, and any such amount so borrowed together with interest shall be included in the next ensuing certified statement to the county board of taxation.

L.1967, c.271.

18A:24-59. Disposition of funds for payment of principal and interest on obligations

All moneys received for payment of principal and interest of obligations of a type II school district payable in any year shall be paid to the treasurer of school moneys of the district, who shall deposit them in such bank as shall be determined by resolution by the board, in order to provide for the payment thereof.

L.1967, c.271; amended by L.1981, c. 174, s. 17, eff. June 19, 1981.

18A:24-60. Cancellation and disposition of paid obligations

On the taking up or payment of outstanding obligations of a Type II district the board of education of the district shall cancel the same and hold them for inspection by the public school accountant. After such inspection they may be destroyed as authorized by the Bureau of Archives and History, Division of the State Library, Archives and History, State Department of Education.

L.1967, c.271; amended by L.1971, c. 440, s. 1, eff. July 1, 1971.

18A:24-61. Renewal or refunding of obligations prohibited; exceptions

No obligations issued after July 1, 1917 for school purposes shall be renewed or refunded, except such as are authorized by law to be renewed or refunded and except temporary loan bonds issued or to be issued in anticipation of the sale of permanent bonds pursuant to this chapter or to Title 18 of the Revised Statutes but this section shall not invalidate any bonds heretofore renewed or refunded pursuant to law.

L.1967, c.271.

18A:24-61.1. Funding or refunding bonds at or prior to maturity

Any bonds heretofore or hereafter issued (a) by any county to meet or finance any county college appropriation or purpose or any county vocational school appropriation or purpose, or (b) by any municipality to meet or finance any school district appropriation or purpose, or (c) by any school district which at the time of issuance of such bonds was governed by the provisions of chapter 7 or of chapter 8 of Title 18, Education, of the Revised Statutes or constituted a Type II school district under the provisions of this Title, may be funded or refunded at or prior to the maturity of such bonds as herein provided by issuance of bonds (herein called the "refunding bonds"). Such refunding bonds may be issued in any amount deemed necessary by the governing body of the county or municipality and, in the case of a Type II School District, the Board of Education thereof, and approved by the Local Finance Board.

L.1969, c. 130, s. 1, eff. July 2, 1969. Amended by L.1978, c. 75, s. 1, eff. July 13, 1978.

18A:24-61.2 Purposes for which refunding bonds may be authorized; exclusions from net school debt.

2. Notwithstanding the provisions of any other law or any debt limitation or requirement for down payment or for referendum or other action by legal voters, refunding bonds may be authorized and issued for the purpose of paying, funding or refunding: any refunded bonds; the cost of retiring the present value of the unfunded accrued liability due and owing by a board of education, as calculated by the system actuary for a date certain upon the request of a board of education, for early retirement incentive benefits granted by the board of education pursuant to P.L.1991, c.231, P.L.1993, c.163 and P.L.2003, c.129; and the cost or expense of issuing refunding bonds including printing, advertising, accounting, financial, legal or other expense in connection therewith. Obligations to be paid, funded or refunded with respect to which an ordinance authorizing the issuance of refunding bonds has been adopted pursuant to this act and not otherwise deductible shall be excluded in calculating the net school debt of a municipality or a district. Refunding bonds shall be authorized (a) in the case of any county or municipality by a refunding bond ordinance enacted in the manner or mode of procedure provided for adoption of a refunding bond ordinance pursuant to the Local Bond Law, constituting chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes, and (b) in the case of a Type II school district by an ordinance (herein called the "refunding bond ordinance") adopted by the board of education of such school district as provided in this chapter.

L.1969,c.130,s.2; amended 1978, c.75, s.2; 2002, c.42, s.2; 2003, c.129, s.12.

18A:24-61.3. Refunding bond ordinance; manner of sale and issuance

A refunding bond ordinance of any county or municipality shall become effective and refunding bonds shall be sold or issued in the manner provided in sections 40A:2-52 to 40A:2-60, both inclusive, of said Local Bond Law, and all of the provisions of said sections shall be applicable thereto and to such funding or refunding by any county or municipality, and such refunding bonds shall recite that they are issued pursuant to said law and this chapter. A refunding bond ordinance of any Type II school district shall become effective and refunding bonds shall be sold or issued in the manner provided in this chapter.

L.1969, c. 130, s. 3, eff. July 2, 1969.

18A:24-61.4 Supplemental debt statement, adoption of refunding bond ordinance; provisions.

4. A supplemental debt statement shall be prepared and filed with respect to a Type II school district, in accordance with N.J.S.18A:24-17, that reflects either new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded prior to the adoption of a bond ordinance by the board of education of a Type II school district. Thereafter a refunding bond ordinance may be enacted by the board of education of any Type II school district after the approval thereof by resolution of such board of

education, and by subsequent adoption thereof after advertised public hearing, notice of which shall be given by publication of such proposed refunding bond ordinance and notice of hearing once at least 7 days prior to date of such hearing, in a newspaper circulating in the school district. Following the holding of such public hearing, at which all interested persons shall be given an opportunity to be heard, such refunding bond ordinance may thereupon be adopted by the recorded affirmative vote of 2/3 of the full membership of such board of education or at such other time and place to which such hearing or further consideration thereof shall have been adjourned. The refunding bond ordinance in the case of a Type II school district shall contain in substance: (a) an authorization of the issuance of the refunding bonds, stating in brief and general terms sufficient for reasonable identification the refunded bonds to be funded or refunded, and the amount of the cost of issuing the refunding bonds which is included in the authorized principal amount of the refunding bonds; (b) the principal amount of refunding bonds authorized; and (c) in either the refunding bond ordinance or a resolution adopted prior to the issuance of the refunding bonds such further provisions as the Local Finance Board in the Department of Community Affairs of the State of New Jersey may require or approve as to deposit, securing, regulation, investment, reinvestment, disposition or application of the proceeds of such refunding bonds, and matters in connection therewith, including the officer or officers of the school district to be responsible therefor, and amortization or other provision for premiums or other losses incurred.

Such refunding bond ordinance or resolution may also contain provisions, which shall be a part of the contract with the holders of the refunding bonds, as to the establishment of, and the making of appropriations for, reserves or sinking funds and the amount, source, securing, regulation and disposition thereof. Any matter relating to refunding bonds and not required to be contained in the refunding bond ordinance may be performed or determined by subsequent resolution of the board of education, or the performance or determination thereof delegated by resolution to a financial officer of the school district.

L.1969,c.130,s.4; amended 1978, c.75, s.3; 2003, c.264, s.7.

18A:24-61.5 Certified copy of refunding bond ordinance; filing.

5. a. A certified copy of any refunding bond ordinance shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs before adoption, together with a complete statement in form prescribed by the director and signed by the chief financial officer of the school district as to the outstanding bonds to be funded or refunded by issuance of the refunding bonds. Except as provided in subsection b. of this section no refunding bond ordinance or any resolution performing, determining or authorizing matters or acts in connection with refunding bonds shall take effect until the consent of the local finance board shall have been endorsed upon a certified copy thereof as adopted.

Any certification or endorsement of consent made by the local finance board or by a majority of the members thereof or by the secretary thereof pursuant to its direction as to any issue of refunding bonds shall, after the issuance of such refunding bonds in reliance thereon, be conclusive as to its validity or regularity and shall not be contested in any action or proceeding relating to such refunding bonds instituted after the issuance of such bonds.

The county, municipality or school district may enter into any contracts or agreements to implement the refunding program, including agreements with banking institutions with respect to the application of moneys deposited in a sinking fund for the payment of the refunding bonds at their maturity date to the purchase of obligations of the United States Government or obligations the principal of and interest on which are guaranteed by the United States Government or obligations of any agency or instrumentality of the United States Government without regard to any limitations as to the investment or deposit of moneys.

b. Refunding bonds to realize total debt service savings on outstanding obligations may be issued without the approval of the Local Finance Board in the Department of Community Affairs when authorized by conditions set forth in rules and regulations of the Local Finance Board and upon a resolution adopted by 2/3 vote of the full membership of the board of education of the district.

L.1969,c.130,s.5; amended 1978, c.75, s.4; 2003, c.264, s.8.

18A:24-61.6. Powers and duties of local finance board

The local finance board may examine into any estimates, computations or calculations made in connection with any issue of refunding bonds, may require the production of any papers, documents, witnesses or information, may make or cause to be made any audit or investigation and may take any other action which it may deem advisable in connection with any issue of refunding bonds. All powers and duties of a funding commission pursuant to any other law as heretofore exercised and performed by such commission shall be vested in and exercised and performed by the local finance board as if such board constituted such commission.

L.1969, c. 130, s. 6, eff. July 2, 1969.

18A:24-61.7. Consent by board; considerations; statement of reasons for refusal

In considering any refunding bond ordinance presented to it for its consent, the local finance board shall have regard to the probable capacity of the school district to pay at maturity the refunding bonds proposed to be issued, and all notes and bonds and other indebtedness and liabilities of the school district then outstanding, taking into consideration the assessed and true valuation of taxable property in the school district, the equitable distribution of the burden of interest and debt redemption charges in connection with such refunding bonds, and the bonds and notes and other indebtedness and liabilities theretofore outstanding or which may necessarily thereafter be incurred. If the local finance board shall refuse to indorse its consent upon any such refunding bond ordinance, it shall certify to the school district a statement of its reasons for such refusal.

L.1969, c. 130, s. 7, eff. July 2, 1969.

18A:24-61.8. Title; dates; interest; denomination; payment; redemption

Refunding bonds may be issued in one or more series and shall contain the word "refunding" in their title and shall recite that they are issued pursuant to this chapter and shall bear such date or dates, mature at such time or times not exceeding 40 years, as may be approved by the Local Finance Board, from their date, bear interest at such rate or rates, payable at such time or times, be in such denomination and in such form, either coupon or registered, carry such registration privileges, be executed in such manner consistent with the provisions of this Title for bonds of such school district, be payable at such place or places, and be subject to such terms of redemption, with or without premium, as may be determined by the refunding bond ordinance or by subsequent resolution or resolutions of the board of education.

L.1969, c. 130, s. 8, eff. July 2, 1969. Amended by L.1978, c. 75, s. 5, eff. July 13, 1978.

18A:24-61.9. Sale or exchange of refunding bonds

Refunding bonds may be sold at public or private sale, or may be exchanged for any outstanding bonds to be funded or refunded, pursuant to resolution adopted by not less than $\frac{2}{3}$ of the full membership of the board of education, at such price or prices, computed according to standard tables of bond values, as will yield to the purchasers or to the holders of the refunded bonds surrendered in exchange, an income at a rate not to exceed 6% per annum to the maturity dates of the refunding bonds sold or exchanged, on the money paid or the principal amount of the refunded bonds or notes surrendered therefor to the local unit. Refunding bonds of any authorized issue or of any authorized maturity may be sold or exchanged as hereinabove provided from time to time and in such blocks as may be deemed advisable. The officer of the school district delivering any refunding bonds in exchange for outstanding refunded bonds shall report in writing to the board of education at the next meeting thereof as to the principal amounts, maturities and numbers of the refunding bonds so delivered and as to the refunded bonds received in exchange, which report shall be entered in the minutes of the board of education, and a copy of such report shall be filed within 5 days thereafter with the director.

L.1969, c. 130, s. 9, eff. July 2, 1969.

18A:24-61.10. Sinking fund or reserve fund moneys; payment or retirement of refunded bonds or deposit in trust

Moneys or investments in any sinking fund or reserve fund of the school district established or held for any refunded bonds to be paid, funded or refunded by issuance of refunding bonds shall, unless the refunding bond ordinance provides otherwise, be applied to the payment or retirement of any such refunded bonds. In the event that there shall be in any such fund any bonds of the school district other than those which are being paid, funded or refunded, said bonds or notes shall be removed from such fund and canceled but only to the extent that the moneys or investment remaining in such fund shall be not less than the outstanding refunded bonds of the school district not funded or refunded and for which such fund was established or held, but any excess of such moneys or investment may be held for and applied to the payment of the principal of and interest on the refunding bonds. The refunding bond ordinance may provide that the proceeds from the sale of any refunding bonds shall be deposited in such sinking fund or reserve fund in trust to provide for the payment and retirement of the obligations being refunded at the maturity dates thereof or by redemption prior to the maturity dates and provision may be made for the pledge and disposition of any amounts in excess of the amounts required for such purposes. Money in any such sinking fund may be invested in (a) direct obligations of the United States Government, (b) obligations the principal of and interest on which are guaranteed by the United States Government, (c) to the extent then permitted by law in obligations of any agency or instrumentality of the United States Government or (d) in certificates of deposit issued by a bank or trust company located in this State if such certificates shall be secured by a pledge of any of said obligations described in (a), (b) or (c) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

L.1969, c. 130, s. 10, eff. July 2, 1969. Amended by L.1978, c. 75, s. 6, eff. July 13, 1978.

18A:24-61.11. Refunding bonds for refunding bonds due over five year period; investments

If the local finance board shall find that a special refunding program is in the public interest and is based upon a sound financial plan for equalizing or reducing the debt service of a school district, a refunding bond ordinance may authorize refunding bonds for refunding some or all of any bonds of the school district which will become due over a period of not exceeding 5 years. Such refunding bond ordinance shall provide for the sale annually during such period, or at such other time or times as the local finance board may approve, of blocks or series of refunding bonds to provide funds to pay the bonds and interest to be refunded and such ordinance may also provide for the investment and application of the proceeds of such refunding bonds, pending the maturity or maturities of the bonds to be refunded and for reinvestment or other application of income and realizations upon such investments.

Such investment and reinvestment shall be restricted to (a) purchase and holding of unlimited bonds or notes or other obligations (whether or not interest-bearing) issued or unconditionally guaranteed as to both principal and interest by the United States of America and which mature or which the United States of America is on demand obligated to pay, not later than the end of the respective calendar years of the maturities of the several bonds to be refunded, or (b) purchase and cancellation of any of the bonds to be refunded in the manner or mode of procedure prescribed by the Fiscal Affairs Law.

L.1969, c. 130, s. 11, eff. July 2, 1969.

18A:24-61.12. Powers under this Act and validity of refunding bonds not affected by laws or proceedings

The power to authorize and issue refunding bonds pursuant to this chapter and the validity of such refunding bonds so issued shall not be affected by or be dependent in any way upon the requirements of any other law or the validity or regularity of any proceedings pursuant to or under which any refunded bonds were authorized and issued, and shall be independent of the power to make, do or undertake any school district purpose, improvement or project and shall not be dependent upon or affected by the validity or regularity of any school district purpose, improvement or project or the authorization therefor, for the financing of which such refunded bonds were issued or refunding bonds are to be issued.

L.1969, c. 130, s. 12, eff. July 2, 1969.

18A:24-62. Authorization of issuance of certain refunding bonds saved

Section 18:7-84 of the Revised Statutes is saved from repeal. [This section authorized issuance of bonds to refund notes issued and sold for certain purposes.]

L.1967, c.271.

18A:24-63. Bonds authorized prior to change in method of government of school district

If any municipality, while within or comprising a type I school district, shall have, by ordinance, authorized the issuance of school bonds of said municipality in accordance with this title and thereafter shall have accepted the provisions of section 18A:9-3 of this title and there remain, unissued, bonds of said issue on the date of the acceptance by said municipality of said section 18A:9-3 of this title, or if any municipality has, while being within or comprising a school district governed by the provisions of chapter 6 of Title 18 of the Revised Statutes, by ordinance, authorized the issuance of school bonds of the municipality in accordance with chapter 5 or 6 of said Title 18, which remain unissued on the date this title shall become effective, such ordinance shall, thereafter, be authority for the issuance of bonds of the school district to the amount and for the purpose or purposes set forth therein, and shall be deemed to constitute a resolution duly approved at said date by the legal voters of the school district, authorizing the board of education to issue bonds of the district for the purpose or purposes and in the amount or amounts set forth in such ordinance. The bonds so issued shall be dated and sold and be made payable in accordance with the provisions of this title relating to the issuance and sale of bonds of type II school districts and any provisions of such ordinance with respect to the dates and maturities of such bonds shall not affect the powers of the board of education with respect to such dating and maturities. The board of education of the school district shall assume and pay any notes and other obligations, other than permanent bonds, theretofore duly issued or incurred by the municipality pursuant to said ordinance.

L.1967, c.271

18A:24-64. Issuance of bonds authorized prior to effective date of this title

Any school bonds, the proceedings for the authorization of which, by the introduction of an ordinance in the governing body of the municipality or of a resolution in the board of education of the district, as the case may be, were commenced prior to the effective date of this title may be authorized, issued and sold and the proceeds thereof disposed of in the manner provided by law at the time said proceedings were begun, as if this title had not been enacted.

L.1967, c.271

18A:24-65. Expiration date for contesting validity of proceeding, election

18A:24-65. No action to contest the validity of any proceeding or election authorizing the issuance of any bonds, held in connection with any such authorization, or

the application of the proceeds of any such issue to a purpose other than those for which the bonds were issued, shall be commenced after the expiration of 20 days from the date of the institution of such proceedings or the holding of such election or the action in connection therewith forming the subject matter of such contest. Thereafter, the proceedings shall be conclusively presumed to be due authorization for the issuance of the bonds.

L.1967, c.271; amended 1993,c.146,s.4.

18A:24-66. Authorization

Any board of education of this State, upon complying with the provisions of this act, shall be authorized, for any purpose for which it is permitted by law to issue any bonds, to issue some part or all of the same in the form, type and manner provided for herein.

L.1971, c. 36, s. 1, eff. March 4, 1971.

18A:24-67. Application for authorization; grant of authorization; certificate; publication of notice of certificate; conclusiveness of validity of bonds

Any board of education desiring to issue bonds under this act shall file application for authorization to do so with the Division of Local Finance in the Department of Community Affairs. The application shall be on such form, and shall contain such information as said division may specify by rule or regulation, and shall be acted upon within 30 days after filing. The authorization, if granted, may be made contingent upon compliance with terms and conditions therein specified, and shall be accompanied by a certificate of the division, or shall be supplemented by such certificate in instances for which terms and conditions are specified, stating that the provisions of this act have been complied with and that the bonds to be issued will be valid and binding obligations of the issuing board, and of any guaranteeing municipality when such guaranty is provided. The certificate shall be conclusive proof of the validity of the said bonds and of the fact that the same are governmental obligations for a public purpose, and such conclusive proof shall not be open to question or challenge in any place or proceeding. The issuing board shall cause notice of said certificate to be published in such manner and at such times as the certificate directs, and no proceeding to challenge the certificate or the conclusive effect thereof shall be instituted after the expiration of 30 days from the first publication of said notice.

L.1971, c. 36, s. 2, eff. March 4, 1971.

18A:24-68. Purpose of act

It is the purpose of this act to stabilize the values of school bonds issued hereunder, and to provide means for reducing administrative costs by a sufficient degree to permit purchase thereof by the public in small denominations, in order to make it feasible for the general public to provide financing for such bond issues.

L.1971, c. 36, s. 3, eff. March 4, 1971.

18A:24-69. Contracts with financial institutions as agents; terms of advance subscription

The issuing board may enter into contracts and agreements with any financial institution or institutions to serve as agent of the board of education through whom the public may subscribe to, purchase and redeem bonds, or for temporary borrowings when appropriate to meet redemptions pending reissue of additional bonds, and for such other purposes and services appropriate to the achievement of the object of this act and the management of the issue. Such contracts and agreements, if entered into prior to the granting of authorization to issue bonds under this act, shall be deemed to contain a provision that the same shall not take effect until authorization has been granted and certificate issued, nor until any changes required by any terms and conditions of the authorization have been made. Nothing herein, however, shall prevent the making of a contract or agreement for the receipt of subscriptions and deposits for the purchase of bonds, contingent upon authorization and certification, so long as the issuing board is not required to make any payment or other compensation for the service or cost thereof in the event that the approval is not granted or certificate is not issued. Any such advance subscriptions shall be on a written form expressly stating that if authorization is not granted or certificate not issued by a date therein specified, the deposit accompanying the subscription shall be refunded on demand without interest.

L.1971, c. 36, s. 4, eff. March 4, 1971.

18A:24-70. Bond resolution; provisions

Bonds issued pursuant to this act shall be authorized by a bond resolution adopted by the issuing board, which resolution may be adopted prior to application contingent upon authorization and certification. Such bond resolution may contain provisions dealing with all aspects and terms of the bonds to be issued, and in all cases shall contain provisions that:

a. The aggregate amount to be borrowed on bonds issued pursuant to this act shall be that sum which members of the public may subscribe for and purchase from time to time, but in no case shall the same exceed 1.5 times the amount of the borrowings which the issuing board has been authorized to expend for school purposes under its borrowing authority pursuant to law.

b. A blanket bond only shall be issued, payable to the financial institution designated to serve as fiscal agent, for the benefit of all bondholders, which bond shall state no specific amount in dollars but which shall be a binding obligation to pay the amount of the principal and accrued interest on all bonds issued and outstanding at any time. The ledgers and accounts of the fiscal agent and of the issuing board shall be determinative of the amounts.

c. Each bond purchaser shall be furnished by the fiscal agent with a written record upon which there shall be entered the name or names and form of registration, the effective purchase date of each bond and the principal amount thereof, the effective redemption date and amount paid for principal and accrued interest, and a printed schedule showing, for each principal denomination, the amount of accrued interest payable if redeemed at stated times after date of issue.

d. The bonds may be registered only in specified forms, which forms shall be conclusive of ownership for all purposes and as to all persons, and that no bearer bonds may be issued.

e. Bonds purchased before the fifteenth day of any month shall be deemed to have been issued on the first day of that month, and that all other bonds shall be deemed to have been issued on the first day of the following month.

f. No bond issued under this act may be transferred or assigned except to the extent resulting from the form of registration and except as may result from operation of law in case of death, insolvency or bankruptcy.

g. Every bondholder shall at all times be entitled to redeem any bond or bonds and to be repaid the principal amount thereof and any accrued interest shown on the schedule for the holding period, but provision may be made for a reasonable waiting period, not to exceed 2 weeks, for the refinancing of the amounts to be redeemed. If any waiting period should be required, accrued interest shall be ascertained from the schedule according to the date of actual payment.

Interest shall be payable only on redemption or maturity.

h. A schedule setting forth the denominations in which the bonds may be purchased, and showing the dollar amount of interest thereon for stated holding periods. The accrued interest schedule shall provide for lesser amounts of accrued interest for lesser holding periods than if held to maturity, may provide for no accrual if retained less than one year and shall designate the amount of the accruals of interest for periods, which may be of varying duration, of not less than one year.

L.1971, c. 36, s. 5, eff. March 4, 1971.

18A:24-71. Investment of proceeds; disposition of excess borrowed over authorizations; reserve for payment of bonds

Because the amounts actually borrowed on bonds issued pursuant to this act, together with amounts borrowed on bonds issued under other laws, may from time to time exceed the total amount authorized by law to be borrowed and expended for school purposes, any excess so borrowed from time to time shall be held in a reserve to be applied to meet redemptions and maturities. Where the amount to be invested is less than such limit as may be specified by the bond resolution, or is reasonably expected to be invested for a short period, the same may be temporarily invested in a certificate or certificates of deposit or other similar investment, of the fiscal agent or any other financial institution authorized to do business in this State. In other cases the investments may be made in such manner as other funds of a board of education may be invested, or the issuing board may negotiate and enter into an agreement for the making of investments for its account, either in a separate account or in a common fund with other like investments for other boards of education, by the State Investment Council in the Department of the Treasury, which council is hereby authorized to enter into and perform such agreements and to make investments in any security or securities in which it may be authorized to make investments under any of the laws applicable to it.

L.1971, c. 36, s. 6, eff. March 4, 1971.

18A:24-72. Maturity date

The blanket bond of the issuing board provided for in section 5b of this act shall be for a due date not in excess of that which would provide the maximum borrowing period under applicable law for the particular purpose of the borrowing. The bonds issued to bondholders may be for shorter periods of maturity, and the same may be issued and reissued from time to time but all of the same shall mature and become due and payable on the due date of the blanket bond, unless prior thereto an additional bond issue or issues shall be authorized and new and additional blanket bond or bonds shall be issued, in which case bonds may be issued and reissued to bondholders to mature, in any event, on the last date of any of said bonds.

L.1971, c. 36, s. 7, eff. March 4, 1971.

18A:24-73. Annual installment to retire bonds; calculation; school budget item; sinking fund; disposition of excess

The issuing board shall annually cause to be made calculations of the average amount of the principal of bonds issued and outstanding under this act and of the average amount

of the reserve provided for in section 6, for the 12-month period prior to such calculation. The calculations shall be made not more than 3 months prior to the date for the publication of the annual school budget. Said budget shall contain provision, as a mandatory item, of an amount equal to that sum which would be sufficient as a level annual installment to retire in full the net amount resulting from the subtraction of the average reserve from the average outstanding principal, at that rate of interest that would be applicable if all bonds were held to maturity, if such installments were paid over the full term of the blanket bond. The amount annually required for said item shall be placed in a separate sinking fund to be invested and reinvested in the same manner as provided in section 6, and shall be applied only to the satisfaction of bonds outstanding at the maturity of the last blanket bond. Any excess, remaining after full satisfaction of such bonds, or the making of provisions therefor, shall be and become general funds available to the issuing board but for authorized school purposes only.

L.1971, c. 36, s. 8, eff. March 4, 1971.

18A:24-74. Temporary borrowings to meet redemptions

Because the amounts of redemptions from time to time may be such as to deplete the reserve fund provided for in section 6, the issuing board is authorized to make temporary borrowings from any available source, to provide funds to meet redemptions. The authorization of the Division of Local Finance may require that binding arrangements be made for the availability of such temporary funds, unless the bonds to be issued hereunder are guaranteed by municipal guaranty.

L.1971, c. 36, s. 9, eff. March 4, 1971.

18A:24-75. Municipal ordinance for guaranty; authorization

Every municipality within or part of the school district of the issuing board is hereby authorized to adopt an ordinance containing a guaranty of bonds issued under this act.

L.1971, c. 36, s. 10, eff. March 4, 1971.

18A:24-76. Modification or revocation of right or interest of bondholder

No bond resolution, no municipal ordinance for guaranty, and no contract, agreement, arrangement or other act of the issuing board, of any municipality or of any governmental office, officer or agency shall be modified, altered, revoked, added to or otherwise changed in any respect that would tend to adversely affect the interest or right of the holder of any bond or bonds issued hereunder. This provision shall be deemed to be a contractual obligation and not subject to modification or repeal so long as any of said bonds are issued, outstanding and unmatured. Nothing in this section shall be construed to prevent the issue and reissue of additional bonds, all of which shall have equal rights in respect to any reserves or sinking funds without any differences in priority among them.

L.1971, c. 36, s. 11, eff. March 4, 1971.

18A:24-77. Grounds for grant of authorization

The authorization provided for in section 2 of this act shall be granted in any case in which it shall appear to the Division of Local Finance that the issuing board is reasonably likely to be able to sell a sufficient number of bonds under this act as to accomplish its purpose. Such authorization shall be granted in any case where the total amount of the borrowing which is authorized to be expended for school purposes is not in excess of \$250,000.00, or in the alternative, where such amount represents an average of not more than \$25.00 per capita of the population of the district.

L.1971, c. 36, s. 12, eff. March 4, 1971.

18A:24-78. Application to issue of other bonds

No authorization to issue bonds pursuant to this act shall in any way preclude the issuing board from issuing other bonds under any other applicable law, at any time and from time to time, during the period for which bonds might have been issued in the absence of such authorization.

L.1971, c. 36, s. 13, eff. March 4, 1971.

18A:24-79. Net debt of board of education; calculation; net debt of municipality

For the purposes of calculating or stating local debt or school debt, or for any debt statement or supplemental debt statement, or for the application of any limitation on the issuance of bonds by a board of education or municipality, or any other similar purpose under any applicable law now or hereafter enacted, the net debt of any board of education on bonds issued hereunder shall be the aggregate amount of the principal and accrued interest of issued and outstanding bonds, less the amount of the reserve funds and sinking funds held pursuant to this act and the earnings thereof, as of the date of the calculation. At the option of the issuing board, the calculation of net debt may be made in the same manner as provided in section 8 of this act, ^1^ except that accrued interest shall be included in the calculation. No municipal guaranty of any bonds issued hereunder shall be taken into account in determining its bonded indebtedness or in calculating any debt limit or for any other purpose stated in this section in respect to such municipality, unless the municipality shall have been called upon to perform its guaranty, and then only to the extent of such call and to the extent that the same has

not been satisfied. However, the existence of the guaranty shall be disclosed in any case.

L.1971, c. 36, s. 14, eff. March 4, 1971.

18A:24-80. Exemption from taxation

Any and all bonds issued pursuant to this act shall be conclusively deemed to be governmental obligations for governmental and public purposes, and the same, together with any interest thereon, shall be forever exempt from any and every tax and shall be excluded from the calculation of any and every tax, whenever enacted, of whatever nature and however levied, assessed or calculated, whether during the lifetime or at or after or by reason of the death of any holder.

L.1971, c. 36, s. 15, eff. March 4, 1971.

18A:24-81. Payroll deductions for purchase of bonds

Every employer, public or private, is hereby authorized to accept requests from any employee to make payroll deductions to be applied by the employer from time to time, as sufficient deductions have accrued, to the purchase of bonds authorized to be issued hereunder for the account of such employee.

L.1971, c. 36, s. 16, eff. March 4, 1971.

18A:24-82. Legal investment for fiduciaries or other representative

Every fiduciary or other representative is hereby authorized to make investments in bonds authorized to be issued hereunder, which shall be legal investments unless expressly prohibited by the instrument from which his authority derives.

L.1971, c. 36, s. 17, eff. March 4, 1971.

18A:24-83. Bonds as gift to minor or for purchase for beneficiary

Bonds authorized to be issued under this act may be made the subject of gifts under the Gifts to Minors Act or other similar law, and may be purchased for the benefit of any minor or other beneficiary under any will or other instrument in any case where obligations of the United States or of this State may be purchased, or where moneys are authorized to be deposited in any bank account.

L.1971, c. 36, s. 18, eff. March 4, 1971.

18A:24-84. Construction of act; severability; validity of bonds

This act shall be liberally construed. Its provisions shall be deemed severable in any case where such severability will not tend to defeat its purpose. No defect, error or omission in any matter of form or substance shall in any way affect the validity and binding obligation of any bond issued hereunder, and the Division of Local Finance is authorized, in any such case, to issue an order validating any bonds to be issued after the discovery thereof, in any respect in which there may be such defect, error or omission, if it is satisfied that the same is not substantial or prejudicial, or upon a curing or correction of the defect, error or omission.

L.1971, c. 36, s. 19, eff. March 4, 1971.

18A:24-85. Short title

This act shall be known and may be cited as "The School Qualified Bond Act."

L.1976, c. 39, s. 12, eff. June 28, 1976.

18A:24-86. Legislative findings

The Legislature finds and declares that:

a. Provision of adequately equipped, sanitary and secure physical facilities is an integral part of the maintenance of a thorough and efficient system of free public education;

b. Maintenance of strong financial credit in New Jersey school districts is essential in providing necessary physical facilities at minimum cost, for the children of this State between the ages of 5 and 18 years;

c. While the credit status of New Jersey's school districts is sound, it can be strengthened by a pledge of State school aid to guarantee debt service payments on qualified bonds;

d. Such a pledge of State school aid should expand the market for and lower the interest costs on qualified bonds issued pursuant to the terms of this act, thus substantially reducing the costs of participating school districts and making more efficient use of the funds available for the provision of a thorough and efficient education.

L.1976, c. 39, s. 1, eff. June 28, 1976.

18A:24-87 Definitions.

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

a. "Commissioner" means the Commissioner of Education of the State of New Jersey;

b. "Debt service" means and includes payments of principal and interest upon qualified bonds issued pursuant to the terms of this act or amounts required in order to satisfy sinking fund payment requirements with respect to such bonds;

c. "Local Finance Board" means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, established pursuant to P.L.1974, c.35 (C.52:27D-18.1);

d. "Paying agent" means any bank, trust company or national banking association having the power to accept and administer trusts, named or designated in any qualified bond of a school district or municipality as the agent for the payment of the principal of and interest thereon and shall include the holder of any sinking fund established for the payment of such bonds;

e. "Qualified bonds" means those bonds of a school district or municipality authorized and issued in conformity with the provisions of this act;

f. "State board" means the State Board of Education of the State of New Jersey;

g. "School district" means a Type I, Type II, regional, or consolidated school district as defined in Title 18A of the New Jersey Statutes;

h. "State school aid" means the funds made available to local school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53).

L.1976, c.39, s.2; amended 1978, c.76, s.2; 1990, c.52, s.47; 1996, c.138, s.61; 2007, c.260, s.55.

18A:24-88. Qualified bonds; issuance; resolution by local board of education or municipality; application to commissioner; resolution of approval by state board; endorsement of proposal or ordinance

a. Bonds issued by any school district or municipality pursuant to the provisions of this act shall be "qualified bonds" and shall be entitled to the benefit of the provisions of this act.

b. Whenever a local board of education or the governing body of a municipality determines by resolution to issue bonds for the construction, reconstruction, development, extension, improvement or acquisition of physical facilities, it may file an application with the commissioner to qualify the bonds pursuant to the provisions of this act. Upon receipt of any such application, the commissioner shall cause an investigation to be made, taking into consideration such factors as the conditions in the school district, any applicable educational goals, objectives and standards established by the State or local board of education, the need for the facilities to be financed from the proceeds of such proposed qualified bonds, the ability of the school district or municipality to maintain a thorough and efficient system of education after issuing qualified bonds, and such other factors as the commissioner may deem necessary.

c. If such investigation shows to the satisfaction of the commissioner that such school district or municipality should be entitled to issue qualified bonds pursuant to the provisions of this act, he shall so recommend to the State board which may by resolution determine that such school district or municipality is entitled to issue qualified bonds.

d. At any time within 1 year after the adoption by the State board of the resolution referred to in subsection c. with respect to a particular issue of bonds, the school district or municipality may submit to the commissioner a copy of a proposal or ordinance authorizing the issuance of qualified bonds entitled to the benefits of this act in accordance with said resolution. The commissioner shall be and is hereby authorized to endorse upon any copy of such proposal or ordinance a certification thereof as being the proposal or ordinance as to which a determination of the State board has been made as aforesaid. Such endorsement shall be made in such form or manner as the commissioner shall determine. If no such proposal or ordinance is submitted within 1 year of the adoption of the resolution, the resolution shall be of no further force and effect and the commissioner shall so notify said school district or municipality.

L.1976, c. 39, s. 3, eff. June 28, 1976.

18A:24-89. Endorsement of consent of local finance board; conditions

a. A copy of the resolution of the State board referred to in section 3c. and a copy of the proposal or ordinance referred to in section 3d. bearing the endorsement of the commissioner as aforesaid, shall be submitted to the local finance board for its consideration. The local finance board, in considering any proposal or ordinance submitted to it and before endorsing its consent thereon, may require the board of education of any school district or the governing body of any municipality in such school district to adopt resolutions restricting or limiting any future proceedings with respect to the authorization of bonds or other matters deemed by the local finance board

to affect any estimate made or to be made by it in accordance with subsection b. hereof. Every resolution so adopted shall constitute a valid and binding obligation of such school district or municipality running to and enforceable by, and releasable by, the local finance board.

b. Within 60 days after the submission to it of the resolution and proposal or ordinance, the local finance board shall cause its consent to be endorsed upon the proposal or ordinance authorizing such qualified bonds, if it shall be satisfied, and shall record by resolution, that the amounts to be expended for the education facilities to be financed pursuant to such proposal or ordinance are not unreasonable or exorbitant, and that issuance of the qualified bonds, to be authorized by such proposal or ordinance, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest on its debts while at the same time supplying essential public improvements and services. If the local finance board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1976, c. 39, s. 4, eff. June 28, 1976.

18A:24-90. Revision of maturity schedule approved by local finance board; application; approval; endorsement

If the board of education of a school district or governing body of a municipality shall determine by resolution that a maturity schedule for its qualified bonds, other than the maturity schedule approved by the local finance board pursuant to section 4 is in the best interest of said school district, it may make application to the local finance board setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such qualified bonds set forth in the application.

Within 60 days after submission to the local finance board of an application, the local finance board shall cause its approval to be endorsed thereon if it shall be satisfied, and shall record by resolution its findings, that the belief set forth in such application is well founded and that issuance of the bonds pursuant to the revised maturity schedule in such application would not materially impair the credit of any municipality comprised within the school district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services. If the local finance board is not so satisfied, it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1976, c. 39, s. 5, eff. June 28, 1976.

18A:24-91. Recitals; method of authorization and issue; maturity; provisions for protection of bondholders

a. All qualified bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Except as otherwise provided in this act, all qualified bonds shall be authorized and issued in the manner provided for in Title 18A. N.J.S. 18A:24-19 through 18A:24-27 shall not be applicable with respect to authorization or issuance of any bonds pursuant to the provisions of this act. Qualified bonds shall mature not later than 30 years from their date of issuance without regard to any limitations as to maturities or amounts of annual installments for bonds as provided in Title 18A.

b. The proceedings of the school district or municipality authorizing the issuance of qualified bonds may contain such covenants and provisions for protecting and enforcing the rights and remedies of the bond holders as may be reasonable and proper and not in violation of law, including covenants restricting the issuance of additional qualified bonds.

L.1976, c. 39, s. 6, eff. June 28, 1976.

18A:24-92. Bond anticipation notes

Any school district or municipality which has authorized qualified bonds may issue temporary notes or loan bonds (hereinafter "notes") in anticipation of the issuance of permanent qualified bonds to the extent permitted by the provisions of Title 18A or any other applicable laws, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the commissioner to insure that funds are borrowed only as needed to meet required payments for construction, reconstruction, development, extension, improvement, or acquisition of the educational facilities to be financed by the issuance of permanent qualified bonds.

L.1976, c. 39, s. 7, eff. June 28, 1976.

18A:24-93. Certification to state treasurer of debt service and paying agent; withholding state school aid to pay bonds; guarantee to bondholders

a. Each school district or municipality, as the case may be, which issues qualified bonds shall certify to the State Treasurer the name and address of the paying agent, and the maturity schedule, interest rate and dates of payment of debt service on such qualified bonds within 10 days after the date of issuance of such qualified bonds. After receipt of such certificate the State Treasurer shall withhold from the amount of State school aid payable to such school district or municipality an amount of such State

school aid which will be sufficient to pay the debt service on such qualified bonds as the same shall mature and become due. The State Treasurer shall, on or before each principal and interest payment date, forward such withheld amounts to the paying agent for such qualified bonds for deposit to the account established with such paying agent for the purpose of paying the debt service on such qualified bonds. From the time withheld by the State Treasurer all State school aid so withheld and paid or to be paid to and held by the paying agent shall be exempt from being levied upon, taken, sequestered or applied toward paying the debts of such school district or municipality other than for payment of debt service on such qualified bonds. From the time withheld by the State Treasurer, such State school aid so withheld and paid or to be paid to said paying agent shall be deemed to be held in trust for the sole purpose of paying the debt service on such qualified bonds.

b. The State of New Jersey hereby covenants with the purchasers, holders and owners, from time to time, of qualified bonds that it will not repeal, revoke, rescind, modify or amend the provisions of subsection a. of this section so as to create any lien or charge on or pledge, assignment, diversion, withholding payment or other use of or deduction from any State school aid to be apportioned and paid to any paying agent of qualified bonds which is prior in time or superior in right to the payment required by subsection a. of this section; provided, however, that nothing herein contained shall be deemed or construed to require the State of New Jersey to continue to make payments of State school aid or to limit or prohibit the State from repealing or amending any law heretofore or hereinafter enacted for the payment or apportionment of State school aid or the manner, time, or amount thereof.

c. The certification to the State Treasurer as to amount payable in any year for debt service on such qualified bonds shall be fully conclusive as to such qualified bonds from and after the time of issuance of such qualified bonds notwithstanding an irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such qualified bonds provided that such qualified bonds contain a recital to the effect that they are entitled to the benefits of the provisions of this act. All persons shall be forever estopped from denying that such qualified bonds are entitled to the benefits of the provisions of this act.

L.1976, c. 39, s. 8, eff. June 28, 1976.

18A:24-94. Annual budget of school district or municipality; inclusion of debt service on qualified bonds

Nothing contained in this act shall be construed to relieve any school district or municipality of the obligation imposed on it by law to include in its annual budget amounts necessary to pay, in each year, the principal and interest maturing and becoming due on any qualified bonds issued by such school district or municipality; provided, however, that to the extent of the amounts withheld from State school aid payable to such school district or municipality and forwarded to the paying agent for such qualified bonds pursuant to section 8, such budgeted amounts, to the extent not needed to pay debt service on such qualified bonds, shall be applied to the payment of the operating expenses of such school district or municipality for such year; and provided, further, that in any year in which State school aid is not appropriated, such budgeted amounts shall be used to pay the debt service maturing and becoming due in such year on such qualified bonds of the school district or municipality.

L.1976, c. 39, s. 9, eff. June 28, 1976.

18A:24-95. Application to projects commenced prior to effective date of act

The provisions of this act shall not be construed to prohibit any school district or municipality from applying for authorization to issue qualified bonds pursuant to the terms of this act in connection with the construction, reconstruction, development, extension, improvement or acquisition of any educational facility notwithstanding that the construction, reconstruction, development, extension, improvement or acquisition of such facility was authorized, approved or commenced prior to the effective date of this act.

L.1976, c. 39, s. 10, eff. June 28, 1976.

18A:24-96. Severability

If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

L.1976, c. 39, s. 11, eff. June 28, 1976.

18A:24-97. Issuance in absence of compliance with provisions as to approval for qualification upon adoption of funding ordinances or resolutions; refunding bonds; standards in investigation by commissioner

a. Qualified bonds may be issued pursuant to the provisions hereof for the purpose of funding ordinances or resolutions which have been adopted in the absence of compliance by the municipality or school district with the provisions as to approval for qualification set forth herein, even if notes have been sold or other obligations incurred pursuant to said ordinance, provided that prior to the issuance of such bonds the municipality or school district shall have complied with such provisions.

b. Outstanding bonds of any school district or municipality issued for school purposes may be refunded by the issuance of qualified refunding bonds whether or not in advance of the maturity or redemption date of the outstanding bonds and in any amount determined to be necessary by the local board of education or governing body of the municipality to effect the refunding. Qualified refunding bonds of a municipality shall be sold and issued in the manner provided in N.J.S. 40A:2-52 to 40A:2-60, both inclusive, and of any Type II school district in the manner provided in sections 3 through 11 of P.L.1969, c. 130 (C. 18A:24-61.3 to 18A:24-61.11), and the provisions of said sections shall be applicable thereto and to such refunding bonds and such refunding bonds shall recite that they are issued pursuant to said provisions and this act.

c. The Commissioner of Education in undertaking the investigation required by subsection b. of section 3 of P.L.1976, c. 39 (C. 18A:24-88) shall take into consideration any applicable educational goals, objectives and standards established by the State or local board of education, the ability of the school district and the municipality to maintain a thorough and efficient system of education after issuing qualified bonds and such other factors as the commissioner may deem necessary.

L.1978, c. 76, s. 1, eff. July 13, 1978.

18A:25-1. Transfer of teaching staff members

No teaching staff member shall be transferred, except by a recorded roll call majority vote of the full membership of the board of education by which he is employed.

L.1967, c.271.

18A:25-2. Authority over pupils

A teacher or other person in authority over such pupil shall hold every pupil accountable for disorderly conduct in school and during recess and on the playgrounds of the school and on the way to and from school.

The driver shall be in full charge of the school bus at all times and shall be responsible for order; he shall never exclude a pupil from the bus, but, if unable to manage any pupil, shall report the unmanageable pupil to the principal of the school which he attends.

A pupil may be excluded from the bus for disciplinary reasons by the principal and his parents shall provide for his transportation to and from school during the period of such exclusion.

L.1967, c.271; amended by L.1969, c. 175, s. 1, eff. Oct. 14, 1969.

18A:25-3. Teaching, etc., on holidays not required

No teaching staff member shall be required to perform his duties on any day declared by law to be a public holiday and no deduction shall be made from such member's salary by reason of the fact that such a public holiday happens to be a school day and any term of any contract made with any such member which is in violation of this section shall be void.

L.1967, c.271.

18A:25-4. School register; keeping

Each teacher or person required by the board of education of any district or of any county vocational school to keep a school register shall keep the same in the manner provided therefor and his final salary installment for the school year shall not be paid to him until the superintendent, secretary, principal or other person designated by the board, has examined the register, found it to have been kept according to law and certified the same thereon.

L.1967, c.271.

18A:25-5. Annual report; filing and penalty for failure to file

The teacher in any school in which but one teacher is employed and the principal in every other school shall file with the superintendent of schools of the district, if there be one, otherwise with the county superintendent, at the time of the closing of the school for the summer vacation or of leaving school before the end of the school year, an annual report on blanks furnished for that purpose by the commissioner. Unless such report is filed at said time the last installment of salary due the teacher or principal for the school year shall not be paid to him until the secretary of the board of education shall have received written notice from the superintendent of the district or the county superintendent, as the case may be, that such report has been filed.

L.1967, c.271.

18A:25-6. Suspension of assistant superintendents, principals and teachers

The superintendent of schools may, with the approval of the president or presidents of the board or boards employing him, suspend any assistant superintendent, principal or teaching staff member, and shall report such a suspension to the board or boards forthwith. The board or boards, each by a recorded roll call majority vote of its membership, shall take such action for the restoration or removal of such person as it

shall deem proper, subject to the provisions of chapter 6 ^1^ and chapter 28 of this Title.

L.1967, c.271; amended by L.1968, c. 295, s. 12, eff. Sept. 9, 1968.

18A:25-7. Meeting which could adversely affect employment; right to notice and representation

Whenever any teaching staff member is required to appear before the board of education or any committee or member thereof concerning any matter which could adversely affect the continuation of that teaching staff member in his office, position or employment or the salary or any increments pertaining thereto, then he shall be given prior written notice of the reasons for such meeting or interview and shall be entitled to have a person of his own choosing present to advise and represent him during such meeting or interview.

L.1968, c. 451, s. 1, eff. Feb. 20, 1969.

18A:26-1. Citizenship requirement for teachers, exceptions

18A:26-1. Every permanent teaching staff member employed in any of the free public schools for nine months or more, in any year shall be a citizen of the United States, except that any citizen of any other country, who has declared his intention of becoming a United States citizen and to whom there has been issued a teaching certificate in accordance with law, may be employed as a teacher so long as he holds a valid teacher's certificate and a teacher of foreign languages who has been a resident of the United States for less than 10 years and who is not a citizen of the United States may be employed in such capacity.

The requirement of citizenship shall not be construed to apply to a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program or teacher exchange program.

L.1967, c.271; amended 2002,c.9,s.1.

18A:26-1.1. Residence requirements prohibited

No board of education of any school district shall require any teaching staff member to reside within the school district within which he is employed.

L.1967, c.271.

18A:26-2. Certificates required; exception

No teaching staff member shall be employed in the public schools by any board of education unless he is the holder of a valid certificate to teach, administer, direct or supervise the teaching, instruction, or educational guidance of, or to render or administer, direct or supervise the rendering of nursing service to, pupils in such public schools and of such other certificate, if any, as may be required by law.

Notwithstanding the foregoing certification requirement, boards of education shall be permitted to enter into contracts with properly licensed commercial drivers' schools for the purpose of providing behind-the-wheel instruction as a part of a regular curriculum driver education course, provided that classroom instruction in driver education is conducted by a certified teaching staff member. When classroom instruction in driver education is conducted by a certified teaching staff member, persons providing behind-the-wheel instruction need not be certified teachers but shall be properly licensed driving instructors under rules and regulations of the Division of Motor Vehicles.

L.1967, c.271; amended by L.1983, c. 281, s. 4, eff. July 29, 1983.

18A:26-2a Definitions relative to employment of novice teachers; registration with DOE.

1. a. As used in this section:

"Certificate of eligibility" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic, and applicable test requirements for teacher certification;

"Certificate of eligibility with advanced standing" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic and test requirements for teacher certification and complete a State-approved college professional education preparation program;

"Novice teacher" means any teacher working under a valid certificate of eligibility, certificate of eligibility with advanced standing, or provisional certificate who has not yet been issued a standard instructional certificate;

"Provisional certificate" means a certificate issued by the State Board of Examiners to candidates who hold either a certificate of eligibility or a certificate of eligibility with advanced standing and are employed as part of a State-approved district training program or residency leading to standard certification;

"Provisional teacher program" means the school-based training and evaluation program provided to all novice teachers during the first year of teaching in the State;

"Standard instructional certificate" means a permanent certificate issued to a person who has met all teacher certification requirements.

b. A board of education may employ a person who holds a valid certificate of eligibility or certificate of eligibility with advanced standing to teach as a novice teacher in the public schools of the district. Upon the employment of a novice teacher, the board of education shall immediately register the employment with the Department of Education and request issuance of a provisional certificate. When the provisional certificate is issued by the department, its effective date for all purposes shall be the date on which the novice teacher began employment with the board of education. The board of education shall also enroll the novice teacher in the provisional teacher program and comply with all responsibilities assigned to the district by the department.

L.2005,c.144,s.1.

18A:26-2.1. Certification for director of athletics

To be eligible for appointment as the director of athletics in any public secondary school an applicant shall possess a supervisory certificate issued by the State Board of Examiners.

L.1991,c.17,s.1.

18A:26-2.2. Current director of athletics, continuance of employment

Notwithstanding the provisions of section 1 of this act, any individual who possesses a New Jersey teacher's certificate and who is employed as a director of athletics in a public high school prior to the effective date of this act may continue to be so employed.

L.1991,c.17,s.2.

18A:26-2.3 Rules, regulations relative to certification of swimming teachers in public schools.

1. The State Board of Education, in consultation with the Commissioner of Health and Senior Services, shall promulgate rules and regulations to provide for the certification of persons employed by boards of education to teach swimming in the public schools. The regulations adopted by the State board shall include requirements to ensure that candidates for certification have the appropriate swimming and first aid skills necessary to protect the health and safety of students.

L.1998,c.120,s.1.

18A:26-2.4. Certification required for appointment as school athletic trainer; exceptions

4. To be eligible for appointment by a board of education as a school athletic trainer in any public school, an applicant shall possess an educational services certificate issued by the State Board of Examiners.

Notwithstanding the provisions of this section, any person who is employed as a school athletic trainer in a public school prior to the effective date of P.L.1999, c.87 (C.18A:26-2.4 et al.) may continue to be so employed pursuant to the provisions of N.J.S.18A:28-4.

L.1999,c.87,s.4.

18A:26-2.5. Rules relative to athletic trainer licensure

5. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) setting forth the certification and endorsement requirements of a school athletic trainer which shall include, but need not be limited to, the satisfactory completion of the requirements established by the State Board of Medical Examiners for licensure as an athletic trainer pursuant to P.L.1984, c.203 (C.45:9-37.35 et seq.).

L.1999,c.87,s.5; amended 2001, c.156, s.13.

18A:26-2.6. Instructional certificate; technology education endorsement; industrial arts endorsement

1. a. The State Board of Education shall authorize a technology education endorsement to the instructional certificate. The endorsement shall authorize the holder to teach technology education in all public schools. Technology education shall include content which is aligned to the core curriculum content standards and which reflects the standards for technology literacy published by the International Technology Education Association.

b. The State board shall issue an endorsement for industrial arts after the effective date of this act.

This endorsement shall authorize the holder to teach industrial arts which includes: graphic arts, drafting, woodworking, metal working, arts and power mechanics.

c. Teachers holding an industrial arts endorsement prior to the effective date of this act and who are employed in a school district teaching technology education or courses as described in subsection a. of this section prior to that date or who have passed the Educational Testing Service Praxis test in technology education or any other test of subject matter knowledge designated by the State board shall, upon application to the State Board of Examiners, be issued a technology education endorsement. A teacher issued a technology education endorsement pursuant to this subsection shall have all of his service teaching technology education or courses as described in subsection a. of this section under the industrial arts endorsement credited toward tenure and seniority as if rendered under the technology education endorsement.

d. Nothing in this act shall be construed to preclude an individual from holding both a technology education endorsement and an endorsement for industrial arts.

L.2004,c.7,s.1.

18A:26-2.7. Rules

2. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act, including the development of the requirements for the technology education endorsement which shall be aligned with the core curriculum content standards.

L.2004,c.7,s.2.

18A:26-2.8 Instruction in autism, developmental disabilities awareness, teaching methods, required for N.J. instructional certificate.

1. Beginning with the 2008-2009 school year, a regionally-accredited institution of higher education offering coursework for a New Jersey instructional certificate shall incorporate the recommendations developed by the Commissioner of Education pursuant to section 2 of this act on instruction in autism and other developmental disabilities awareness and methods of teaching students with autism and other developmental disabilities into existing course curriculum.

L.2007, c.171, s.1.

18A:26-2.9 Recommendations for autism, developmental disabilities awareness instruction, teaching methods.

2. a. The Commissioner of Education shall develop recommendations for autism and other developmental disabilities awareness instruction and methods of teaching students with autism and other developmental disabilities for teacher preparation programs in accordance with section 1 of this act and shall submit the recommendations to the State Board of Education. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at the University of Medicine and Dentistry of New Jersey, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

b. The Commissioner of Education shall develop recommendations to incorporate autism and other developmental disabilities awareness instruction and methods of teaching students with autism and other developmental disabilities for teacher and paraprofessional in-service and other training programs, where appropriate, and shall submit the recommendations to the State board. In developing the recommendations, the commissioner shall consult with the Commissioner of Health and Senior Services, representatives from entities that promote awareness about autism and other developmental disabilities and provide programs and services to people with autism and other developmental disabilities, including, but not limited to Autism Speaks, The Autism Center of New Jersey Medical School at the University of Medicine and Dentistry of New Jersey, and The New Jersey Center for Outreach and Services for the Autism Community, and representatives of the education community, including, but not limited to the New Jersey Education Association, the New Jersey School Boards Association, the New Jersey Principals and Supervisors Association, and the New Jersey Professional Teaching Standards Board.

c. The recommendations developed by the commissioner pursuant to subsections a. and b. of this section shall address the following:

- (1) characteristics of students with autism and other developmental disabilities;
- (2) curriculum planning, curricular and instructional modifications, adaptations, and specialized strategies and techniques;
- (3) assistive technology; and
- (4) inclusive educational practices, including collaborative partnerships.

L.2007, c.171, s.2.

18A:26-2.10 Regulations.

3. The State Board of Education, based upon the recommendations developed by the Commissioner of Education pursuant to section 2 of this act, shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to implement the provisions of this act.

L.2007, c.171, s.3.

18A:26-3. City school district examiners

In each city school district there may be established by the board of education a district board of examiners consisting of the commissioner, ex officio, the superintendent of schools of the district, if there be one, and such persons having the necessary qualifications as the board of education shall appoint.

L.1967, c.271.

18A:26-4. Qualifications of city district examiners

No person shall be appointed to a district board of examiners unless he holds a state certificate or the highest grade certificate issued in the district or is a graduate of a college or university.

L.1967, c.271.

18A:26-5. Certificates granted by city district examiners

A district board of examiners shall, under such rules as the state board shall prescribe, and under such additional rules as may be prescribed by the board of education of the district, issue certificates to teach, which shall be valid for all schools of the district.

L.1967, c.271.

18A:26-6. Certificates required for employment of teaching staff members in districts having city district examiners

No teaching staff member shall be employed in any of the schools of a district having a district board of examiners unless he shall be issued a certificate by said board and holds an appropriate certificate issued by the state board of examiners or the county superintendent of schools of the county.

L.1967, c.271.

18A:26-7. Certificate fee

A fee of such sum as shall be fixed by the state board, but not less than \$5.00, shall be paid for the issuance of each certificate.

L.1967, c.271

18A:26-8.1. Issuance of teacher's certificate to noncitizen

18A:26-8.1. a. The State Board of Examiners may, with the approval of the commissioner, issue a teacher's certificate to teach in the public schools to any citizen of any other country who has declared his intention of becoming a United States citizen and who is otherwise qualified, but any such certificate may be revoked by the State Board of Examiners if the board is satisfied that the holder thereof has abandoned his efforts to become a United States citizen, or has become disqualified for citizenship, or shall not have become a United States citizen, within five years of the date of its issuance.

b. A declaration of intention to become a United States citizen shall not be required of a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program or teacher exchange program in order for the teacher to obtain any necessary certification to teach in the public schools.

L.1967, c.271; amended 2002,c.9,s.2.

18A:26-8.2 "School leader" defined; training as part of professional development.

13. a. As used in this section, "school leader" means a school district staff member who holds a position that requires the possession of a chief school administrator, principal, or supervisor endorsement.

b. A school leader shall complete training on issues of school ethics, school law, and school governance as part of the professional development for school leaders required pursuant to State Board of Education regulations. The training shall be offered through a collaborative training model as identified by the Commissioner of Education, in consultation with the State Advisory Committee on Professional Development for School Leaders.

L.2007, c.53, s.13.

18A:26-9. Oath of allegiance and office; executed, etc., prerequisite to issuance of certificate

No certificate to teach or supervise in any of the public schools of this state, and no renewal of any such certificate, shall be issued to any applicant unless such applicant shall have first subscribed in duplicate to the oath of allegiance and office prescribed in section 41:1-3 of the Revised Statutes before an officer authorized by law to administer oaths or before a county superintendent or the president or secretary of a board of education of this state and until one copy thereof shall have been filed with the county superintendent and by him transmitted to the commissioner. The other copy of such oath shall be delivered to the applicant and by him to the board, body or person employing such applicant within this state.

L.1967, c.271.

18A:26-10 Suspension of certificate for wrongful cessation of performance of duties; "approved private school for the disabled" defined.

18A:26-10. Any teaching staff member employed by a board of education or an approved private school for the disabled, who shall, without the consent of the board or, in the case of an approved private school for the disabled, the board of directors of the school, cease to perform his duties before the expiration of the term of his employment, shall be deemed guilty of unprofessional conduct, and the commissioner may, upon receiving notice thereof, suspend his certificate for a period not exceeding one year.

As used in this section, "approved private school for the disabled" means a private entity approved by the Department of Education to provide special education and related services to students with disabilities who have been placed by the district board of education or charter school responsible for providing their education.

L.1967, c.271; amended 2005, c.74.

18A:26-11. Interstate agreement on qualification of educational personnel; enactment
The interstate agreement on qualification of educational personnel contained herein is hereby enacted into law and entered into with all other jurisdictions legally joining therein in substantially the same form, to apply to all teaching staff members who must meet requirements of certification pursuant to section 1 of chapter 1 and sections 1 and 2 of chapter 26 of Title 18A of the New Jersey Statutes.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-12. Declaration of policy; purpose of agreement; findings

1. The States party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of co-operation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of co-operation as will facilitate the movement of teachers and other professional educational personnel among the States party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party States find that included in the large movement of population among all sections of the Nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from State to State in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other States. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their States of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-13. Definitions

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(a) "Educational personnel" means persons who must meet requirements pursuant to State law as condition of employment in educational programs.

(b) "Designated State official" means the education official of a State selected by that State to negotiate and enter into, on behalf of his State, contracts pursuant to this agreement.

(c) "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another State relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving State.

(d) "State" means a State, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(e) "Originating State" means a State (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

(f) "Receiving State" means a State (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-14. Contracts for acceptance of personnel; provisions; term; annual report

1. The designated State official of a party State may make one or more contracts on behalf of his State with one or more other party States providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the States whose designated State officials enter into it, and the subdivisions of those States, with the same force and effect as if incorporated in this agreement. A designated State official may enter into a contract pursuant to this article only with States in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own State.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating State in qualifying educational personnel for acceptance by a receiving State.

(c) Such waiver, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

4. Any contract acceptance by a receiving State of educational personnel on the basis of the completion by educational personnel of a program of educational preparation shall specify the earliest date or dates on which originating State approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving State of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract entered into pursuant to this agreement shall not be revoked or otherwise impaired because the contract has expired or been terminated; provided, however, that any receiving State may revoke or suspend any certificate or other qualifying document on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving State.

6. A contract committee composed of the designated State officials of the contracting States or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the appropriate education agencies of the contracting States.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-15. Educational preparation programs

1. Nothing contained in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party State relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that State.

2. To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-16. Multilateral contracts; co-operation of States

1. The party States agree that they will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this agreement.

2. The party States agree that they will facilitate and strengthen co-operation in interstate certification and other elements of educational personnel qualification and

for this purpose shall co-operate with agencies, organizations, and associations interested in certification and other factors relevant to the qualifications of educational personnel.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-17. Evaluation of progress; recommendations

The designated State officials of any party States may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-18. Other arrangements or practices

Nothing contained in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party State or States to facilitate the interchange of educational personnel.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-19. Effective date; withdrawal

1. This agreement shall become effective when enacted into law by 2 States. Thereafter it shall become effective as to any State upon its enactment of this agreement.

2. Any party State may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until 1 year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States.

3. No withdrawal shall relieve the withdrawing State of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-20. Liberal construction; severability of provisions

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement or any provision thereof shall be held contrary to the constitution of any State participating therein, the agreement shall remain in full force and effect with respect to the State affected as to all severable matters.

L.1969, c. 114, s. 1, eff. June 26, 1969.

18A:26-21. Designated state official

The "designated State official" for this State shall be the Secretary of the State Board of Examiners. The designated State official shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text thereof by the State Board of Education upon recommendation by the State Board of Examiners and the Commissioner of Education.

L.1969, c. 114, s. 2, eff. June 26, 1969.

18A:26-22. Copies of contracts; filing; publication

True copies of all contracts made on behalf of this State pursuant to the agreement shall be kept on file in the office of the Secretary of the State Board of Examiners and in the office of the Secretary of State. The State Department of Education shall publicize all such contracts in the New Jersey Register.

L.1969, c. 114, s. 3, eff. June 26, 1969.

18A:26-23. Short title

This act shall be known and may be cited as the Interstate Transfer of Teacher Credentials Act.

L.1969, c. 114, s. 4, eff. June 26, 1969.

18A:27-1. Appointment of teaching staff members; vote required

No teaching staff member shall be appointed, except by a recorded roll call majority vote of the full membership of the board of education appointing him.

L.1967, c.271.

18A:27-2. Employment without certificate prohibited

Any contract or engagement of any teaching staff member, shall cease and determine whenever the employing board of education shall ascertain by written notice received from

the county or city superintendent of schools, or in any other manner, that such person is not, or has ceased to be, the holder of an appropriate certificate required by this title for such employment, notwithstanding that the term of such employment shall not then have expired.

L.1967, c.271.

18A:27-2.1. Employment without certification; utilization of institution not chartered as institution of higher education

A local board of education or county board of vocational education may, upon approval by the State Board of Education, employ as an instructor or administrator an individual who has special training in a particular subject matter field as evidenced by appropriate credentials or licensure and waive the certification requirements generally required of employees of such boards when the individual will be exclusively teaching or administering post-secondary degree or certificate courses and programs authorized under section 7 of P.L.1968, c. 180 (C. 18A:64B-11). Nothing contained herein shall diminish or otherwise affect the eligibility of any such instructor or administrator for tenure under any provision of this Title.

L.1978, c. 42, s. 1, eff. June 19, 1978.

18A:27-2.2. Employment of teachers from foreign countries under certain conditions

3. a. A board of education may employ a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher placement program in a subject area in which the State Board of Education has determined there is a contemporaneous critical shortage of certified teachers. Prior to the employment of a teacher from a teacher placement program in a subject area of critical shortage, the board of education shall first make a good faith effort to employ a State certified teacher and shall document its inability to hire an appropriately certified teacher with the Department of Education.

b. A board of education may employ a teacher from a foreign country who is enrolled with an approved international agency which operates a teacher exchange program, permitting a teacher from a foreign country to directly substitute for the services of a permanently employed State certified teacher.

L.2002,c.9,s.3.

18A:27-2.3. Authorization for employment of teachers from foreign countries, requirements for certification

4. a. A teacher from a foreign country shall be authorized to teach in the United States under an international teacher placement program or a teacher exchange program as authorized by any federal law, and shall be certified in accordance with the provisions of subsection b. of this section to teach for a period of no more than three years.

b. In order for a teacher from a foreign country to be certified under this section, the teacher shall:

(1) meet the eligibility requirements for a provisional instructional certificate or possess equivalent qualifications as determined by the State Board of Education; and

(2) demonstrate the ability to speak, read and write the English language fluently, in accordance with criteria established by the State Board of Education.

c. A teacher from a foreign country employed pursuant to this act shall be deemed to be an employee of the public school district, and as such shall be eligible to become a member of the bargaining unit defined in the applicable agreement with the public school district.

L.2002,c.9,s.4.

18A:27-3. Employment for school year

Teaching staff members may be employed and their salaries fixed and determined, under contracts, by a board of education for the period from July 1 of the year in which such board shall organize to the succeeding June 30, notwithstanding that the fiscal year of the district or of the municipality in which it is located is the calendar year.

L.1967, c.271.

18A:27-3.1. Evaluation of nontenured teaching staff

1. Every board of education in this State shall cause each nontenure teaching staff member employed by it to be observed and evaluated in the performance of her or his duties at least three times during each school year but not less than once during each semester. Said evaluations are to take place before April 30 each year. The evaluations may cover that period between April 30 of one year and April 30 of the succeeding year excepting in the case of the first year of employment where the three evaluations must have been completed prior to April 30. The number of required observations and evaluations may be reduced proportionately when an individual teaching staff member's term of service is less than one academic year. Each evaluation shall be followed by a conference between that teaching staff member and his or her superior or superiors. The purpose of this procedure is to recommend as to reemployment, identify any deficiencies, extend assistance for their correction and improve professional competence.

L.1975,c.132,s.1; amended 1977,c.161,s.1; 1992,c.159,s.17; 1993,c.100,s.1.

18A:27-3.2. Teaching staff member; notice of termination; statement of reasons; request; written answer

Any teaching staff member receiving notice that a teaching contract for the succeeding school year will not be offered may, within 15 days thereafter, request in writing a statement of the reasons for such nonemployment which shall be given to the teaching staff member in writing within 30 days after the receipt of such request.

L.1975, c. 132, s. 2.

18A:27-3.3. Rules

The provisions of this act shall be carried out pursuant to rules established by the State Board of Education.

L.1975, c. 132, s. 3.

18A:27-3.4. Inapplicability of act to teaching staff employees and administrative officers of county colleges

Notwithstanding the provisions of N.J.S. 18A:64A-13, the provisions of the act hereby supplemented shall be inapplicable to teaching staff employees and administrative officers of county colleges.

L.1977, c. 161, s. 2, eff. July 1, 1978.

18A:27-4. Power of boards of education to make rules governing employment of teacher, etc.; employment thereunder

Each board of education may make rules, not inconsistent with the provisions of this title, governing the employment, terms and tenure of employment, promotion and dismissal, and salaries and time and mode of payment thereof of teaching staff members for the district, and may from time to time change, amend or repeal the same, and the employment of any person in any such capacity and his rights and duties with respect to such employment shall be dependent upon and governed by the rules in force with reference thereto.

L.1967, c.271.

18A:27-4a Definitions relative to employment of novice teachers; benefits of employment.

2. a. As used in this section:

"Certificate of eligibility" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic, and applicable test requirements for teacher certification;

"Certificate of eligibility with advanced standing" means a certificate with lifetime validity issued by the State Board of Examiners to candidates who meet degree, academic and test requirements for teacher certification and complete a State-approved college professional education preparation program;

"Novice teacher" means any teacher working under a valid certificate of eligibility, certificate of eligibility with advanced standing, or provisional certificate who has not yet been issued a standard instructional certificate;

"Provisional certificate" means a certificate issued by the State Board of Examiners to candidates who hold either a certificate of eligibility or a certificate of eligibility with advanced standing and are employed as part of a State-approved district training program or residency leading to standard certification.

b. A novice teacher employed by a board of education under a valid certificate of eligibility, certificate of eligibility with advanced standing, or a provisional certificate shall be deemed to be a teaching staff member for all purposes and shall be entitled to all benefits and other emoluments of employment provided by law and regulation to teaching staff members. A novice teacher shall also receive the terms and conditions of employment provided to teaching staff members in the employing district under the collective bargaining agreement including, but not limited to, salary, sick leave, and health insurance benefits.

L.2005,c.144,s.2.

18A:27-4.1. Board of Education, procedure for certain personnel actions; recommendation of chief school administrator

1. Notwithstanding the provisions of any law, rule or regulation to the contrary,

a. A board of education shall appoint, transfer or remove a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons.

b. A board of education shall renew the employment contract of a certificated or non-certificated officer or employee only upon the recommendation of the chief school

administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons. A nontenured officer or employee who is not recommended for renewal by the chief school administrator shall be deemed nonrenewed. Prior to notifying the officer or employee of the nonrenewal, the chief school administrator shall notify the board of the recommendation not to renew the officer's or employee's contract and the reasons for the recommendation. An officer or employee whose employment contract is not renewed shall have the right to a written statement of reasons for nonrenewal pursuant to section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal appearance before the board. The purpose of the appearance shall be to permit the staff member to convince the members of the board to offer reemployment. The chief school administrator shall notify the officer or employee of the nonrenewal pursuant, where applicable, to the provisions of section 1 of P.L.1971, c.436 (C.18A:27-10).

c. The provisions of this section shall not apply to the appointment, transfer, removal, renewal or nonrenewal of a person who is a treasurer of school moneys, election officer, board auditor, board attorney or board secretary, except a board secretary who performs business administration functions.

L.1995,c.125,s.1.

18A:27-5. Written contracts of employment required

Every contract between a board of education which has not made rules governing such employment and any teaching staff member shall be in writing, in triplicate, signed by the president and secretary of the board of education and by such person.

L.1967, c.271.

18A:27-6. Contents of contracts

Each such contract shall specify:

1. The date when the person shall begin such employment;
2. The kind and grade of certificate held by him and the date upon which the certificate will expire;
3. The salary at which he is employed, which shall be payable in equal semimonthly or monthly installments, as the board shall determine, not later than five days after the first and fifteenth day of each month in case of semimonthly installments and not later than five days after the close of the month in the case of monthly installments while the school is in session, a month being construed, unless otherwise specified in the contract, to be 20 school days or four weeks of five school days each; and
4. Such other matters as may be necessary to a full and complete understanding of the contract.

L.1967, c.271.

18A:27-7. Contract forms

The commissioner shall prepare and distribute blank forms for such contracts.

L.1967, c.271.

18A:27-8. Filing of contracts

One copy of each such contract so entered into shall be filed with the board, one copy with the person employed thereunder and one copy with the superintendent of schools if there be one, otherwise with the county superintendent.

L.1967, c.271.

18A:27-9. Teaching after notice of termination of contract

If the employment of a teaching staff member is terminated on notice, pursuant to a contract entered into with the board of education, it shall be optional with the board whether or not the member shall continue to perform his duties during the period between the giving of the notice and the date of termination of employment thereunder.

L.1967, c.271.

18A:27-10. Written offer or notice to nontenure teachers

1. On or before May 15 in each year, each nontenured teaching staff member continuously employed by a board of education since the preceding September 30 shall receive either

a. A written offer of a contract for employment from the board of education for the next succeeding year providing for at least the same terms and conditions of employment but with such increases in salary as may be required by law or policies of the board of education, or

b. A written notice from the chief school administrator that such employment will not be offered.

L.1971,c.436,s.1; amended 1979,c.23,s.4; 1992,c.159,s.18; 1993,c.100,s.2; 1995,c.125,s.2.

18A:27-11. Failure to give timely notice of termination as offer of employment for next succeeding year

Should any board of education fail to give to any nontenure teaching staff member either an offer of contract for employment for the next succeeding year or a notice that such employment will not be offered, all within the time and in the manner provided by this act, then said board of education shall be deemed to have offered to that teaching staff member continued employment for the next succeeding school year upon the same terms and conditions but with such increases in salary as may be required by law or policies of the board of education.

L.1971, c. 436, s. 2, eff. Sept. 1, 1972.

18A:27-12. Notice of acceptance; deadline

If the teaching staff member desires to accept such employment he shall notify the board of education of such acceptance, in writing, on or before June 1 in which event such employment shall continue as provided for herein. In the absence of such notice of acceptance the provisions of this article shall no longer be applicable.

L.1971, c. 436, s. 3, eff. Sept. 1, 1972. Amended by L.1979, c. 23, s. 5, eff. Feb. 8, 1979.

18A:27-13. Inapplicability of act to teaching staff employees of county colleges

Notwithstanding the provisions of N.J.S. 18A:64A-13 the provisions of this act shall not apply to teaching staff employees of county colleges.

L.1971, c. 436, s. 4, eff. Sept. 1, 1972.

18A:28-1. Definition of "position"

As used in this chapter the word "position" includes any office, position or employment.

L.1967, c.271.

18A:28-2. Civil service employees not affected

No person, who is in the classified service of the civil service of the state pursuant to Title 11, Civil Service, of the Revised Statutes, shall be affected by any provisions of this chapter.

L.1967, c.271.

18A:28-3. No tenure for noncitizens

No teaching staff member shall acquire tenure unless he is, or until he shall become, a citizen of the United States.

L.1967, c.271.

18A:28-4. Requirements for certain school personnel to acquire tenure, exceptions

18A:28-4. No teaching staff member shall acquire tenure in any position in the public schools in any school district or under any board of education, who is not the holder of an appropriate certificate for such position, issued by the State Board of Examiners, in full force and effect, except that no board of education shall terminate the employment or refuse to continue the employment or reemployment of

a. any school nurse appointed prior to May 9, 1947 for the reason that such nurse is not the holder of such a certificate and the State Board of Examiners shall make no rule or regulation which will affect adversely the rights of any such nurse under any certificate issued prior to said date; or

b. a school athletic trainer appointed prior to the effective date of P.L.1999, c.87 (C.18A:26-2.4 et al.) for the reason that the school athletic trainer is not the holder of a certificate, provided that the person is registered with or licensed by the New Jersey State Board of Medical Examiners, as applicable, as an athletic trainer. That person shall be issued the new certificate without being required to meet any additional qualifications, and any periods of employment as an athletic trainer prior to the effective date of that act shall count toward the acquisition of tenure to the same extent as employment after the effective date of that act.

L.1967, c.271; amended 1999, c.87, s.2; 2001, c.156, s.14.

18A:28-5. Requirements for tenure

18A:28-5. The services of all teaching staff members employed in the positions of teacher, principal, other than administrative principal, assistant principal, vice-principal, assistant superintendent, and all school nurses including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services, school athletic trainer and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect and school business administrators shared by two or more school districts,

shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

(a) Three consecutive calendar years, or any shorter period which may be fixed by the employing board for such purpose; or

(b) Three consecutive academic years, together with employment at the beginning of the next succeeding academic year; or

(c) The equivalent of more than three academic years within a period of any four consecutive academic years.

For purposes of this chapter, tenure in any of the administrative or supervisory positions enumerated herein shall accrue only by employment in that administrative or supervisory position. Tenure so accrued shall not extend to any other administrative or supervisory position and nothing herein shall limit or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served.

L.1967, c.271; amended 1991, c.267, s.3; 1996, c.58, ss.2,1,3; 1996, c.111, s.3; 1999, c.87, s.3.

18A:28-6. Tenure upon transfer or promotion

Any such teaching staff member under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after July 1, 1962, shall not obtain tenure in the new position until after:

(a) the expiration of a period of employment of two consecutive calendar years in the new position unless a shorter period is fixed by the employing board for such purpose; or

(b) employment for two academic years in the new position together with employment in the new position at the beginning of the next succeeding academic year; or

(c) employment in the new position within a period of any three consecutive academic years, for the equivalent of more than two academic years;

provided that the period of employment in such new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member, and in the event the employment in such new position is terminated before tenure is obtained therein, if he then has tenure in the district or under said board of education, such teaching staff member shall be returned to his former position at the salary which he would have received had the transfer or promotion not occurred together with any increase to which he would have been entitled during the period of such transfer or promotion.

L.1967, c.271.

18A:28-6.1. Tenure upon discontinuance of school

Whenever, heretofore or hereafter, any board of education in any school district in this state shall discontinue any high school, junior high school, elementary school or any one or more of the grades from kindergarten through grade 12 in the district and shall, by agreement with another board of education, send the pupils in such schools or grades to such other district, all teaching staff members who are assigned for a majority of their time in such school, grade or grades and who have tenure of office at the time such schools or grades are discontinued shall be employed by the board of education of such other district in the same or nearest equivalent position; provided that any such teaching staff member may elect to remain in the employ of the former district in any position to which he may be entitled by virtue of his tenure and seniority rights by giving notice of said election to the boards of education in each of the school districts at least three months prior to the date on which such school, grade, or grades are to be discontinued. Teaching staff members so employed in such other district shall have their rights to tenure, seniority, pension and accumulated leave of absence, accorded under the laws of this state, recognized and preserved by the board of education of that district. Any periods of prior employment in such sending district shall count toward the acquisition of tenure in the other district to the same extent as if all such prior employment had been in such other district.

L.1967, c.271.

18A:28-7. Certain tenure of service and tenure of service rights saved

Section 4 of "An act concerning education, relating to tenure and seniority of school nurses, and repealing section 18:14-64.1 of the Revised Statutes," approved August 15, 1957 (P.L.1957, c. 181) is saved from repeal. [This section repeals section 18:14-64.1 of the Revised Statutes and provides that the repeal of said section shall not in any manner affect any tenure of service or tenure of service rights held thereunder on the effective date of the act.]

L.1967, c.271.

18A:28-8. Notice of intention to resign required

Any teaching staff member, under tenure of service, desiring to relinquish his position shall give the employing board of education at least 60 days written notice of his intention, unless the board shall approve of a release on shorter notice and if he fails to give such notice he shall be deemed guilty of unprofessional conduct and the commissioner may suspend his certificate for not more than one year.

L.1967, c.271.

18A:28-9. Reduction of force; power to reduce and reasons for reduction

Nothing in this title or any other law relating to tenure of service shall be held to limit the right of any board of education to reduce the number of teaching staff members, employed in the district whenever, in the judgment of the board, it is advisable to abolish any such positions for reasons of economy or because of reduction in the number of pupils or of change in the administrative or supervisory organization of the district or for other good cause upon compliance with the provisions of this article.

L.1967, c.271.

18A:28-10. Reasons for dismissals of persons under tenure on account of reduction

Dismissals resulting from any such reduction shall not be made by reason of residence, age, sex, marriage, race, religion or political affiliation but shall be made on the basis of seniority according to standards to be established by the commissioner with the approval of the state board.

L.1967, c.271.

18A:28-11. Seniority; board to determine; notice and advisory opinion

In the case of any such reduction the board of education shall determine the seniority of the persons affected according to such standards and shall notify each such person as to his seniority status, and the board may request the commissioner for an advisory opinion with respect to the applicability of the standards to particular situations, which request shall be referred to a panel consisting of the county superintendent of the county, the secretary of the state board of examiners and an assistant commissioner of education designated by the commissioner and an advisory opinion shall be furnished by said panel. No determination of such panel shall be binding upon the board of education or any other party in interest or upon the commissioner or the state board if any controversy or dispute arises as a result of such determination and an appeal is taken therefrom pursuant to the provisions of this title.

L.1967, c.271.

18A:28-11.1. Credit for military service

1. In computing length of service for seniority purposes, every teaching staff member who, after July 1, 1940, has served or hereafter shall serve, in the active military or naval service of the United States or of this State, including active service in the women's army corps, the women's reserve of the naval reserve, or any similar organization authorized by the United States to serve with the army or navy, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, or who was a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be entitled to receive equivalent years of employment or seniority credit for that service as if the member had been employed for the same period of time in some publicly owned and operated college, school or institution of learning in this or any other state or territory of the United States, except that the period of that service shall not be credited toward more than four years of employment or seniority credit. Any military or naval service shall be credited towards this employment or seniority credit including service that occurred prior to the member's employment as a teaching staff member.

L.1985,c.217,s.1; amended 1991,c.389,s.2.

18A:28-12. Reemployment in order of seniority

18A:28-12. If any teaching staff member shall be dismissed as a result of such reduction, such person shall be and remain upon a preferred eligible list in the order of seniority for reemployment whenever a vacancy occurs in a position for which such person shall be qualified and he shall be reemployed by the body causing dismissal, if and when such vacancy occurs and in determining seniority, and in computing length of service for reemployment, full recognition shall be given to previous years of service, and the time of service by any such person in or with the military or naval forces of the United States or of this State, subsequent to September 1, 1940, and the time of service of any member of the American Merchant Marine during World War II who is declared by the United States Department of Defense to be eligible for federal veterans' benefits, shall be credited to him as though he had been regularly employed in such a position within the district during the time of such military or naval service, except that the period of that service shall not be credited toward more than four years of employment or seniority credit.

L.1967, c.271; amended 1985,c.217,s.2; 1991,c.389,s.3.

18A:28-13. Establishment of standards of seniority by commissioner

The commissioner in establishing such standards shall classify insofar as practicable the fields or categories of administrative, supervisory, teaching or other educational services and the fields or categories of school nursing services which are being performed in the school districts of this state and may, in his discretion, determine seniority upon the basis of years of service and experience within such fields or categories of service as well as in the school system as a whole, or both.

L.1967, c.271.

18A:28-14. Teaching staff members not certified; not protected; exception

The services of any teaching staff member who is not the holder of an appropriate certificate, in full force and effect, issued by the state board of examiners under rules and regulations prescribed by the state board of education may be terminated without charge or trial, except that any school nurse appointed prior to May 9, 1947 shall be protected in her position as is provided in section 18A:28-4 of this title.

L.1967, c.271.

18A:28-15. Effect of change of government of district on tenure

No teaching staff member in the public schools shall be in any manner affected, in relation to his tenure of service or tenure of service rights, heretofore obtained or hereafter to be obtained, under this or any other law, because of any change in the method of government of the school district or school districts by which he was employed on the date of such change, or by reason of any change of name or title of the position, so held by him on said date, resulting from any such change of government, but he shall continue in said position by its original or changed name or title, as the case may be, with the same tenure of service and the same tenure of service rights which he would have had if such change in the method of government had not occurred.

L.1967, c.271.

18A:28-16. Operation of certain schools by State agencies; sick leave; tenure, pension rights of staff members

1. Whenever an Educational Services Commission, a Jointure Commission, the Commissioner of Education, the State Board of Education, the board of trustees of any State college, or any officer, board or commission under his, its or their authority shall undertake the operation of any school previously operated by a school district in this State, all accumulated sick leave, tenure and pension rights of all teaching staff members in said school shall be recognized and preserved by the agency assuming operational control of the school, and any periods of prior employment in such school district shall count toward the acquisition of tenure to the same extent as if all of such employment had been under the Educational Services Commission, Jointure Commission, the Commissioner of Education, the State Board of Education, or the board of trustees of any State college, as the case may be.

L.1973,c.267,s.1; amended 1994,c.48,s.60.

18A:28-17. Operation of certain schools by local school districts; sick leave; tenure, pension rights of teaching staff members

2. Whenever the local board of education of any school district in this State shall undertake the operation of any school previously operated by an Educational Services Commission, a Jointure Commission, the Commissioner of Education, the State Board of Education, the board of trustees of any State college, or any officer, board or commission under his, its or their authority, all accumulated sick leave, tenure and pension rights of all teaching staff members in said school, shall be recognized and preserved by the board assuming operational control of the school, and any periods of prior employment, by said Educational Services Commission, Jointure Commission, Commissioner of Education, State Board of Education or board of trustees of any State college, or any officer, board or commission under his, its or their authority, shall count toward the acquisition of tenure to the same extent as if all of such employment had been in such school district.

L.1973,c.267,s.2; amended 1994,c.48,s.61.

18A:28-18. Compliance with certain notice requirements

3. For the academic year following any transfer of operational control under section 1 or section 2 of P.L.1973, c.267 (C.18A:28-16 and 18A:28-17), both the local school board and the Educational Services Commission, Jointure Commission, Commissioner of Education, State Board of Education, or the board of trustees of a State college, as the case may be, shall comply with the notice requirements of P.L.1971, c.436 (C.18A:27-10 et seq.), to the same extent as if each had been the employer of all teaching staff members of the school in question during the academic year preceding the transfer of operational control.

L.1973,c.267,s.3; amended 1994,c.48,s.62.

18A:29-1. Uncertified teacher denied salary

No teaching staff member shall be entitled to any salary unless he is the holder of an appropriate certificate.

L.1967, c.271.

18A:29-2. Equality of compensation for male and female teachers

Female teaching staff members in the public schools shall be paid compensation equal to that paid to male members holding similar positions and employments and having similar training and terms of service.

L.1967, c.271.

18A:29-3. Summer payment plans; continuance of plan to raise funds

Whenever persons employed for an academic year by a board of education shall indicate in writing their desire to participate in a summer payment plan, and such board of education approves such participation, then, and thereupon, the proper disbursing officer of the board of education, under such rules as may be promulgated by the commissioner with the approval of the State board, is hereby empowered and directed to deduct and withhold an amount equal to 10% of each semimonthly or monthly salary installment, from the payments of the salaries made to such employees as shall participate in such plan and the accumulated deductions for any academic year shall be paid to the employee or his estate under such rules as may be established by the board of education in one of the following ways: (1) at the end of the academic year; (2) in one or more installments after the end of the academic year but prior to September 1; (3) upon death or termination of employment if earlier. Such deductions may be deposited by the board of education in an interest bearing account in any financial institution having its principal office in the State of New Jersey.

Any board of education which had in effect, prior to January 1, 1980, any payment plan which permitted funds to be raised in the next fiscal year is hereby authorized to continue to raise funds in this manner.

L.1967, c.271; amended by L.1970, c. 238, s. 1, eff. Oct. 28, 1970; L.1979, c. 495, s. 1, eff. Feb. 28, 1980.

18A:29-4. Withholding salary for failure to perform duties

The commissioner shall direct the custodian of school moneys of any district to withhold the salary of any teaching staff member of the district who shall neglect or refuse to perform any duty imposed upon him by law or by the rules of the state board until the receipt of notice from the commissioner that such teacher has performed the duty.

L.1967, c.271.

18A:29-4.1. Salary policy schedules

A board of education of any district may adopt a one, two or three year salary policy, including salary schedules for all full-time teaching staff members which shall not be less than those required by law. Such policy and schedules shall be binding upon the adopting board and upon all future boards in the same district for a period of one, two or three years from the effective date of such policy but shall not prohibit the payment of salaries higher than those required by such policy or schedules nor the subsequent adoption of policies or schedules providing for higher salaries, increments or adjustments. Every school budget adopted, certified or approved by the board, the voters of the district, the board of school estimate, the governing body of the municipality or municipalities, or the commissioner, as the case may be, shall contain such amounts as may be necessary to fully implement such policy and schedules for that budget year.

L.1967, c.271; amended by L. 1987, c. 123, s. 1.

18A:29-4.2. Payment of school nurse according to teachers' salary guide

Any teaching staff member employed as a school nurse and holding a standard school nurse certificate shall be paid according to the provisions of the teachers' salary guide in effect in that school district including the full use of the same experience steps and training levels that apply to teachers.

L.1972, c. 64, s. 1.

18A:29-4.3. Teaching staff members with full-time supervisory or administrative responsibilities; salary schedule

The board of education of every school district employing one or more teaching staff members having full-time supervisory or administrative responsibilities shall adopt salary schedules for each school year that begins after the effective date of this act for all such members, except that for a superintendent of schools the board may adopt a salary schedule. Such salary schedules shall be subject to the provisions of N.J.S.

18A:29-4.1. Nothing contained in this section of the act shall authorize a board to pay an amount of salary less than the amount such member would be entitled to under any other law. The schedules adopted pursuant to this section shall be filed with the Commissioner of Education within 30 days after the adoption of each such schedule and the adoption of each subsequent revision of each schedule.

L.1973, c. 364, s. 1, eff. Jan. 7, 1974.

18A:29-5. \$18,500 minimum salary

The minimum salary of a full-time teaching staff member in any school district or educational services commission who is certified by the local board of education or the board of directors of the educational services commission as performing his duties in an

acceptable manner for the previous academic year pursuant to N.J.A. C. 6:3-1.19 and 6:3-1.21 and who is not employed as a substitute on a day-to-day basis shall be \$18,500.00 for an academic year and a proportionate amount for less than an academic year.

For the purpose of this amendatory and supplementary act, "full-time" means the number of days of employment in each week and the period of time in each day required by regulations of the State board to qualify a person as a full-time teaching staff member.

In addition this minimum salary shall apply to all new full-time teaching staff members hired for the 1985-86 academic year and thereafter.

L.1967, c.271; amended by L. 1985, c. 321, s. 3, eff. Sept. 9, 1985, operative Sept. 9, 1985; L. 1986, c. 9, s. 1, eff. March 28, 1986.

18A:29-5.1. Short title

This act shall be known and may be cited as the "Teacher Quality Employment Act."

L. 1985, c. 321, s. 1, eff. Sept. 9, 1985, operative Sept. 9, 1985.

18A:29-5.2. Findings, declarations

The Legislature finds and declares that:

a. Attracting and retaining the most able individuals to the profession of teaching is critical to the future welfare of our State and our citizens.

b. The starting salary levels for new teachers have fallen significantly behind the starting salaries paid to other recent college graduates.

c. A competitive starting teacher salary is an additional means of attracting and retaining outstanding individuals in the teaching profession.

L. 1985, c. 321, s. 2, eff. Sept. 9, 1985, operative Sept. 9, 1985.

18A:29-5.3. Mandatory minimum

No salary schedule adopted by any board of education or any educational services commission shall provide for salaries lower than as prescribed by this amendatory and supplementary act.

L. 1985, c. 321, s. 4, eff. Sept. 9, 1985, operative Sept. 9, 1985. Amended by L. 1986, c. 9, s. 2, eff. March 28, 1986.

18A:29-5.4. Extracurricular activities, summer employment excluded

The minimum salary established in N.J.S. 18A:29-5 shall not include any amounts paid to a member for duties which are not part of the member's regular contractual responsibilities, such as remuneration for coaching and other extracurricular activities, and summer employment.

L. 1985, c. 321, s. 5, eff. Sept. 9, 1985, operative Sept. 9, 1985.

18A:29-5.5. No automatic salary increases

Teachers receiving more than the minimum salary set forth in this amendatory and supplementary act shall not receive automatic salary increases pursuant to any existing collective negotiations agreement with a salary guide indexed to compute salaries on the basis of a ratio established between the minimum salary and all other ranges, increments, or increases.

L. 1985, c. 321, s. 6, eff. Sept. 9, 1985, operative Sept. 9, 1985.

18A:29-5.6 Determination of teacher base salary.

7. a. The actual salary paid to each teacher under each district's or educational services commission's 1984-85 approved salary guide shall be considered a base salary for purposes of this act.

b. In addition to all other funds to which the local district or educational services commission is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education or board of directors of an educational services commission shall receive from the State during the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each current full-time teaching staff member under the salary schedule adopted by the local board of education or board of directors for the 1984-85 academic year in the manner prescribed by law is less than \$18,500.00, provided that the teaching staff member has been certified by the local board of education or board of directors as performing his duties in an acceptable manner for the 1984-85 school year pursuant to N.J.A.C.6:3-1.19 and 6:3-1.21. Each local board of education or board of directors shall receive from the State on behalf of the newly employed full-time teaching staff members for the 1985-86 academic year and for two years thereafter an amount equal to the sum of the amounts by which the actual salary prescribed for each newly employed full-time teaching staff member under the salary schedule adopted by the local board of education or board of directors for the 1984-85 academic year is less than \$18,500.00. All adjustments for teachers who are hired or who leave employment during

the school year and who make less than \$18,500.00 shall be made in the school year following the year in which they were hired or left employment.

c. For the 1988-89 academic year and thereafter, this act shall be funded in accordance with the recommendations of the State and Local Expenditure and Revenue Policy Commission created pursuant to P.L.1984, c.213. If the commission's recommendations for funding this program are not enacted into law, this act shall be funded in accordance with subsection d. of this section and sections 9 and 10 of P.L.1985, c.321 (C.18A:29-5.8 and C.18A:29-5.9).

d. For the purpose of funding this act in the 1988-89 academic year as determined pursuant to this section, each teacher's salary based on the 1984-85 salary guide shall be increased by the product of the base salary multiplied by 21%.

e. In each subsequent year the product of the base salary times 7% shall be cumulatively added to each teacher's salary as calculated in subsection d. of this section in determining the aid payable. In any year subsequent to the 1987-88 academic year in which the base salary plus the cumulative increases under this section exceed \$18,500.00, aid will no longer be payable.

L.1985, c.321, s.7; amended 1986, c.9, s.3; 1990, c.52, s.48; 1996, c.138, s.62; 2007, c.260, s.56.

18A:29-9. Agreement as to initial salaries

Whenever a person shall hereafter accept office, position or employment as a member in any school district of this state, his initial place on the salary schedule shall be at such point as may be agreed upon by the member and the employing board of education.

L.1967, c.271.

18A:29-11. Credit for military services

Every member who, after July 1, 1940, has served or hereafter shall serve, in the active military or naval service of the United States or of this state, including active service in the women's army corps, the women's reserve of the naval reserve, or any similar organization authorized by the United States to serve with the army or navy, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, shall be entitled to receive equivalent years of employment credit for such service as if he had been employed for the same period of time in some publicly owned and operated college, school or institution of learning in this or any other state or territory of the United States, except that the period of such service shall not be credited toward more than four employment or adjustment increments.

Nothing contained in this section shall be construed to reduce the number of employment or adjustment increments to which any member may be entitled under the terms of any law, or regulation, or action of any employing board or officer, of this state, relating to leaves of absence.

L.1967, c.271.

18A:29-13. Increase of salaries or increments

Boards of education shall have the power to increase for any member or classification of members included in any schedule, the initial salary or the amount of any increment or the number of increments.

L.1967, c.271.

18A:29-14. Withholding increments; causes; notice of appeals

Any board of education may withhold, for inefficiency or other good cause, the employment increment, or the adjustment increment, or both, of any member in any year by a recorded roll call majority vote of the full membership of the board of education. It shall be the duty of the board of education, within 10 days, to give written notice of such action, together with the reasons therefor, to the member concerned. The member may appeal from such action to the commissioner under rules prescribed by him. The commissioner shall consider such appeal and shall either affirm the action of the board of education or direct that the increment or increments be paid. The commissioner may designate an assistant commissioner of education to act for him in his place and with his powers on such appeals. It shall not be mandatory upon the board of education to pay any such denied increment in any future year as an adjustment increment.

L.1967, c.271; amended by L.1968, c. 295, s. 13, eff. Sept. 9, 1968.

18A:29-15. Salary schedules in force

Nothing contained in this article shall be construed to interfere with or discontinue any salary schedule now in force; provided, such schedule shall meet the requirements of this article, nor to prevent the adoption of any salary schedule which shall meet its minimum requirements, nor to prevent the payment of extra compensation for additional service, nor to prevent the payment of any bonus pursuant to law, but no bonus payment may be made in lieu of an employment or adjustment increment.

L.1967, c.271.

18A:29-16. Emergency certificates; day-by-day basis substitute

The provisions of this subarticle B shall not apply to any person whose appropriate certificate, valid for his office, position, or employment is an emergency certificate and to any person employed as a substitute on a day-by-day basis.

L.1967, c.271.

18A:29A-1. Short title

This act shall be known and may be cited as the "Governor's Annual Teacher Recognition Act."

L. 1985, c. 322, s. 1.

18A:29A-2. Findings, declarations

The Legislature finds and declares that:

a. The success of the public school system in this State is based upon the quality and dedication of our teaching staff members.

b. Providing for local and Statewide recognition of outstanding teaching will demonstrate our appreciation of excellence and encourage others to strive for the same.

c. Giving the teaching profession the stature and recognition it deserves will help attract and retain the most able individuals in the profession of teaching, a process which is critical to the future well-being of the State and its citizens.

d. In teaching, as in other professions, practitioners should be acknowledged for outstanding performance.

e. The purpose of this act is to provide for Statewide awards and recognition of the excellence of current members of the teaching profession.

L. 1985, c. 322, s. 2.

18A:29A-3. Teacher recognition selection panel

In order to provide Statewide awards and recognition of the excellence of current members of the teaching profession, each school district may annually establish a teacher recognition selection panel composed of members of the teaching staff, administrative staff, parents and other citizens for the purpose of selecting recipients for the Governor's Annual Award for Outstanding Teaching.

This panel shall be composed of up to nine members as follows:

a. three members to be selected by the local board of education;

b. three members to be selected by the local bargaining unit which represents the classroom teachers of the district. Should that bargaining unit choose not to appoint members to the panel, then the board of education shall appoint up to three additional members;

c. three additional members selected jointly by the members selected under subsections a. and b. of this section.

Should the members selected pursuant to subsections a. and b. of this section fail to agree on the selection of the three additional members, then the additional members shall be selected by the local mayor from among the district's parent organization.

L. 1985, c. 322, s. 3.

18A:29A-4. Selection of outstanding teachers

The teacher recognition selection panel may nominate to the local board of education one nonadministrative teaching staff member from each school in the district having 10 or more teachers who, because of their knowledge, commitment, and creativity, have made an extraordinary contribution during the previous school year to the quality of education in that district. Schools having fewer than 10 teachers may consolidate with other schools for the purpose of participating in this program, provided that the combined number of teachers is 10 or more. In selecting teaching staff members for the Governor's Annual Award for Outstanding Teaching, the panel may solicit nominations from teaching staff, administrative staff, parents, students, and community members.

Teaching staff members who are selected for the Governor's Annual Teacher Recognition Award shall have distinguished themselves through exceptional contributions in the following areas:

a. use of effective instructional techniques and methods;

b. establishment of productive classroom climate and rapport with pupils; and

c. development of feelings of self-worth and the love of learning in pupils.

The selection panel shall consider evidence of these contributions in making its decisions. Teachers selected for this award shall have received exemplary local district

evaluation reports. School districts may also consider other evidence of outstanding teaching performance.

Teachers selected for the Governor's Award shall also have other acceptable personnel records which are devoid of recent sanctions or deficiencies.

The local board of education may certify to the commissioner the name of one teaching staff member from each school or combination of schools in the district having 10 or more teachers as a recipient of the Governor's Award. The local board may not certify the names of any teaching staff members who were not nominated by the teacher recognition selection panel. The State shall provide funds in an amount equal to \$1,000.00 for each teacher selected pursuant to this act. These funds shall be forwarded in the teacher's name to the district for an educational purpose designated by the teacher. Districts that do not comply with all the provisions of this act shall not be included in the Governor's Award program.

Award recipients shall not be eligible for renomination for two years following their selection.

L. 1985, c. 322, s. 4.

18A:29A-5. Convocation; awards

Annually, the Governor shall sponsor a convocation on "Excellence in Teaching" at which time each teaching staff member who has been selected by a local school district shall be awarded a certificate of commendation. At this convocation, each teacher so selected shall be awarded a proportion of the funds provided pursuant to this act.

L. 1985, c. 322, s. 5.

18A:29A-6. Review, recommendations

Five years following the implementation of this act, the Commissioner of Education shall review the Governor's Annual Award for Outstanding Teaching to assess and determine its effectiveness in promoting excellence in teaching. On completion of the review, recommendations shall be made to the Governor and the Legislature concerning the continuation of the program and any proposed changes or modifications.

L. 1985, c. 322, s. 7.

18A:29A-7. Rules, regulations

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

L. 1985, c. 322, s. 8.

18A:29B-1 Short title.

1. This act shall be known and may be cited as the "Governor's Annual Educational Services Professionals Recognition Act."

L.2003,c.216,s.1.

18A:29B-2 Findings, declarations relative to recognition of educational services professionals.

2. The Legislature finds and declares that:

a. the public school system in this State is made more successful by the work of educational services professionals;

b. educational services professionals provide important services outside of the classroom environment that improve students' academic opportunities, workforce preparedness, and overall quality of life;

c. providing for local and Statewide recognition of outstanding educational services professionals will demonstrate our appreciation of their contributions and encourage others to strive for the same; and

d. the purpose of this act is to provide for Statewide awards and recognition of the excellence of current school district employees employed in a position requiring an educational services certificate.

L.2003,c.216,s.2.

18A:29B-3 "Educational services professional" defined.

3. As used in this act, "educational services professional" means a person who holds an educational services certificate issued by the State Board of Examiners and who is employed in a position that requires the certificate.

L.2003,c.216,s.3.

18A:29B-4 Educational services professional recognition selection panel.

4. In order to provide Statewide awards and recognition of the excellence of current educational services professionals, each school district may annually establish an educational services professional recognition selection panel composed of members of the teaching staff, administrative staff, parents and other citizens for the purpose of selecting recipients for the Governor's Annual Award for Outstanding Educational Services Professionals.

The panel shall be composed of up to nine members as follows:

- a. three members to be selected by the local board of education;
- b. three members to be selected by the local bargaining unit which represents the educational services professionals of the district. Should that bargaining unit choose not to appoint members to the panel, the board of education shall appoint up to three additional members; and
- c. three additional members selected jointly by the members selected under subsections a. and b. of this section.

Should the members selected pursuant to subsections a. and b. of this section fail to agree on the selection of the three additional members, the additional members shall be selected by the local mayor from among the district's parent organization.

L.2003,c.216,s.4.

18A:29B-5 Nominations for Governor's Annual Educational Services Professionals Recognition Award.

5. The educational services professional recognition selection panel may nominate to the local board of education one educational services professional from each school in the district having 10 or more educational services professionals who, because of their knowledge, commitment, and creativity, have made an extraordinary contribution during the previous school year to the quality of education in that district. Schools having fewer than 10 educational services professionals may consolidate with other schools for the purpose of participating in this program, provided that the combined number of educational services professionals is 10 or more. In selecting educational services professionals for the Governor's Annual Award for Outstanding Educational Services Professionals, the panel may solicit nominations from teaching staff, administrative staff, parents, students, and community members.

Educational services professionals who are selected for the Governor's Annual Educational Services Professionals Recognition Award shall have distinguished themselves through exceptional contributions in the following areas:

- a. interactions with students, staff, and parents while functioning as a frontline advocate for the student between home and school;
- b. fostering an environment for learning and exploring creative alternatives to enable all students to achieve to their fullest potential;
- c. supporting classroom instruction by addressing the educational, social, and emotional needs of all students; and
- d. personal interactions with students that demonstrate professionalism while retaining respect, humor, compassion, and concern for the whole child.

The selection panel shall consider evidence of these contributions in making its decisions. Educational services professionals selected for this award shall have received exemplary local district evaluation reports. School districts may also consider other evidence of outstanding educational services performance.

Educational services professionals selected for the Governor's Award shall also have other acceptable personnel records which are devoid of recent sanctions or deficiencies.

The local board of education may certify to the commissioner the name of one educational services professional from each school or combination of schools in the district having 10 or more educational services professionals as a recipient of the Governor's Award. The local board may not certify the names of any educational services professionals who were not nominated by the educational services professionals selection panel. Districts that do not comply with all the provisions of this act shall not be included in the Governor's Award program.

Award recipients shall not be eligible for renomination for two years following their selection.

L.2003,c.216,s.5.

18A:29B-6 Convocation on "Excellence in Educational Services."

6. Annually, the Governor shall sponsor a convocation on "Excellence in Educational Services" at which time each educational services professional who has been selected by a local school district shall be awarded a certificate of commendation.

L.2003,c.216,s.6.

18A:29B-7 Rules, regulations.

7. The State Board of Education shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations which are necessary to effectuate the purposes of this act.

L.2003,c.216,s.7.

18A:30-1. Definition of sick leave

Sick leave is hereby defined to mean the absence from his or her post of duty, of any person because of personal disability due to illness or injury, or because he or she has been excluded from school by the school district's medical authorities on account of a contagious disease or of being quarantined for such a disease in his or her immediate household.

L.1967, c.271.

18A:30-2. Sick leave allowable

All persons holding any office, position, or employment in all local school districts, regional school districts or county vocational schools of the state who are steadily employed by the board of education or who are protected by tenure in their office, position, or employment under the provisions of this or any other law, except persons in the classified service of the civil service under Title 11, Civil Service, of the Revised Statutes, shall be allowed sick leave with full pay for a minimum of 10 school days in any school year.

L.1967, c.271.

18A:30-2.1 Sick leave payment for service connected disability; satisfactory service

18A:30-2.1. a. Whenever any employee, entitled to sick leave under this chapter, is absent from his post of duty as a result of a personal injury caused by an accident arising out of and in the course of his employment, his employer shall pay to such employee the full salary or wages for the period of such absence for up to one calendar year without having such absence charged to the annual sick leave or the accumulated sick leave provided in N.J.S.18A:30-2 and 18A:30-3. Salary or wage payments provided in this section shall be made for absence during the waiting period and during the period the employee received or was eligible to receive a temporary disability benefit under chapter 15 of Title 34, Labor and Workmen's Compensation, of the Revised Statutes. Any amount of salary or wages paid or payable to the employee pursuant to this section shall be reduced by the amount of any workmen's compensation award made for temporary disability.

b. Leave taken by an employee pursuant to subsection a. of this section shall constitute satisfactory service as provided pursuant to N.J.S.18A:29-14 and any other provision, statutory or contractual, relating to employment, adjustment or other increments and shall not constitute inefficiency or other good cause for the withholding of an employment or adjustment increment.

L.1967, c.271; amended 1997,c.112,s.1.

18A:30-3. Accumulated sick leave

If any such person requires in any school year less than the specified number of days of sick leave with pay allowed, all days of such minimum sick leave not utilized that year shall be accumulative to be used for additional sick leave as needed in subsequent years.

L.1967, c.271.

18A:30-3.1. Accumulated sick leave rights preserved

The accumulative sick leave rights of the employees in any high school or junior high school or other school terminated by the creation of a regional district shall be recognized and preserved by the regional board of education whenever said former employees of the united districts shall be employed, or have been employed, by the regional board of education.

L.1967, c.271.

18A:30-3.2. Credited with unused sick leave

Whenever a board of education employs any person who has an unused accumulation of sick leave days from another school district in New Jersey, the employing board may grant, not later than the end of the first year of employment, part or full credit therefor. The amount of any such credit shall be fixed by resolution of the board uniformly applicable to all employees and subject to the provisions of this chapter.

L.1967, c.271.

18A:30-3.3. Certificate issued showing unused sick leave

Upon termination of employment of any employee from any school district, the board shall issue, at the request of the employee, a certificate stating such employee's unused accumulation of sick leave days as of the date of such termination. Such certificate shall be filed with the new employer within one year of the date of such new employment.

L.1967, c.271.

18A:30-3.4. Accumulation of sick leave credited; use; accumulation; leave irrevocable

The accumulation of sick leave days from another district, when granted in accordance with this chapter, shall be credited upon receipt of the certificate of the prior employer. The days of sick leave so credited may be used immediately or if not so used shall be accumulative for additional leave thereafter as may be needed. The number of such days when granted shall be irrevocable by the board of education of the district.

L.1967, c.271.

18A:30-3.5 Payment for accumulated sick leave by board of education.

44. Notwithstanding any law, rule or regulation to the contrary, a board of education, or an agency or instrumentality thereof, shall not pay supplemental compensation to any officer or employee for accumulated unused sick leave in an amount in excess of \$15,000, except that an officer or employee who:

(1) on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or upon the expiration of a collective negotiations agreement or contract of employment applicable to that officer or employee in effect on that date has accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so accumulated or not more than \$15,000, whichever is greater; or

(2) becomes an officer or employee after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.) and has previously accrued supplemental compensation based upon accumulated unused sick leave shall, upon retirement, be eligible to receive for any unused leave not more than the amount so previously accumulated or not more than \$15,000, whichever is greater.

Supplemental compensation shall be payable only at the time of retirement from a State-administered or locally-administered retirement system based on the leave credited on the date of retirement.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of the political subdivision, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted resolution, pursuant to guidelines or policy that shall be established by the Department of Education, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency or instrumentality thereof.

L.2007, c.92, s.44.

18A:30-4. Physician's certificate required for sick leave

In case of sick leave claimed, a board of education may require a physician's certificate to be filed with the secretary of the board of education in order to obtain sick leave.

L.1967, c.271.

18A:30-5. Commissioner to enforce chapter

The commissioner shall enforce the provisions of this chapter to the extent of withholding state school moneys from school districts violating any of the provisions of this chapter.

L.1967, c.271.

18A:30-6. Prolonged absence beyond sick leave period

When absence, under the circumstances described in section 18A:30-1 of this article, exceeds the annual sick leave and the accumulated sick leave, the board of education may pay any such person each day's salary less the pay of a substitute, if a substitute is employed or the estimated cost of the employment of a substitute if none is employed, for such length of time as may be determined by the board of education in each individual case. A day's salary is defined as 1/200 of the annual salary.

L.1967, c.271.

18A:30-7. Power of boards of education to pay salaries

Nothing in this chapter shall affect the right of the board of education to fix either by rule or by individual consideration, the payment of salary in cases of absence not constituting sick leave, or to grant sick leave over and above the minimum sick leave as defined in this chapter or allowing days to accumulate over and above those provided for in section 18A:30-2, except that no person shall be allowed to increase his total accumulation by more than 15 days in any one year.

L.1967, c.271.

18A:30-8. Athletic competition on world, Pan American or Olympic level; reimbursement by state

Any school district employee who qualifies as a member of the United States team for athletic competition on the world, Pan American or Olympic level, in a sport contested in either Pan American or Olympic competitions, shall be granted a leave of absence with pay and without loss of rights, privileges and benefits and without interruption of membership in any retirement system for the purpose of preparing for and engaging in the competition. The paid leave granted pursuant to this act shall be no more than 90 calendar days in 1 year or the combined days of the official training camp and competition, whichever is less.

Any school district which grants employees leaves of absence pursuant to the provisions of this act shall be reimbursed by the State, for the full amount of the actual cost of employing substitutes for said employees.

L.1978, c. 99, s. 2, eff. Aug. 14, 1978.

18A:30-9 Payment for accumulated vacation leave by board of education.

46. Notwithstanding any law, rule or regulation to the contrary, an officer or employee of a board of education, or an agency or instrumentality thereof, who does not take vacation leave that accrues on or after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or on or after the date on which the person becomes an officer or employee, in a given year because of business demands shall be granted that accrued leave only during the next succeeding year.

However, vacation leave not taken in a given year because of duties directly related to a state of emergency declared by the Governor may accumulate at the discretion of the appointing authority until, pursuant to a plan established by the officer or employee's appointing authority, the leave is used or the employee or officer is compensated for that leave, which shall not be subject to collective negotiation or collective bargaining.

A person who (1) is an officer or employee on the effective date of P.L.2007, c.92 (C.43:15C-1 et al.), or (2) becomes an officer or employee after that effective date, and has previously accrued vacation leave shall be eligible and shall be permitted to retain and use that accrued vacation leave.

As used in this section, "officer or employee" means an elected official; or a person appointed by the Governor with the advice and consent of the Senate, or appointed by the Governor to serve at the pleasure of the Governor only during his or her term of office; or a person appointed by an elected public official or elected governing body of the political subdivision, with the specific consent or approval of the elected governing body of the political subdivision that is substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State as that similarity is determined by the elected governing body and set forth in an adopted resolution, pursuant to guidelines or policy that shall be established by the Department of Education, but not including a person who is employed or appointed in the regular or normal course of employment or appointment procedures and consented to or approved in a general or routine manner appropriate for and followed by the political subdivision, or the agency or instrumentality thereof.

L.2007, c.92, s.46.

18A:30-10 Establishment of sick leave bank for employees of board of education.

1. Notwithstanding any other provision of law to the contrary, a sick leave bank may be established for employees of a board of education if both the board and the majority representative or majority representatives of the employees who would be eligible to participate consent to the establishment of the sick leave bank. The purpose of the sick leave bank shall be to enable employees of the board who are entitled to sick leave under chapter 30 of Title 18A of the New Jersey Statutes to draw needed days of sick leave in addition to any days to which they are otherwise entitled. The sick leave days available to a board employee from the sick leave bank shall be leave days previously donated to the bank by board employees. Employees may donate sick leave days or any other leave time as agreed upon by the board and the majority representative. Sick leave drawn from the bank shall be treated for all purposes as if it were accrued sick leave time of the employee who receives it. No employee shall be required to participate in the bank.

L.2007, c.223, s.1.

18A:30-11 Administration of sick leave bank.

2. The sick leave bank shall be administered by a committee which shall be comprised of three members selected by the board of education and three members selected by the majority representative or majority representatives of those employees of the board who are eligible to participate in the sick leave bank. The committee may establish standards or procedures that it deems appropriate for the operation of the sick leave bank, which may include a requirement that employees donate leave time to be eligible to draw leave time from the sick leave bank and limitations on the amount of sick leave time which may be drawn or the conditions under which the sick leave time may be drawn. No day of leave which is donated to a sick leave bank by an employee shall be drawn by that employee or any other employee from the sick leave bank unless authorized by the committee in order to provide sick leave.

L.2007, c.223, s.2.

18A:30-12 Certain policies unaffected.

3. No provision of this act, or regulation promulgated to implement or enforce this act, shall be deemed to justify a board of education in reducing or making less favorable to employees any sick leave, disability pay or other benefits provided by the board or required by a collective bargaining agreement which are more favorable to the employees than those required by this act, nor shall any provision of this act, or any regulation promulgated to implement or enforce this act, be construed to prohibit the negotiation and provision through collective bargaining agreements of sick leave, disability pay or other benefits which are more favorable to the employee than those required by this act, irrespective of the date that a collective bargaining agreement takes effect.

L.2007, c.223, s.3.

18A:30-13 Construction of act.

4. No provision of this act shall be construed as limiting the authority of a board of education to provide an employee with additional days of salary pursuant to N.J.S.18A:30-6 after all sick leave available to the employee, including days provided under this act, has been used.

L.2007, c.223, s.4.

18A:31-1. Teachers' institutes and meetings, when held, etc.

Teachers' institutes, and teachers' meetings called by the commissioner, shall be held pursuant to rules prescribed by the state board.

L.1967, c.271.

18A:31-2. Attendance at conventions of New Jersey Education Association

Whenever any full-time teaching staff member of any board of education of any local school district or regional school district or of a county vocational school or any secretary, or office clerk applies to the board of education by which he is employed for permission to attend the annual convention of the New Jersey Education Association, such permission shall be granted for a period of not more than two days in any one year and he shall receive his whole salary for the days of actual attendance upon the sessions of such convention upon filing with the secretary of the board a certificate of such attendance signed by the executive secretary of the association.

L.1967, c.271

18A:32-1. Appropriation for establishment and maintenance

Whenever in any county there shall have been raised by subscription a sum of money not less than \$100.00 for the establishment of a library of pedagogical books for the use of the teachers of the public schools, the director of the treasury shall, upon the order of the commissioner, draw his warrant on the state treasurer in favor of the county superintendent of the county for the sum of \$100.00 for the benefit of such library. Annually thereafter there shall be paid on a like order a sum not less than \$50.00 nor more than \$100.00 upon condition that there shall have been raised by subscription a like sum for the maintenance of the library for the year.

18A:32-2. Committee to select books and manage library

The county superintendent and three teachers of public schools in the county appointed by him shall constitute a committee to select and purchase books and apparatus for the library, and to make rules for the management, use, and safekeeping thereof.

18A:33-1. District to furnish suitable facilities; adoption of courses of study

Each school district shall provide, for all children who reside in the district and are required to attend the public schools therein and those who reside therein or elsewhere and are entitled or permitted to attend the schools of the district pursuant to law, suitable educational facilities including proper school buildings and furniture and equipment, convenience of access thereto, and courses of study suited to the ages and attainments of all pupils between the ages of five and 20 years, either in schools within the district convenient of access to the pupils, or as provided by article 2 of chapter 38 of this title, but no course of study shall be adopted or altered except by

the recorded roll call majority vote of the full membership of the board of education of the district.

L.1967, c.271.

18A:33-1.1. Substandard facility; approval; inspection; abandonment

No substandard facility shall be approved for more than two consecutive years unless it is inspected by the Bureau of Facility Planning Services in the Division of Finance to insure that the buildings meet health, safety and educational standards for temporary facilities and that utilization of the facilities is of a temporary and limited nature. Any facility which is determined to be inadequate shall be ordered abandoned pursuant to N.J.S. 18A:20-36.

L.1983, c. 373, s. 1, eff. Oct. 28, 1983.

18A:33-1.2. Rules and regulations

The State Board of Education shall develop rules and regulations for the approval of substandard emergency building facilities for the accommodation of school pupils which regulations shall insure that the buildings meet health, safety and educational standards and that the utilization of the facilities are of a temporary and limited nature.

L.1983, c. 373, s. 2, eff. Oct. 28, 1983.

18A:33-2. Penalty for failure to provide proper facilities

When any school district shall fail to provide such facilities and courses of study, the county superintendent shall, by order in writing, approved in writing by the commissioner and transmitted to the custodian of school moneys of the district, direct such custodian to withhold further payments, for the account of the district, of any moneys theretofore and thereafter received from state aid until such suitable facilities and courses of study shall be provided, which order shall be effective upon the date stated by the commissioner in his approval thereof. The county superintendent shall notify the board of education of the district of his action with the reasons therefor forthwith.

L.1967, c.271.

18A:33-2.1. Closing high school; contracting with another district; referendum

No board of education of a school district providing high school education in its own high school shall propose to close its high school and to contract with another district or districts to provide high school education for pupils of the district, unless and until a public question as to whether or not the board may enter into such a contract or contracts shall be submitted to and approved by a majority of the voters of the district voting thereon at an annual or special school election.

L.1967, c.271.

18A:33-3. Food service bidding exemption

A board of education of any district may, itself or under contract, install, equip, supply and operate cafeterias or other agencies for dispensing food to public school pupils without profit to the district and may purchase food services and supplies therefor subject to the provisions of N.J.S. 18A:18A-6 and pursuant to rules and regulations of the State board, without advertisement for bids.

L.1967, c.271; amended by L. 1985, c. 527, s. 2, eff. Jan. 21, 1986.

18A:33-3.1 Establishment of prepaid school lunch program.

1. A board of education may establish a program through which the parent or guardian of a student may prepay for lunches served to the student in the school cafeteria.

L.2006,c.14.

18A:33-4. School lunch; availability to all children

Each school district shall make school lunch available to all children enrolled in the district within 1 year from the effective date of this act. Such lunches shall meet minimum nutritional standards established by the Department of Education. Free and reduced price lunches shall be offered to all children qualifying under Statewide eligibility criteria.

L.1974, c. 53, s. 1, eff. July 1, 1974.

18A:33-5. Exemptions

Any school in which less than 5% of pupils enrolled meet the eligibility requirements for a free or reduced price lunch shall be exempt from the provisions of this act.

L.1974, c. 53, s. 2, eff. July 1, 1974.

18A:33-6. Display of poster illustrating choke prevention techniques

Each local board of education shall:

- a. Ensure that posters illustrating choke prevention techniques such as the "Heimlich Maneuver" are prominently displayed in all school cafeterias, faculty dining rooms and all other public school locations designated as places where food is consumed;
- b. Have pamphlets illustrating choke prevention techniques available in every school for free distribution to students; and
- c. Utilize, for the purposes of this section, instructional posters and pamphlets prepared by the Department of Health pursuant to P.L.1983, c.488 (C.26:3E-1 et seq.).

L.1989, c.302, s.1.

18A:33-7 Posting of drinking water test reports by public schools.

- 6. a. The principal of every public school who is required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report the principal prepares or receives in a conspicuous location near each major entrance to the public school.
- b. The principal of every public school who is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in a conspicuous location near each major entrance to the public school. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.
- c. The provisions of this section shall be enforced by the Department of Education. The Department of Education shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of public schools are conducted by the department pursuant to any other law.

L.1999,c.362,s.6.

18A:33-8 Posting of drinking water test reports by nonpublic schools.

- 7. a. The chief administrative officer of every nonpublic school required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," 42 U.S.C.s.300f et al., or who receives a Consumer Confidence Report from the owner or operator of a public community water system, shall post each Consumer Confidence Report the chief administrative officer prepares or receives in a conspicuous location near each major entrance to the nonpublic school.
- b. The chief administrative officer of every nonpublic school which is a supplier of water but is not required to prepare a Consumer Confidence Report pursuant to the "Safe Drinking Water Act Amendments of 1996," and who is required to conduct tests of its drinking water by the Department of Environmental Protection, shall post a chart setting forth the results of the water tests, including the level of detection and, as appropriate for each contaminant, the maximum contaminant level, highest level allowed, action level, treatment technique, or other expression of an acceptable level, for each contaminant, in a conspicuous location near each major entrance to the nonpublic school. The chart also shall include in bold print the statement required to be included in a Consumer Confidence Report pursuant to 40 CFR s.141.154(a). The chart shall not include contaminants that are not detected.
- c. The provisions of this section shall be enforced by the Department of Education. The Department of Education shall not be required to conduct on-site inspections to determine compliance with this section more frequently than any on-site inspections of nonpublic schools are conducted by the department pursuant to any other law.

L.1999,c.362,s.7.

18A:33-9. Findings, declarations relative to school breakfast programs

- 1. The Legislature finds and declares that:

- a. The School Breakfast Program is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions nationwide, and supplying to each participating child at least one-fourth of the nutrients needed daily;
- b. The School Breakfast Program was established by the federal government in 1966 with the purpose of providing a nutritious, well-balanced breakfast to promote sound eating habits, and fostering good health and academic achievement for school-age children;

c. New Jersey ranks fiftieth in the nation for participation in the School Breakfast Program by schools offering school lunch, and has seen only modest increases in participation in recent years;

d. Research shows that school breakfast increases attendance and decreases tardiness, improves academic performance both in class and on standardized tests, improves attentiveness, and reduces emotional and behavioral problems among students from all backgrounds; and

e. Therefore, it is clearly in the public interest for the State to require that school districts with large populations of students eligible for federally subsidized meals offer the School Breakfast Program and publicize the program in their communities.

L.2003,c.4,s.1.

18A:33-10. Establishment of School Breakfast Program in certain schools

2. a. A public school operated by a local or regional school district of the State in which 20% or more of the students enrolled in the school on October 1 of the preceding school year were eligible for free or reduced price meals under the federal School Lunch Program or the federal School Breakfast Program, shall establish a School Breakfast Program in the school.

The school district shall submit a plan for the establishment of school breakfast programs for each school in the district subject to the requirements of this section that is in compliance with and pursuant to the School Breakfast Program administered by the State Department of Agriculture. The plan for each school shall be submitted to the Department of Agriculture by the date required by subsection b. of this section in a form and manner prescribed by the Secretary of Agriculture.

b. (1) A school district shall submit a plan for all grades of each school that has one or more of the grades pre-K through sixth grade and for which a plan is required by subsection a. of this section on or before November 1, 2003.

(2) A school district shall submit a plan for all grades of each school that is not described in paragraph (1) of this subsection and for which a plan is required by subsection a. of this section on or before November 1, 2004.

c. The Department of Agriculture, in consultation with the Department of Education, shall review each school breakfast plan submitted pursuant to this section and make recommendations, if necessary, on how the school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

d. The Department of Agriculture shall notify each school district that submits a school breakfast plan pursuant to this section of the completion of the department's review and any recommended changes to the plan, within three months of the receipt of the plan, but no later than the February 1 following the date required for submission of the plan pursuant to subsection b. of this section.

e. A school district subject to the requirements of this section shall establish a school breakfast program in each of its schools, based on the plan submitted by the school district to the Department of Agriculture, by September 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by September 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section.

f. (1) If a school district does not submit a school breakfast plan to the Department of Agriculture pursuant to subsection a. of this section by the date required by subsection b. of this section, it shall establish a school breakfast program in each of its schools in which a program is required pursuant to subsection a. of this section based on a model plan provided by the department.

(2) The model plan shall include recommendations on how the school breakfast program can operate within the limits of the federal and State reimbursement rates for the federal School Breakfast Program.

(3) The Department of Agriculture shall provide the model plan to the school district no later than March 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by March 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section and the school district shall establish the school breakfast program in each of its schools based on the plan by September 1, 2004 for schools for which plans are required to be submitted by paragraph (1) of subsection b. of this section and by September 1, 2005 for schools for which plans are required to be submitted by paragraph (2) of subsection b. of this section.

L.2003,c.4,s.2.

18A:33-11. Implementation of school breakfast program by district

3. In implementing a school breakfast program under this act, a school district shall:

a. publicize the availability of the school breakfast program to parents and students;

b. make every effort to ensure that income-eligible students are not recognized as program participants by the student body, faculty, or staff in a manner distinct from student participants who are not income-eligible. Such efforts shall include, but not be limited to, the establishment of a meal plan or voucher system under which students receiving subsidized breakfasts are not distinguished from students receiving non-subsidized breakfasts; and

c. make every effort to encourage students who are not income-eligible to participate in the program.

L.2003,c.4,s.3.

18A:33-12. One-year waiver permitted under certain circumstances

4. a. The Department of Agriculture may grant a one-year waiver of the requirements of this act to a school in a school district subject to the requirements of this act that lacks the staff, facilities or equipment to offer a school breakfast program, or the means to finance the hiring or acquisition of such staff, facilities or equipment, if the district submits a school breakfast plan to the department pursuant to the requirements of section 2 of P.L.2003, c.4 (C.18A:33-10) and requests a waiver for the specific school.

b. A school district that requests a waiver pursuant to this section shall provide such information as the Department of Agriculture shall specify pursuant to regulation to justify the request. The information shall include, but not be limited to, a description of the specific impediments to implementing the program, the specific actions that will be taken to remove those impediments, and the specific steps required to successfully implement the program in the following school year.

L.2003,c.4,s.4.

18A:33-13. Construction of act

5. Nothing in this act shall be construed to prevent a school district not subject to this act from implementing a school breakfast program pursuant to section 2 of this act.

L.2003,c.4,s.5.

18A:33-14. Rules, regulations

6. The Department of Agriculture, in consultation with the Department of Education, shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), concerning the revision of school breakfast plans for schools that have a participation rate of less than 50% of eligible students in a school breakfast program during any year of the program, and other matters necessary to effectuate the purposes of this act

L.2003,c.4,s.6.

18A:33-15 Findings, declarations relative to food, beverages sold to certain school pupils.

1. The Legislature finds and declares that:

a. the federal Centers for Disease Control and Prevention has declared that obesity, which affects 61% of American adults, and childhood obesity, which affects up to 15% of American children between the ages of six and 17, are epidemics in the United States;

b. Congress has introduced the Improved Nutrition and Physical Activity Act (IMPACT Act) to address the overall concern with the obesity epidemic and, in particular, the need to educate youth about good nutrition, healthy eating habits, and the importance of physical activity;

c. the United States Surgeon General has issued a report entitled "The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity," which lists the treatment and prevention of obesity as a national priority, and the United States Department of Agriculture issued a report to Congress in which it recognized that foods without regulated nutrition standards are low in nutrient density and are higher in fat, added sugar, and calories; and

d. health experts agree that one of the most effective ways to prevent obesity is to establish policies and programs that encourage children and adolescents to develop healthy eating habits that they can maintain throughout their lives.

L.2007,c.45,s.1.

18A:33-16 Regulation of items sold, served, given away on school property.

2. a. As of September 2007, the following items shall not be served, sold or given away as a free promotion anywhere on school property at any time before the end of the school day, including items served in the reimbursable After School Snack Program:

(1) Foods of minimal nutritional value, as defined by the United States Department of Agriculture;

(2) All food and beverage items listing sugar, in any form, as the first ingredient; and

(3) All forms of candy as defined by the New Jersey Department of Agriculture.

b. Schools shall reduce the purchase of any products containing trans fats beginning September 1, 2007.

c. As of September 2007, all snack and beverage items, sold or served anywhere on school property during the school day, including items sold in a la carte lines, vending machines, snack bars, school stores and fundraisers, or served in the reimbursable After School Snack Program, shall meet the following standards:

(1) Based on manufacturers' nutritional data or nutrient facts labels, no more than eight grams of total fat per serving, with the exception of nuts and seeds, and no more than two grams of saturated fat per serving;

(2) All beverages, other than milk containing two percent or less fat, or water, shall not exceed a 12-ounce portion size; and whole milk may not exceed an eight-ounce portion;

(3) In elementary schools, beverages shall be limited to milk, water or 100 percent fruit or vegetable juices;

(4) In middle and high schools, at least 60 percent of all beverages offered, other than milk or water, must be 100 percent fruit or vegetable juice; and

(5) In middle and high schools, no more than 40 percent of all ice cream and frozen desserts shall be allowed to exceed the above standards for sugar, fat and saturated fat.

d. Food and beverages served during special school celebrations or during curriculum-related activities shall be exempt from the provisions of this section, with the exception of foods of minimal nutritional value as defined by the United States Department of Agriculture.

e. The provisions of this section shall not apply to:

(1) Medically authorized special needs diets as defined by the United States Department of Agriculture;

(2) School nurses using foods of minimal nutritional value during the course of providing health care to individual students; or

(3) Special needs students whose Individual Education Plan indicates a particular diet.

L.2007,c.45,s.2.

18A:33-17 Applicability to certain nonpublic schools.

3. The provisions of this act shall apply to nonpublic schools that participate in the Child Nutrition Programs as defined by the New Jersey Department of Agriculture.

L.2007,c.45,s.3.

18A:33-18 Rules, regulations; compliance monitoring.

4. The Secretary of Agriculture shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to implement the provisions of this act and shall monitor compliance with the provisions of this act.

L.2007,c.45,s.4.

18A:33-19 Nonpreemption of more stringent policies.

5. Nothing in this act shall be construed to prohibit the board of education of a public school district or the governing board or chief school administrator of a nonpublic school from establishing more stringent nutritional policies for students.

L.2007,c.45,s.5.

18A:34-1. Textbooks; selection; furnished free with supplies; appropriations

Textbooks shall be selected by the recorded roll call majority vote of the full membership of the board of education of the district and they and other school supplies shall be furnished free of cost for use by all pupils in the public schools and money therefor shall be appropriated and raised annually in each school district in the same manner as other school moneys are appropriated and raised in the district.

L.1967, c.271.

18A:34-2. Care and keeping of textbooks and accounting

Every board of education shall make rules for the safekeeping and proper care of textbooks, and shall keep an account of all moneys expended by it for textbooks and supplies, in accordance with bookkeeping directions prescribed by the state board.

L.1967, c.271.

18A:34-3. Statewide textbook bank, creation; database

1. a. Notwithstanding any other law to the contrary, the Department of Education shall coordinate the sharing of textbooks among school districts by creating a Statewide textbook bank. The Department of Education shall create and maintain a database of all textbooks that will be discarded by each school district. The textbook bank database shall be made available on the Department of Education's website and a list of all available textbooks shall be sent to each school district periodically.

b. Each school district shall notify the Department of Education of any textbooks the district intends to discard. The Department of Education shall within 14 days of receiving notification from the school district of the intent to dispose of the textbooks, list the textbooks in the textbook bank database. School districts shall retain the textbooks to be discarded for a period of 120 days after the district has notified the Department of Education.

c. Districts acquiring textbooks using the textbook bank database are responsible for all costs associated with receiving them from the donating district.

d. The department shall make the textbook bank database available for use by nonpublic schools.

L.2002,c.98,s.1.

18A:34-4. Guidelines on useful life of certain textbooks

2. a. The Department of Education shall develop and disseminate to school districts, guidelines on the useful life of textbooks in the core curriculum content standards subject areas. Textbooks exceeding the useful life guidelines established by the department shall be exempt from the provisions of section 1 of this act.

b. The provisions of section 1 of this act shall not apply to textbooks that are worn out or useless due to damage or mutilation.

L.2002,c.98,s.2.

18A:35-1. 2-year course of study in history

The superintendent of schools in each school district shall prepare and recommend to the board of education of the district, and the board of education shall adopt a suitable two-year course of study in the history of the United States, including the history of New Jersey, to be given to each student during the last four years of high school. Said course of study shall include materials recommended by the commissioner dealing with the history of the Negro in America.

L.1967, c.271; amended by L. 1973, c. 20; 1987, c. 52, s. 1.

18A:35-2. Contents of course of study

Such course of study shall include instruction in

(1) The principles and ideals of the American form of representative government as expressed in the Declaration of Independence and the Constitution of the United States and particularly in the Bill of Rights; and

(2) The history of the origin and growth of the social, economic and cultural development of the United States, of American family life and of the high standard of living and other privileges enjoyed by the citizens of the United States; and

(3) Such other events in the history of the United States as will tend to instill, into every girl and boy, a determination to preserve these principles and ideals as those of citizens of the United States and an appreciation of their solemn duty and obligation to exercise the privilege of the ballot, upon their reaching voting age, to the end that said principles and ideals may be so preserved; and

(4) The history of the State of New Jersey.

L.1967, c.271; amended by L. 1987, c. 52, s. 2.

18A:35-2.1. Civics curriculum guidelines

The State Department of Education shall prepare curriculum guidelines for the teaching of civics which may be used by local school boards in fulfilling the requirements established pursuant to N.J.S. 18A:35-1 and N.J.S. 18A:35-2.

L. 1987, c. 425, s. 1.

18A:35-3. Course in civics, geography and history of New Jersey

Each board of education shall adopt a course of study in community civics, the geography, history and civics of New Jersey, and the privileges and responsibilities of citizenship as they relateto community and national welfare, which course shall be taken

by all pupils in the public elementary schools in the grade or grades in which it is given, with the object of producing the highest type of patriotic citizenship.

L.1967, c.271.

18A:35-4.1. Course of study in principles of humanity

Each board of education may teach, by special courses or by emphasis in appropriate places of the curriculum, in a manner adapted to the ages and capabilities of the pupils in the several grades and departments, the principles of humanity as the same apply to kindness and avoidance of cruelty to animals and birds, both wild and domesticated.

L.1967, c.271.

18A:35-4.2. Career development program

That the Commissioner of Education and the State Board of Education shall have the authority and responsibility under this act to establish and operate a Career Development Program comprised of pilot vocational education projects.

L.1970, c. 230, s. 1, eff. Oct. 19, 1970.

18A:35-4.3. Sexual assault prevention education program

The Department of Education in consultation with the advisory committee provided for in section 2 of this act, shall develop and establish guidelines for the teaching of sexual assault prevention techniques for utilization by local school districts in the establishment of a sexual assault prevention education program. Such program shall be adapted to the age and understanding of the pupils and shall be emphasized in appropriate places of the curriculum sufficiently for a full and adequate treatment of the subject.

L.1979, c. 42, s. 1, eff. July 1, 1979.

18A:35-4.4. Advisory council

The Commissioner of Education, in consultation with the Department of Community Affairs, Division on Women, shall appoint an advisory council to assist and advise the State Board of Education in the development and implementation of educational programs for the prevention of sexual assault.

The advisory council shall consist of 15 members chosen from among the legal, law enforcement, medical and educational communities, and shall also include representatives of community-based groups providing services and assistance to victims of sexual assault. Each shall be appointed for a 2-year term and shall serve without compensation.

L.1979, c. 42, s. 2, eff. July 1, 1979.

18A:35-4.5. Establishment of program; voluntary participation

One year after the effective date of this act each board of education may establish a sexual assault prevention education program in accordance with the guidelines developed by the department; provided, however, that no child shall be compelled to participate in said program upon written objection on religious or moral grounds by the parent or guardian of said child.

L.1979, c. 42, s. 3, eff. July 1, 1979.

18A:35-4.6. Title of act

This act shall be known as the "Parents Rights to Conscience Act of 1979."

L.1979, c. 428, s. 1, eff. Feb. 11, 1980.

18A:35-4.7. Parent's statement of conflict with conscience

Any child whose parent or guardian presents to the school principal a signed statement that any part of the instructions in health, family life education or sex education is in conflict with his conscience, or sincerely held moral or religious beliefs shall be excused from that portion of the course where such instruction is being given and no penalties as to credit or graduation shall result therefrom.

L.1979, c. 428, s. 2, eff. Feb. 11, 1980.

18A:35-4.8. Medical treatment or examination; objection of parent or guardian

No pupil whose parent or guardian objects to such pupil receiving medical treatment or medical examination or physical examination shall be compelled to receive such treatment or examination; provided, however, that no objection shall be made to a physical or medical examination of any physically handicapped child for the purpose of determining whether such child shall be admitted to any class or school for handicapped children or of any pupil to determine whether he is ill or infected with a communicable disease or of any person who appears to be under the influence of a drug pursuant to P.L.1971, c. 390 (C. 18A:40-4.1).

L.1979, c. 428, s. 3, eff. Feb. 11, 1980.

18A:35-4.9. Pupil promotion, remediation policies, procedures

Local boards of education shall adopt policies and procedures for:

a. Pupil promotion and remediation, related to district goals, objectives and pupil proficiency;

b. Notification to parents of policies and procedures for student promotion and remediation and to pupils, where appropriate;

c. Notification to parents and pupils, at appropriate times during the school year, of the pupil's progress in meeting the promotion and remediation standards and immediate consultation with the pupil's parent or guardian if, in the teacher's judgment, there is any indication that the pupil's progress may not be sufficient to meet these standards;

d. Procedures for parents and adult pupils to appeal promotion/retention decisions; and

e. Procedures to ensure that parents, teachers and students, where appropriate, participate in the development of the policy.

L. 1985, c. 480, s. 1, eff. Jan. 17, 1986.

18A:35-4.10. Rules, regulations

The State Board of Education shall adopt pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) such rules and regulations as are deemed appropriate to carry out the provisions of this act.

L. 1985, c. 480, s. 2, eff. Jan. 17, 1986.

18A:35-4.11. Findings, declarations

The Legislature finds and declares that agriculture is an applied science and that certified agriculture teachers have strong scientific educational backgrounds which qualify them to teach agricultural science courses. The Legislature further finds that recent changes in the State high school graduation requirements have increased the number of science credits needed for graduation thereby reducing student opportunities to participate in agricultural education courses such as plant science, animal science, agricultural biology, and agricultural science.

L.1991,c.114,s.1.

18A:35-4.12. Curriculum guidelines for agricultural science education programs

The Department of Education, in consultation with teachers who hold an instructional certificate with an agriculture endorsement, shall develop curriculum guidelines for agricultural science education programs appropriate for use in grades 9 through 12 of the public schools. The department shall make these curriculum guidelines available to all school districts in the State.

L.1991,c.114,s.2.

18A:35-4.13. Evaluation of agricultural science courses, programs

The Department of Education shall establish a standardized process for the evaluation of agricultural science courses and programs offered by local school districts for the purpose of identifying the science skills that are taught in the course or program. Any student who satisfactorily completes an agricultural science course or program which is determined to contain appropriate science skills shall receive credit toward meeting high school graduation requirements for science established by statute or regulation.

L.1991,c.114,s.3.

18A:35-4.14. Agricultural science proficiencies included in science core courses

In the event that the State Board of Education develops Statewide core course proficiencies in science, the State board shall include the agricultural science proficiencies contained in the curriculum guidelines established pursuant to section 2 of this act in those proficiencies.

L.1991,c.114,s.4.

18A:35-4.15. Findings, declarations

1. The Legislature finds and declares that:

a. chess increases strategic thinking skills, stimulates intellectual creativity, and improves problem-solving ability while raising self esteem;

b. when youngsters play chess they must call upon higher-order thinking skills, analyze actions and consequences, and visualize future possibilities;

c. in countries where chess is offered widely in schools, students exhibit excellence in the ability to recognize complex patterns and consequently excel in math and science; and

d. instruction in chess during the second grade will enable pupils to learn skills which will serve them throughout their lives.

L.1992,c.201,s.1.

18A:35-4.16. Instruction in chess; guidelines

2. Each board of education may offer instruction in chess during the second grade for pupils in gifted and talented and special education programs. The Department of Education may establish guidelines to be used by boards of education which offer chess instruction in those programs.

L.1992,c.201,s.2.

18A:35-4.17 Notification to students of risks of using computer services for illegal purposes; guidelines.

4. Every district or regional board of education shall, as part of any computer education instruction it provides, notify students on the potential risks and dangers posed to children by persons who use interactive computer services for illegal purposes. The notification shall be adapted to the age and understanding of elementary and secondary school pupils. The notification shall include information concerning the safe computing guidelines made available on the internet by the department pursuant to section 3 of P.L.1998, c.134 (C.52:17B-193). The Department of Education shall recommend guidelines and curriculum materials for utilization by local school districts on the ethical use of computers and the potential risks and dangers posed to juveniles by persons who use interactive computer services for unlawful purposes.

L.1998,c.134,s.4.

18A:35-4.18. Credit for world language course not offered by public school

8. A pupil who is enrolled in a public high school within the State who wishes to take a world language course not offered in the resident public school district may complete and receive credit toward high school graduation for a world language course offered by a religious organization or any other nonpublic school organization or entity. In order to receive credit for the course, the pupil shall meet local district proficiency requirements.

L.2001,c.203,s.8.

18A:35-4.19 Short title.

1. This act shall be known as the "AIDS Prevention Act of 1999."

L.2001,c.303,s.1.

18A:35-4.20 Sex education programs to stress abstinence.

2. Any sex education that is given as part of any planned course, curriculum or other instructional program and that is intended to impart information or promote discussion or understanding in regard to human sexual behavior, sexual feelings and sexual values, human sexuality and reproduction, pregnancy avoidance or termination, HIV infection or sexually transmitted diseases, regardless of whether such instruction is described as, or incorporated into a description of "sex education," "family life education," "family health education," "health education," "family living," "health," "self esteem," or any other course, curriculum program or goal of education, and any materials including, but not limited, to handouts, speakers, notes or audiovisuals presented on school property concerning methods for the prevention of acquired immune deficiency syndrome (HIV/AIDS), other sexually transmitted diseases and of avoiding pregnancy, shall stress that abstinence from sexual activity is the only completely reliable means of eliminating the sexual transmission of HIV/AIDS and other sexually transmitted diseases and of avoiding pregnancy.

L.2001,c.303,s.2.

18A:35-4.21 Abstinence from sexual activity stressed in curriculum.

3. The board of education shall include in its family life and HIV/AIDS curriculum instruction on reasons, skills and strategies for remaining or becoming abstinent from sexual activity. Any instruction concerning the use of contraceptives or prophylactics such as condoms shall also include information on their failure rates for preventing pregnancy, HIV and other sexually transmitted diseases in actual use among adolescent populations and shall clearly explain the difference between risk reduction through the use of such devices and risk elimination through abstinence.

L.2001,c.303,s.3.

18A:35-4.22 Avoidance of IV drug use stressed.

4. In addition, any course, program or material concerning methods for the prevention of HIV/AIDS shall stress the importance of avoiding intravenous drug use.

L.2001,c.303,s.4.

18A:35-4.23. Domestic violence, child abuse, instruction on those problems

1. A board of education may include instruction on the problems of domestic violence and child abuse in an appropriate place in the curriculum of elementary school, middle school and high school pupils. The instruction shall enable pupils to understand the psychology and dynamics of family violence, dating violence and child abuse, the relationship of alcohol and drug use to such violence and abuse, the relationship of animal cruelty to such violence and abuse, and to learn methods of non-violent problem-solving.

L.2003,c.46.

18A:35-4.24 Definitions relative to alternative education projects.

1. As used in this act:

"Alternative education project" means the use of video tapes, models, films, books, computers, or any other tools which provide an alternative method for obtaining and testing the knowledge, information, or experience required by a course of study.

"Animal" means any living organism that is an invertebrate, or is in the phylum chordata or organisms which have a notochord and includes an animal's cadaver or severed parts of an animal's cadaver.

L.2005,c.266,s.1.

18A:35-4.25 Refusal to participate in certain school activities related to animal dissection, etc.

2. a. A public school pupil from kindergarten through grade 12 may refuse to dissect, vivisect, incubate, capture or otherwise harm or destroy animals or any parts thereof as part of a course of instruction.

b. A school shall notify pupils and their parents or guardians at the beginning of each school year of the right to decline to participate in the activities enumerated in subsection a. of this section and shall authorize parents or guardians to assert the right of their children to refuse to participate in these activities. Within two weeks of the receipt of the notice, the pupils, parents or guardians shall notify the school if the right to decline participation in the enumerated activities will be exercised.

c. Any pupil who chooses to refrain from participation in or observation of a portion of a course of instruction in accordance with this section shall be offered an alternative education project for the purpose of providing the pupil with the factual knowledge, information or experience required by the course of study. A pupil may refuse to participate in an alternative education project which involves or necessitates any harmful use of an animal or animal parts.

d. A pupil shall not be discriminated against, in grading or in any other manner, based upon a decision to exercise the rights afforded pursuant to this act.

L.2005,c.266,s.2.

18A:35-4.26 Instruction in gang violence prevention; required for elementary school students.

1. Each board of education that operates an educational program for elementary school students shall offer instruction in gang violence prevention and in ways to avoid membership in gangs. The instruction shall take place as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education, and the comprehensive health and physical education curriculum framework shall provide school districts with sample materials that may be used to support implementation of the instructional requirement.

L.2007, c.22, s.1.

18A:35-5. Maintenance of physical training courses; features

Each board of education shall conduct as a part of the instruction in the public schools courses in health, safety and physical education, which courses shall be adapted to the ages and capabilities of the pupils in the several grades and departments. To promote the aims of these courses any additional requirements or rules as to medical inspection of school children may be imposed.

L.1967, c.271.

18A:35-5.1. Lyme Disease curriculum guidelines

1. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for the teaching of information on the prevention of Lyme Disease within the public school health curriculum. The guidelines shall emphasize disease prevention and sensitivity for victims of the disease. The Commissioner of Education shall periodically review and update the guidelines to insure that the curriculum reflects the most current information available.

L.1991,c.488,s.1.

18A:35-5.2. Availability of guidelines

2. The commissioner shall make the curriculum guidelines available to all school districts in the State and shall encourage their adoption by those districts which are located in areas of the State which have a high incidence of Lyme Disease.

L.1991,c.488,s.2.

18A:35-5.3. Guidelines for, training of teachers instructing infected students

3. The Commissioner of Education, in consultation with the Commissioner of Health, shall also provide curriculum guidelines for the training of all teachers who instruct students with Lyme disease which emphasizes the special needs and problems of students with the disease, in order to provide information about how best to teach those students. Each school district shall annually provide training to all teachers who instruct students with Lyme disease, based upon the guidelines.

L.1991,c.488,s.3.

18A:35-5.4. Instruction on breast self-examination required

1. Each board of education which operates an educational program for students in grades 7 through 12 shall offer instruction in breast self-examination. The instruction shall take place as part of the district's implementation of the Core Curriculum Content Standards in Comprehensive Health and Physical Education, and the comprehensive health and physical education curriculum framework shall provide school districts with sample activities that may be used to support implementation of the instructional requirement.

L.1999,c.128.

18A:35-6. Supervision of instruction

Such courses, and the instruction therein, shall be subject to the general supervision and direction of the commissioner, who shall appoint, with the approval of the state board, such expert assistants as in the opinion of the state board shall from time to time be necessary to carry out the purposes of such courses.

L.1967, c.271.

18A:35-7. Course required

Every pupil, except kindergarten pupils, attending the public schools, insofar as he is physically fit and capable of doing so, as determined by the medical inspector, shall take such courses, which shall be a part of the curriculum prescribed for the several grades, and the conduct and attainment of the pupils shall be marked as in other courses or subjects, and the standing of the pupil in connection therewith shall form a part of the requirements for promotion or graduation.

L.1967, c.271.

18A:35-8. Time devoted to course

The time devoted to such courses shall aggregate at least two and one-half hours in each school week, or proportionately less when holidays fall within the week.

L.1967, c.271.

18A:35-9. Qualifications of teachers; instruction of college pupils

The state board shall adopt rules fixing the necessary qualifications of teachers in such courses in the public school system and all students at the state colleges shall be required to receive thorough instruction in such courses.

L.1967, c.271.

18A:35-10. Military training course; when required; preparation

If the State board shall determine that the courses in health, safety and physical education, as prescribed for male pupils in the high school, shall include a course in military training, such course in military training shall be prepared by the commissioner and the Adjutant General of the Department of Defense and be a part of the courses in health, safety, and physical education for male pupils, and all male pupils in the high school shall be required to take the same except those who are physically unfit, as determined by the medical inspector, or whose parents have conscientious scruples against military training.

L.1967, c.271; amended by L.1984, c. 181, s. 1, eff. Nov. 14, 1984.

18A:35-11. Military training; referendum

If the state board does not require the course in military training to be included in courses in health, safety and physical training, the question of the inclusion thereof, in such courses to be given in any district, shall be submitted to the legal voters of the district by referendum when the board of education of the district so determines by resolution or when a petition signed by at least 10% of the legal voters of the district requests the question to be so submitted.

In districts in which annual school elections are held the petition shall be filed with the secretary of the board of education and the question shall be submitted at the next ensuing annual, or at a special school election following the nineteenth day after the filing of the petition and in all other districts the petition shall be filed with

the clerk of the municipality and the question shall be submitted at the next ensuing general election following the thirty-fourth day after the filing of the petition.

L.1967, c.271.

18A:35-12. Result of election; establishment of course

If, at such election, the number of votes cast in favor of the adoption of the question shall exceed the number of votes cast against the adoption of the question, military training shall be included in the courses in health, safety and physical education for male pupils in the high school of the district, within 60 days after the election.

L.1967, c.271.

18A:35-13. Expenses of maintaining military training

The funds required to furnish the necessary equipment for such course in military training and to meet the expenses incident thereto shall be provided in the same manner as funds for other equipment and expenses in public schools are provided.

L.1967, c.271.

18A:35-14. Instructors in military training; qualifications; salary

Every instructor of such course in military training shall hold at all times a certificate as to his qualifications as an instructor in military training from the Adjutant General of the Department of Defense, and the salary of each such instructor shall be paid by the district obtaining his services.

L.1967, c.271; amended by L.1984, c. 181, s. 2, eff. Nov. 14, 1984.

18A:35-15. Legislative findings

The Legislature finds that there are large numbers of children in the State who come from environments where the primary language is other than English. Experience has shown that public school classes in which instruction is given only in English are often inadequate for the education of children whose native tongue is another language. The Legislature believes that a program of bilingual education can meet the needs of those children and facilitate their integration into the regular public school curriculum. Therefore, pursuant to the policy of the State to insure equal educational opportunity to every child, and in recognition of the educational needs of children of limited English speaking ability, it is the purpose of this act to provide for the establishment of bilingual education programs in the public schools.

L.1974, c. 197, s. 1, eff. Jan. 8, 1975.

18A:35-16. Definitions

As used in this act, the following words and phrases shall have the following meaning:

"Children of limited English-speaking ability" means those children whose primary language is other than English and who have difficulty performing ordinary classwork in English.

"Programs in bilingual education" means a full-time program of instruction (1) in all those courses or subjects which a child is required by law, rule or regulation to receive given in the native language of the children of limited English-speaking ability enrolled in the program and also in English (2) in the aural comprehension, speaking, reading, and writing of the native language of the children of limited English-speaking ability enrolled in the program and in the aural comprehension, speaking, reading and writing of English, and (3) in the history and culture of the country, territory or geographic area which is the native land of the parents of children of limited English-speaking ability enrolled in the program and in the history and culture of the United States.

L.1974, c. 197, s. 2, eff. Jan. 8, 1975.

18A:35-17. Identification and classification of children of limited English-speaking ability

Each school district shall identify and ascertain, according to rules prescribed by the Commissioner of Education with the approval of the State board, the children attending the schools of the district who are of limited English-speaking ability and, also, those not in attendance but resident within the district, and shall classify them according to the language of which such children possess a primary speaking ability.

L.1974, c. 197, s. 3, eff. Jan. 8, 1975.

18A:35-18. Programs in bilingual education; establishment; number of pupils; waiver

4. a. When, at the beginning of any school year, there are within the schools of the district 20 or more pupils of limited English-speaking ability in any one language classification, the board of education shall establish, for each such classification, a program in bilingual education for all the pupils therein; provided, however, that a board of education may establish a program in bilingual education for any language classification with less than 20 children therein.

b. The Commissioner of Education may waive the requirement that a board of education establish a full time bilingual education program when the board is able to demonstrate that due to the age range, grade span or geographic location of the eligible pupils it would be impractical to provide a full time bilingual education program. The waiver shall permit the district to implement a special alternative instructional program for as long as the conditions exist that justified the waiver.

L.1974,c.197,s.4; amended 1995,c.59.

18A:35-19. Period of continuance of participation by pupil

Every pupil participating in a program established pursuant to this act shall be entitled to continue such participation for a period of 3 years.

L.1974, c. 197, s. 5, eff. Jan. 8, 1975.

18A:35-19.1. Transfer of bilingual pupil to English-only program

A pupil enrolled in a bilingual education program pursuant to P.L.1974, c.197 (C.18A:35-15 et seq.) shall be placed in the English-only program when the pupil demonstrates readiness to function successfully in the English-only program. The process to determine the readiness or inability of the individual pupil to function successfully in the English-only program shall be initiated by the pupil's level of English proficiency as measured by a State established cut-off score on an English language proficiency test and the readiness of the pupil shall be further assessed on the basis of multiple indicators which shall, at a minimum, include classroom performance, the pupil's reading level in English, the judgment of the teaching staff member or members responsible for the educational program of the pupil, and performance on achievement tests in English.

L.1991,c.12,s.1.

18A:35-19.2. Appeal of placement decision

If any parent or teaching staff member disagrees with the decision either that a pupil exit from or remain in the district's bilingual education program, the parent or teaching staff member may appeal this decision. After exhausting a local appeal process, any parent or guardian who is not satisfied with the district's explanation for its decision shall have the right to a hearing as a contested case before the Commissioner of Education or his designee. The final decision on a child's placement shall be based on the best interests of the child in accordance with the assessment criteria set forth in section 1 of this amendatory and supplementary act. An appeal under this provision shall be heard and decided by the commissioner or his designee on an expedited basis.

L.1991,c.12,s.2.

18A:35-19.3. Rules, regulations

The State Board of Education shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act. The Commissioner of Education shall issue guidelines to serve as temporary procedures for effectuating the provisions of this act until such time as the State board promulgates regulations.

L.1991,c.12,s.4.

18A:35-20. Participation in courses in which verbalization unessential to understanding of subject matter; location of and children in bilingual programs

In those courses or subjects in which verbalization is not essential to an understanding of the subject matter, including but not limited to art, music, and physical education, pupils of limited English-speaking ability shall participate fully with English-speaking pupils in the regular classes provided for such subjects. Each board shall insure to each pupil enrolled in a program in bilingual education a practical and meaningful opportunity to participate fully in all programs and activities available in the school district. Programs in bilingual education shall be located in the regular public schools of the district rather than in separate facilities. Bilingual education programs may include children of English-speaking ability.

L.1974, c. 197, s. 6, eff. Jan. 8, 1975.

18A:35-21. Joint establishment by school districts

A school district may join with any other school district or districts, according to rules prescribed by Commissioner of Education with the approval of the State board, to provide programs pursuant to this act.

L.1974, c. 197, s. 7, eff. Jan. 8, 1975.

18A:35-22. Notification of parents; involvement in programs

8. Each school district shall notify by mail the parents of the pupils of limited English-speaking ability of the fact that their child has been identified as eligible for enrollment in a program of bilingual education. Such notice shall include the information that the parents have the option of declining enrollment of their child in a bilingual program, and they shall be given an opportunity to decline enrollment if they so choose. The notice shall be in writing and in the language of which the child of the parents so notified possesses a primary speaking ability, and in English. In addition, whenever a school district determines, on the basis of a pupil's level of

English proficiency, that a pupil should exit from a program of bilingual education the district shall notify the parents of the pupil by mail.

The board shall provide for the maximum practicable involvement of parents of children of limited English-speaking ability in the development and review of program objectives and dissemination of information to and from the local school districts and communities served by the bilingual education program within existing State law.

L.1974,c.197,s.8; amended 1991, c.12, s.3; 1995, c.327, s.1.

18A:35-22.1. Removal of pupil from bilingual education program

2. A parent or guardian may remove a pupil who is enrolled in a bilingual education program at any time; except that during the first three years of a pupil's participation in a bilingual education program, a parent or guardian may only remove the pupil at the end of each school year. If a parent or guardian wishes to remove the pupil prior to the end of each school year, the removal shall be approved by the county superintendent of schools. If the county superintendent determines that the pupil should remain in the bilingual education program until the end of the school year, the parent may appeal the county superintendent's decision to the Commissioner of Education, or his designee, pursuant to the provisions of section 2 of P.L.1991, c.12 (C.18A:35-19.2). The commissioner's decision shall be rendered within 30 days of the filing of the appeal.

L.1995,c.327,s.2.

18A:35-23. Implementation of provisions

9. The Commissioner of Education shall, with the approval of the State Board of Education promulgate rules and regulations, establish procedures, employ personnel, and take all other necessary steps to insure the implementation of the provisions of this act.

L.1974,c.197,s.9; amended 1994,c.48,s.63.

18A:35-24. State Advisory Committee on Bilingual Education; establishment; membership

10. The State Board of Education shall establish a State Advisory Committee on Bilingual Education to assist the Department of Education in the formulation of policies and procedures relating to this act. The State Advisory Committee on Bilingual Education shall include representatives of the language communities served, institutions of higher education, local school boards, school administrators, teachers and laymen knowledgeable in the field of bilingual education.

L.1974,c.197,s.10; amended 1994,c.48,s.64.

18A:35-25. Financial support to institutions of higher education

11. The Commission on Higher Education with the advice of the State Advisory Committee on Bilingual Education shall recommend to the treasurer that financial support be provided to institutions of higher education for career development programs and the training of professionals serving bilingual populations with emphasis on effective utilization of existing facilities.

L.1974,c.197,s.11; amended 1994,c.48,s.65.

18A:35-26. Developmental activities

12. The State Board of Education shall develop resources, programs, curriculum and instructional materials and undertake such other activities as will enable boards of education to provide programs pursuant to this act.

L.1974,c.197,s.12; amended 1994,c.48,s.66.

18A:35-27. Findings, declarations

1. The Legislature finds and declares that:

a. New Jersey has recently become the focal point of national attention for the most venomous and vile of ethnic hate speeches.

b. There is an inescapable link between violence and vandalism and ethnic and racial intolerance. The New Jersey Department of Education itself has formally recognized the existence of the magnitude of this problem in New Jersey schools by the formation of a Commissioner's Task Force on Violence and Vandalism.

c. New Jersey is proud of its enormous cultural diversity. The teaching of tolerance must be made a priority if that cultural diversity is to remain one of the State's strengths.

d. National studies indicate that fewer than 25% of students have an understanding of organized attempts throughout history to eliminate various ethnic groups through a systematic program of mass killing or genocide.

e. The New Jersey Commission on Holocaust Education, created pursuant to P.L.1991, c.193 (C.18A:4A-1 et seq.), several years ago expanded its mission to study and recommend curricular material on a wide range of genocides. The Holocaust Commission is an ideal agency to recommend curricular materials to local districts.

L.1994,c.13,s.1.

18A:35-28. Instruction on Holocaust, genocides required in elementary, secondary school curriculum

2. a. Every board of education shall include instruction on the Holocaust and genocides in an appropriate place in the curriculum of all elementary and secondary school pupils.

b. The instruction shall enable pupils to identify and analyze applicable theories concerning human nature and behavior; to understand that genocide is a consequence of prejudice and discrimination; and to understand that issues of moral dilemma and conscience have a profound impact on life. The instruction shall further emphasize the personal responsibility that each citizen bears to fight racism and hatred whenever and wherever it happens.

L.1994,c.13,s.2.

18A:36-1. School year

The school year for all schools in the public school system shall begin on July 1 and end on June 30.

L.1967, c.271.

18A:36-2. Time when schools are open; determination

The board of education shall determine annually the dates, between which the schools of the district shall be open, in accordance with law.

L.1967, c.271.

18A:36-3. Display of and salute to flag; pledge of allegiance

Every board of education shall:

(a) Procure a United States flag, flagstaff and necessary appliances therefor for each school in the district and display such flag upon or near the public school building during school hours;

(b) Procure a United States flag, flagstaff and necessary appliances or standard therefor for each assembly room and each classroom in each school, and display such flag in the assembly room and each classroom during school hours and at such other time as the board of education may deem proper; and

(c) Require the pupils in each school in the district on every school day to salute the United States flag and repeat the following pledge of allegiance to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all," which salute and pledge of allegiance shall be rendered with the right hand over the heart, except that pupils who have conscientious scruples against such pledge or salute, or are children of accredited representatives of foreign governments to whom the United States government extends diplomatic immunity, shall not be required to render such salute and pledge but shall be required to show full respect to the flag while the pledge is being given merely by standing at attention, the boys removing the headdress.

L.1967, c.271.

18A:36-4. Period of silence

Principals and teachers in each public elementary and secondary school of each school district in this State shall permit students to observe a 1 minute period of silence to be used solely at the discretion of the individual student, before the opening exercises of each school day for quiet and private contemplation or introspection.

L.1982, c. 205, s. 1, eff. Dec. 17, 1982.

18A:36-5. "Special Education Week" designated

2. The week beginning with the second Sunday in May of each year is designated as "Special Education Week" in the State of New Jersey in order to give the citizens of this State the opportunity to recognize the contribution of public school board members, schools and agencies for the handicapped, educators, parents and the students themselves, and to commend them for their dedication to ensuring quality education for the exceptional citizens of this State.

L.1995,c.104,s.2.

18A:36-5.1 "School Violence Awareness Week"; designated.

2. The week beginning with the third Monday in October of each year is designated as "School Violence Awareness Week" in the State of New Jersey. School districts shall observe this week by organizing activities to prevent school violence including, but not limited to, age-appropriate opportunities for student discussion on conflict resolution, issues of student diversity, and tolerance. Law enforcement personnel shall be invited to join members of the teaching staff in the discussions. Programs shall also be provided for school board employees that are designed to help them recognize warning signs of school violence and to instruct them on recommended conduct

during an incident of school violence. The Department of Education shall provide guidelines and information to boards of education for use in planning the activities in observance of the week and such funds as are necessary to pay the costs of the required activities and programs.

L.2001, c.298, s.2; amended 2007, c.42, s.4.

18A:36-6. Observance of flag day

The principals and teachers in the public schools shall make suitable arrangements for the celebration, by appropriate exercises among the pupils in the schools, of June 14 in each year, as the day of the adoption of the American flag by the Continental congress.

L.1967, c.271.

18A:36-7. Designation of Arbor Day

For the purpose of encouraging the planting of shade and forest trees and the designation of a uniform day throughout the nation, the last Friday of April in each year is hereby designated as a day for the general observance of that purpose, and shall be known as Arbor Day.

L.1967, c.271.

18A:36-10. Designation of Commodore Barry Day

September 13 in each year shall be known as Commodore John Barry Day, except when such day shall fall on Saturday, then the day preceding, or on Sunday, then the day following.

L.1967, c.271.

18A:36-11. Observance of Commodore Barry Day

It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on such day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct such exercises or instructions as shall tend to (1) acquaint such pupils with the achievements of Commodore John Barry, "father of the American navy," and (2) honor the memory of Commodore Barry.

L.1967, c.271.

18A:36-12. Exercises on Commodore Barry Day

The commissioner shall prescribe a course of exercises or instructions which shall be adopted and observed by public school authorities on Commodore John Barry Day.

L.1967, c.271.

18A:36-13 Patriotic exercises preceding holidays.

18A:36-13. Appropriate exercises for the development of a higher spirit of patriotism shall be held in all public schools on the last school day preceding Washington's Birthday (also celebrated as President's Day), Decoration or Memorial Day, Columbus Day, and Veterans Day.

Amended 2007, c.42, s.7.

18A:36-13.1 Observation of certain holidays by school district.

5. A school district may conduct a course of exercises or instruction in accordance with the core curriculum content standards to observe holidays, including, but not limited to, Lincoln's Birthday, Thanksgiving Day, and Arbor Day.

L.2007, c.42, s.5.

18A:36-14. Religious holidays; absence of pupils on; effect

No pupil of any public school, who shall be absent, by reason of observance of a religious holiday, from such school at any time when the same is in session, shall by reason of such absence be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if a written excuse signed by a parent of, or person standing in loco parentis to, the pupil be presented to the proper school authority.

L.1967, c.271.

18A:36-15. Absence because of religious holidays as excused absence

Any absence because of religious holidays shall be recorded as excused absence on the pupil's attendance record or on that of any group or class of which he is a member, and any transcript or application or employment form or any similar form on which information concerning a pupil's attendance record is requested shall show, with respect to absences, only absences other than absences excused because of religious holidays.

L.1967, c.271.

18A:36-16. Rules regarding religious holidays

The commissioner, with the approval of the state board, shall prescribe rules relative to absences for religious holidays including, but not limited to, a list of holidays on which it shall be mandatory to excuse a pupil, but nothing herein contained shall be construed to limit the right of any board of education, at its discretion, to excuse absence on any other day by reason of the observance of a religious holiday.

L.1967, c.271.

18A:36-17. Credit of seniors in active military and naval service, etc.

Any pupil or student who has completed or shall complete the work of the junior year in any of the public high schools or educational institutions and who heretofore and subsequent to July 1, 1940, entered, or hereafter in time of war, shall enter the active military or naval service of the United States or the active service of the United States merchant marine or the active service of the women's army corps, the women's reserve of the naval reserve or any similar organization authorized by the United States to serve with the army or navy, or the active military or naval service of the Dominion of Canada, or who in time of emergency heretofore entered or hereafter shall serve on active duty with the armed forces of the United States, and who continued or shall continue to attend the regular sessions in any of the public high schools or educational institutions until 21 days prior to such entry and whose school work has been satisfactory until 21 days prior to such entry, shall be given credit for the work of the complete senior year without examination, and shall be entitled to and receive the diploma, certificate, degree, or other credentials or standings awarded to those pupils or students of the school or institution who have satisfactorily completed the work of the said senior year.

As used in this section the term "in time of emergency" shall mean and include any time after June 23, 1950, and prior to the termination, suspension or revocation of the proclamation of the existence of a national emergency issued by the president of the United States on December 16, 1950, or termination of the existence of such national emergency by appropriate action of the president or congress of the United States.

L.1967, c.271.

18A:36-18. Books containing organic laws at graduation

The board of education of every school district shall have printed and suitably bound in book form, copies of the Declaration of Independence, the constitution of the United States and the amendments thereto, and the constitution of the state of New Jersey and the amendments thereto, and a copy of such book shall be presented to each pupil upon his graduation from any elementary school.

L.1967, c.271.

18A:36-19. Pupil records; creation, maintenance and retention, security and access; regulations; nonliability

The State Board of Education shall provide by regulation for the creation, maintenance and retention of pupil records and for the security thereof and access thereto, to provide general protection for the right of the pupil to be supplied with necessary information about herself or himself, the right of the parent or guardian and the adult pupil to be supplied with full information about the pupil, except as may be inconsistent with reasonable protection of the persons involved, the right of both pupil and parent or guardian to reasonable privacy as against other persons and the opportunity for the public schools to have the data necessary to provide a thorough and efficient educational system for all pupils.

No liability shall attach to any member, officer or employee of any board of education for the furnishing of any pupil records consistent with this act and the regulations adopted hereunder.

L.1967, c.271; amended by L.1977, c. 346, s. 1.

18A:36-19a. Student records

1. The chief school administrator or the administrator's designee of any local school district that enrolls a new student shall request, in writing, the student's records from the school district of last attendance within two weeks from the date that the student enrolls in the new school district. The school district of last attendance shall provide to the receiving district all information in the student's record related to disciplinary actions taken against the student by the district and notify the receiving district if it has obtained any information pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60). Written consent of the parent or adult student shall not be required as a condition of transfer of this information; however, written notice of the transfer shall be provided to the parent or adult student. Additionally, the school district shall obtain proper identification of any new student such as a certified copy of the student's certificate of birth.

L.1986,c.160,s.1; amended 2002, c.63, s.1.

18A:36-19.1. Military recruitment in public schools

Local school districts in New Jersey are directed to establish policies which would provide military recruiters the same access to school facilities and student information directories that is provided to educational and occupational recruiters pursuant to

regulations adopted by the State Board of Education pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.). These regulations shall be adopted within 180 days of the effective date of this act. The policies should be consistent with State and federal right to privacy laws.

L. 1985, c. 51, s. 1, eff. Feb. 21, 1985.

18A:36-19.2. School locker inspection

The principal or other official designated by the local board of education may inspect lockers or other storage facilities provided for use by students so long as students are informed in writing at the beginning of each school year that inspections may occur.

L. 1985, c. 198, s. 1, eff. June 26, 1985.

18A:36-20. Discrimination; prohibition

No pupil in a public school in this State shall be discriminated against in admission to, or in obtaining any advantages, privileges or courses of study of the school by reason of race, color, creed, sex or national origin.

L.1973, c. 380, s. 1, eff. Jan. 14, 1974.

18A:36-21. Field trips; costs to be borne by parents or guardians, exceptions, financial hardship

Any board of education may authorize field trips for which all or part of the costs are borne by the pupils' parents or legal guardians, with the exception of pupils in special education classes and pupils with financial hardship. In determining financial hardship the criteria shall be the same as the Statewide eligibility standards for free and reduced price meals under the State school lunch program (N.J.A.C. 6:79-1.1 et seq.).

L.1980, c. 49, s. 1, eff. June 26, 1980.

18A:36-22. "Field trip" defined

As used in this act "field trip" means a journey by a group of pupils, away from the school premises, under the supervision of a teacher.

L.1980, c. 49, s. 2, eff. June 26, 1980.

18A:36-23. No student prohibited from attending field trip

No student shall be prohibited from attending a field trip due to inability to pay the fee regardless of whether or not they have met the financial hardship requirements set forth in section 1 of this act.

L.1980, c. 49, s. 3, eff. June 26, 1980.

18A:36-24. Missing children; legislative findings and declarations

The legislature finds and declares:

- a. That there is a growing recognition of the prevalence and consequences of child abuse.
- b. That the removal of children from school constitutes a deprivation in itself and may be an indicator of even more grievous abuses.
- c. That the public schools can and should provide an early warning to the appropriate authorities when a child appears to be missing from the educational system.

L.1984, c. 228, s. 1, eff. Dec. 28, 1984.

18A:36-25. Early detection of missing and abused children; policies of school districts

All school districts shall be required to establish policies designed to provide for the early detection of missing and abused children. These policies shall include provisions for the notification of the appropriate law enforcement and child welfare authorities when a potential missing or abused child situation is detected. This provision shall be complied with no later than March 1, 1985.

L.1984, c. 228, 2, eff. Dec. 28, 1984.

18A:36-25.1. Certified copy of birth certificate required for enrollment in school, records

4. a. When a child is enrolled in a school district for the first time, the superintendent shall require the child's parent or legal guardian to provide a certified copy of the child's birth certificate or other proof of the child's identity, within 30 days of enrollment. If the child's parent or legal guardian refuses to comply with the requirement in this section, the superintendent shall notify the parent or guardian, in writing, that the matter will be referred to a law enforcement agency if the proof of identity is not provided within 10 days of the notice.

b. When a child transfers from one school district to another, the receiving school district shall obtain the child's school record from the district from which the child has transferred, within 14 days of enrollment. The school district of last attendance shall provide to the receiving district all information in the child's record

related to disciplinary actions taken against the child by the district and notify the receiving district if it has obtained any information pursuant to section 1 of P.L.1982, c.79 (C.2A:4A-60). Written consent of the parent or adult pupil shall not be required as a condition of transfer of this information; however, written notice of the transfer shall be provided to the parent or adult pupil. If the record has been marked pursuant to section 2 of P.L.1995, c.395 (C.52:17B-9.8b), the transferring school district shall forward the record to the receiving school district and immediately notify the Missing Persons Unit in the Department of Law and Public Safety established pursuant to section 2 of P.L.1983, c.467 (C.52:17B-9.7).

L.1995,c.395,s.4; amended 2002, c.63, s.2.

18A:36-25.2 Investigation, reporting of certain pupil absences, transfers.

1. a. If any child enrolled in a school district has an unexcused absence from school for five consecutive school days, the attendance officer of the district shall investigate the absence and notify the district superintendent of the absence. In the event the investigation leads the district superintendent to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21), the district superintendent shall then notify the Division of Youth and Family Services in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted.

b. When a child's parent, guardian or other person having charge and control of the child notifies a school district that the child will be withdrawing from the district and transferring to another school district, the principal of the school from which the child is withdrawing shall request that the parent, guardian or other person having charge and control of the child provide the principal with the name and location of the school district in which the child will subsequently be enrolled and the expected date of enrollment. The principal shall provide the information supplied by the parent, guardian or other person having charge and control of the child to the district superintendent. Five school days following the expected date of enrollment, the superintendent of the district of last attendance shall contact the school district in which the child is to be subsequently enrolled to determine if the child has enrolled in the district. If the child has not been so enrolled, the attendance officer of the transfer district shall investigate the failure to enroll and notify the superintendent of the transfer district of the failure to enroll. In the event the investigation leads the superintendent of the transfer district to have reasonable cause to believe the child has been abused or neglected as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21), the superintendent of the transfer district shall then notify the Division of Youth and Family Services in the Department of Children and Families for its determination of whether the division is or has been involved with the child and whether action, as appropriate, is warranted. If the child has been so enrolled, the district of last attendance and the transfer district shall arrange for the transfer of the child's records in accordance with the provisions of section 1 of P.L.1986, c.160 (C.18A:36-19a) and subsection b. of section 4 of P.L.1995, c.395 (C.18A:36-25.1).

c. School district policies for the early detection of missing and abused children required pursuant to section 2 of P.L.1984, c.228 (C.18A:36-25) shall include provisions to implement the requirements of this section.

L.2007, c.248, s.1.

18A:36-25.3 Rules, regulations.

2. The Commissioner of Education, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Commissioner of Children and Families shall adopt rules and regulations necessary to effectuate the purposes of this act.

L.2007, c.248, s.2.

18A:36-26. Compliance with act

The Department of Education, pursuant to its authority under P.L. 1975, c. 212 (C. 18A:7A-1 et seq.), shall ensure compliance with this act.

L.1984, c. 228, s. 3, eff. Dec. 28, 1984.

18A:36-27. Voting information

The board of education of each school district and the appropriate school officials in each nonpublic school shall provide a voter registration form and material describing the role of a citizen and the importance of voting to each eligible high school pupil in conjunction with the voter registration drive conducted by each county commissioner of registration pursuant to R.S. 19:31-2. This material shall be nonpartisan and conform to the provisions of N.J.S. 18A:42-4.

L. 1985, c. 41, s. 1, eff. Feb. 7, 1985.

18A:36-28. Rules, regulations

The Commissioner of Education 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 this act.

L. 1985, c. 41, s. 2, eff. Feb. 7, 1985.

18A:36-29. Fingerprinting of students

The sheriff of each county shall work in conjunction with local law enforcement officials and local boards of education to provide a fingerprint program for the protection of its students. The sheriff shall visit each public school and shall, at the request of a parent or guardian or temporary caretaker, provide each student in any grades from kindergarten through nine with the opportunity to have the student's fingerprints taken as provided in this act.

L. 1985, c. 100, s. 1, eff. Sept. 1, 1985.

18A:36-30. Assistance of school officials; authorization

a. Public school officials shall cooperate with sheriffs and local law enforcement officials in setting dates for fingerprinting pupils pursuant to this act and providing school facilities and personnel to assist in the fingerprinting process.

b. No pupil shall be fingerprinted unless the signed authorization section of the fingerprint card is completed by the student's parent or guardian or temporary caretaker.

c. School officials shall notify the parents or guardians or temporary caretakers of eligible pupils of the date set for the fingerprinting program at the school at least two weeks prior thereto. For purposes of this subsection, "eligible pupils" means pupils who have not been fingerprinted previously pursuant to this act.

L. 1985, c. 100, s. 2, eff. Sept. 1, 1985.

18A:36-31. Fingerprint card

a. Fingerprinting pursuant to this act shall be done on a fingerprint card provided by the sheriff or local law enforcement officials. Fingerprints shall be recorded on an eight by eight inch seven mil paper card stock, with the grain running from left to right. In addition to fingerprints, the card shall contain the following information: name, address, race, sex, date of birth, birthplace, height, weight, color of hair, color of eyes, complexion, scars and the name of the parent or guardian of the pupil. The fingerprint card shall contain a place for rolled and plain impressions as presently utilized on standard fingerprint cards. Sufficient space shall be provided on the back of the card for palm prints, should they be necessary. The card shall also provide for the voluntary written consent of the student's parent or guardian or temporary caretaker and for the signature of the person taking the fingerprints, his department and the date the fingerprints were taken. The sheriff's office and local law enforcement officials shall not retain any fingerprint cards for their own records and shall not imprint or duplicate the fingerprints of a pupil except as provided in this act.

b. Completed fingerprint cards shall be given to the pupil's parent or guardian or temporary caretaker.

c. Each school district shall provide an orientation program conducted by certified school staff for the students for whom fingerprinting has been requested to ensure that the students can more readily understand its purposes.

d. Any fingerprint that becomes smudged in the process of imprinting or is otherwise indistinct shall immediately be destroyed and a new fingerprint shall be imprinted.

L. 1985, c. 100, s. 3, eff. Sept. 1, 1985.

18A:36-32. Fine for permitting cigarette machines on school property

Any person who, acting as an agent or otherwise, permits the operation, installation, or maintenance of coin-operated vending machines that dispense cigarettes on any property used for school purposes which is owned by any school board shall be punished by a fine of \$250.

L.1989, c.225, s.6.

18A:36-33 Pupils serving as district board of election members, excused absence

1. Notwithstanding any law, rule or regulation to the contrary, any pupil of any public school who serves as a member of a district board of election on the day of any election, pursuant to R.S.19:6-1 et seq., and attends required instructional sessions related to such membership, pursuant to R.S.19:50-1 et seq., shall have his or her absence for those reasons recorded as excused absences on that pupil's attendance record or on that of any group or class of which the pupil is a member upon the presentation of such documentation as the superintendent or administrative principal, as the case may be, deems necessary to prove the pupil served as a member of a district board on the day of an election or attended required instructional sessions.

L.2001,c.271.

18A:36-34. School surveys, certain, parental consent required before administration

1. a. Unless a school district receives prior written informed consent from a student's parent or legal guardian and provides for a copy of the document to be available for viewing at convenient locations and time periods, the school district shall not administer to a student any academic or nonacademic survey, assessment, analysis or evaluation which reveals information concerning:

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or the student's family;
- (3) sexual behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom a respondent has a close family relationship;
- (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- (7) income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program; or
- (8) social security number.

b. The school district shall request prior written informed consent at least two weeks prior to the administration of the survey, assessment, analysis or evaluation.

c. A student shall not participate in any survey, assessment, analysis or evaluation that concerns the issues listed in subsection a. of this section unless the school district has obtained prior written informed consent from that student's parent or guardian.

d. A school district that violates the provisions of this act shall be subject to such monetary penalties as determined by the commissioner.

L.2001,c.364.

18A:36-35 Disclosure of certain student information on Internet prohibited without parental consent.

1. The board of education of each school district and the board of trustees of each charter school that establishes an Internet web site, shall not disclose on that web site any personally identifiable information about a student without receiving prior written consent from the student's parent or guardian on a form developed by the Department of Education. The written consent form shall contain a statement concerning the potential dangers of personally identifiable information about individual students on the Internet.

As used in this act, "personally identifiable information" means student names, student photos, student addresses, student e-mail addresses, student phone numbers, and locations and times of class trips.

L.2001,c.402,s.1.

18A:36-36 Pupil information, certain, classroom materials; rules.

1. a. A pupil in a public school shall not be required to supply information regarding the pupil's race, ethnicity, migrant status or economically disadvantaged status on any materials distributed in class.

b. Materials distributed to a pupil in a public school shall not include any obvious indicators of the pupil's race, ethnicity, migrant status or economically disadvantaged status; except that the school district may use identification numbers or other methods of identification after the collection of the materials

c. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

L.2002,c.92,s.1.

18A:36-37 "Student-athlete" defined, rules for maintenance of amateur status; violations, penalties.

1. a. As used in this section, "student-athlete" means any student enrolled in a public or nonpublic secondary school in this State who is a participant in an interscholastic athletic program governed by the rules of the New Jersey State Interscholastic Athletic Association.

b. No person shall give, offer, promise or attempt to give to any student-athlete, whether directly or indirectly, any gift, favor, service, employment or other

thing of value which the person knows or has reason to know would, if accepted, subject that student-athlete to being ruled ineligible to participate as an amateur-athlete under the rules established by the New Jersey State Interscholastic Athletic Association. A person who violates the provisions of this subsection shall be subject to a civil penalty of not less than \$1,000 and not more than \$10,000, for each violation, which shall be collected in a summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in the Superior Court or any municipal court.

c. The board of education of each school district or the chief school administrator of each nonpublic school shall annually notify each student-athlete under the jurisdiction of the school district or nonpublic school of the provisions of this section and of the New Jersey State Interscholastic Athletic Association's rules regarding eligibility.

d. The notice required by subsection c. of this section shall be:

(1) written;

(2) in language understandable by a secondary school student;

(3) based on model language developed by the New Jersey State Interscholastic Athletic Association; and

(4) communicated via regular or electronic mail, sent home with the student or published in a student handbook.

L.2005,c.364.

18A:36-38 Classroom placement of twins, higher multiples, selection by parent, guardian.

1. a. (1) A parent or guardian of twins or higher order multiples enrolled in the same K through 8grade level at the same public school may request that the children be placed in the same classroom or in separate classrooms. The school principal may recommend a classroom placement to the parent or guardian and may provide the parent or guardian with professional education advice that will assist the parent or guardian in making the best decision for the children's education. The parent or guardian shall request the classroom placement in writing no later than 14 days after the first day of each school year. The school principal shall provide the classroom placement requested by the parent or guardian and the students shall remain in this initial placement for the duration of the school year unless the board of education makes a different classroom placement determination pursuant to the provisions of subsection b. of this section.

In the event that the twins or higher order multiples enroll in the school after the school year commences, the parent or guardian shall request the classroom placement in writing no later than 14 days after the first day of attendance. The school principal shall provide the classroom placement requested by the parent or guardian if space is available in accordance with written local district class size requirements and the students shall remain in this initial placement for the duration of the school year unless the board of education makes a different classroom placement determination pursuant to the provisions of subsection b. of this section.

(2) A parent or guardian of twins or higher order multiples enrolled in the same 9 through 12 grade level at the same public school may request that the children be placed in the same classroom or in separate classrooms. The placement decision shall be made at the discretion of the school principal in the best interests of the school and its students. The parent or guardian may appeal the school principal's decision to the board of education, which shall make a final determination on the placement.

b. A school principal may, after consultation with the students' parent or guardian and teachers at the end of the initial grading period, request that the board of education make a different classroom placement determination for the twins or higher order multiples if the initial classroom placement is determined to be disruptive to any of the students in the class or classes in which the students are enrolled or if the principal concludes that the initial placement does not sufficiently support the students' academic or social development. Upon receiving the request, the board of education shall make a final classroom placement determination.

c. As used in this section, "higher order multiples" means triplets, quadruplets, quintuplets, or larger group of siblings born at one birth.

d. The provisions of this section shall not apply to a school district which maintains only a single classroom for the grade level in which the twins or higher order multiples are enrolled.

e. The parent or guardian shall be responsible for any additional pupil transportation costs that are incurred by the school district as a result of providing the requested classroom placement, unless the school district is in agreement with the placement.

f. In the event that one of the twins or higher order multiples receives special education services, the requested classroom placement shall not be accommodated if the placement is inconsistent with a student's Individualized Education Plan.

L.2008, c.70, s.1.

18A:36A-1. Short title

1. This act shall be known and may be cited as the "Charter School Program Act of 1995."

L.1995,c.426,s.1.

18A:36A-2. Findings, declarations relative to establishment of charter schools

2. The Legislature finds and declares that the establishment of charter schools as part of this State's program of public education can assist in promoting comprehensive educational reform by providing a mechanism for the implementation of a variety of educational approaches which may not be available in the traditional public school classroom. Specifically, charter schools offer the potential to improve pupil learning; increase for students and parents the educational choices available when selecting the learning environment which they feel may be the most appropriate; encourage the use of different and innovative learning methods; establish a new form of accountability for schools; require the measurement of learning outcomes; make the school the unit for educational improvement; and establish new professional opportunities for teachers.

The Legislature further finds that the establishment of a charter school program is in the best interests of the students of this State and it is therefore the public policy of the State to encourage and facilitate the development of charter schools.

L.1995,c.426,s.2.

18A:36A-3. Charter school program established

3. a. The Commissioner of Education shall establish a charter school program which shall provide for the approval and granting of charters to charter schools pursuant to the provisions of this act. A charter school shall be a public school operated under a charter granted by the commissioner, which is operated independently of a local board of education and is managed by a board of trustees. The board of trustees, upon receiving a charter from the commissioner, shall be deemed to be public agents authorized by the State Board of Education to supervise and control the charter school.

b. The program shall authorize the establishment of not more than 135 charter schools during the 48 months following the effective date of this act. A minimum of three charter schools shall be allocated to each county. The commissioner shall actively encourage the establishment of charter schools in urban school districts with the participation of institutions of higher education.

L.1995,c.426,s.3.

18A:36A-4. Establishment of charter school

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents. A charter school may also be established by an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school. A private or parochial school shall not be eligible for charter school status.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least 51% of the teaching staff in the school shall have signed a petition in support of the school becoming a charter school; and

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. An application to establish a charter school shall be submitted to the commissioner and the local board of education or State superintendent, in the case of a State-operated school district, in the school year preceding the school year in which the charter school will be established. Notice of the filing of the application shall be sent immediately by the commissioner to the members of the State Legislature, school superintendents, and mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school. The board of education or State superintendent shall review the application and forward a recommendation to the commissioner within 60 days of receipt of the application. The commissioner shall have final authority to grant or reject a charter application.

d. The local board of education or a charter school applicant may appeal the decision of the commissioner to the State Board of Education. The State board shall render a decision within 30 days of the date of the receipt of the appeal. If the State

board does not render a decision within 30 days, the decision of the commissioner shall be deemed final.

e. A charter school established during the 48 months following the effective date of this act, other than a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, shall not have an enrollment in excess of 500 students or greater than 25% of the student body of the school district in which the charter school is established, whichever is less.

Any two charter schools within the same public school district that are not operating the same grade levels may petition the commissioner to amend their charters and consolidate into one school. The commissioner may approve an amendment to consolidate, provided that the basis for consolidation is to accommodate the transfer of students who would otherwise be subject to the random selection process pursuant to section 8 of P.L.1995, c.426 (C.18A:36A-8).

L.1995,c.426,s.4; amended 2000, c.142, s.1; 2002, c.123.

18A:36A-5. Application for charter school

5. The application for a charter school shall include the following information:

a. The identification of the charter applicant;

b. The name of the proposed charter school;

c. The proposed governance structure of the charter school including a list of the proposed members of the board of trustees of the charter school or a description of the qualifications and method for the appointment or election of members of the board of trustees;

d. The educational goals of the charter school, the curriculum to be offered, and the methods of assessing whether students are meeting educational goals. Charter school students shall be required to meet the same testing and academic performance standards as established by law and regulation for public school students. Charter school students shall also meet any additional assessment indicators which are included within the charter approved by the commissioner;

e. The admission policy and criteria for evaluating the admission of students which shall comply with the requirements of section 8 of this act;

f. The age or grade range of students to be enrolled;

g. The school calendar and school day schedule;

h. A description of the charter school staff responsibilities and the proposed qualifications of teaching staff;

i. A description of the procedures to be implemented to ensure significant parental involvement in the operation of the school;

j. A description of, and address for, the physical facility in which the charter school will be located;

k. Information on the manner in which community groups will be involved in the charter school planning process;

l. The financial plan for the charter school and the provisions which will be made for auditing the school pursuant to the provisions of N.J.S.18A:23-1;

m. A description of and justification for any waivers of regulations which the charter school will request; and

n. Such other information as the commissioner may require.

L.1995,c.426,s.5.

18A:36A-6. Powers of charter school

6. A charter school established pursuant to the provisions of this act shall be a body corporate and politic with all powers necessary or desirable for carrying out its charter program, including, but not limited to, the power to:

a. Adopt a name and corporate seal; however, any name selected shall include the words "charter school;"

b. Sue and be sued, but only to the same extent and upon the same conditions that a public entity can be sued;

c. Acquire real property from public or private sources, by purchase, lease, lease with an option to purchase, or by gift, for use as a school facility;

d. Receive and disburse funds for school purposes;

- e. Make contracts and leases for the procurement of services, equipment and supplies;
- f. Incur temporary debts in anticipation of the receipt of funds;
- g. Solicit and accept any gifts or grants for school purposes; and
- h. Have such other powers as are necessary to fulfill its charter and which are not inconsistent with this act or the requirements of the commissioner.

The board of trustees of a charter school shall comply with the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

L.1995,c.426,s.6.

18A:36A-7. Student admissions to charter school

7. A charter school shall be open to all students on a space available basis and shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, proficiency in the English language, or any other basis that would be illegal if used by a school district; however, a charter school may limit admission to a particular grade level or to areas of concentration of the school, such as mathematics, science, or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

L.1995,c.426,s.7.

18A:36A-8. Enrollment preference

8. a. Preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. If there are more applications to enroll in the charter school than there are spaces available, the charter school shall select students to attend using a random selection process. A charter school shall not charge tuition to students who reside in the district.

b. A charter school shall allow any student who was enrolled in the school in the immediately preceding school year to enroll in the charter school in the appropriate grade unless the appropriate grade is not offered at the charter school.

c. A charter school may give enrollment priority to a sibling of a student enrolled in the charter school.

d. If available space permits, a charter school may enroll non-resident students. The terms and condition of the enrollment shall be outlined in the school's charter and approved by the commissioner.

e. The admission policy of the charter school shall, to the maximum extent practicable, seek the enrollment of a cross section of the community's school age population including racial and academic factors.

L.1995,c.426,s.8.

18A:36A-9. Withdrawal, expulsion from charter school

9. A student may withdraw from a charter school at any time. A student may be expelled from a charter school based on criteria determined by the board of trustees, which are consistent with the provisions of N.J.S.18A:37-2, and approved by the commissioner as part of the school's charter. Any expulsion shall be made upon the recommendation of the charter school principal, in consultation with the student's teachers.

L.1995,c.426,s.9.

18A:36A-10. Location of charter school

10. A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. The facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils. A charter school shall not construct a facility with public funds other than federal funds.

L.1995,c.426,s.10; amended 2002, c.10.

18A:36A-11 Operation of charter school.

11. a. A charter school shall operate in accordance with its charter and the provisions of law and regulation which govern other public schools; except that, upon the request of the board of trustees of a charter school, the commissioner may exempt the school from State regulations concerning public schools, except those pertaining to assessment, testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the commissioner that the exemption will advance the educational goals and objectives of the school.

b. A charter school shall comply with the provisions of chapter 46 of Title 18A of the New Jersey Statutes concerning the provision of services to handicapped students;

except that the fiscal responsibility for any student currently enrolled in or determined to require a private day or residential school shall remain with the district of residence.

Within 15 days of the signing of the individualized education plan, a charter school shall provide notice to the resident district of any individualized education plan which results in a private day or residential placement. The resident district may challenge the placement within 30 days in accordance with the procedures established by law.

c. A charter school shall comply with applicable State and federal anti-discrimination statutes.

L.1995, c.426, s.11; amended 2007, c.260, s.57.

18A:36A-12 Per pupil payments to charter schools.

12. a. (Deleted by amendment, P.L.2007, c.260).

b. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the district an amount equal to 90% of the sum of the budget year equalization aid per pupil and the prebudget year general fund tax levy per pupil inflated by the CPI rate most recent to the calculation. In addition, the school district of residence shall pay directly to the charter school the security categorical aid attributable to the student and a percentage of the district's special education categorical aid equal to the percentage of the district's special education students enrolled in the charter school and, if applicable, 100% of preschool education aid. The district of residence shall also pay directly to the charter school any federal funds attributable to the student.

c. (Deleted by amendment, P.L.2007, c.260).

d. Notwithstanding the provisions of subsection b. of this section, in the case of a student who was not included in the district's projected resident enrollment for the school year, the State shall pay 100% of the amount required pursuant to subsection b. of this section for the first year of the student's enrollment in the charter school.

e. The State shall make payments required pursuant to subsection d. of this section directly to the charter school.

L.1995, c.426, s.12; amended 2000, c.142, s.2; 2007, c.260, s.58.

18A:36A-13. Transportation for students

13. The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Non-resident students shall receive transportation services pursuant to regulations established by the State board.

L.1995,c.426,s.13.

18A:36A-14. Authority of board of trustees; employees

14. a. The board of trustees of a charter school shall have the authority to decide matters related to the operations of the school including budgeting, curriculum, and operating procedures, subject to the school's charter. The board shall provide for appropriate insurance against any loss or damage to its property or any liability resulting from the use of its property or from the acts or omissions of its officers and employees.

b. In the case of a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, all school employees of the charter school shall be deemed to be members of the bargaining unit defined in the applicable agreement and shall be represented by the same majority representative organization as the employees covered by that agreement. In the case of other charter schools, the board of trustees of a charter school shall have the authority to employ, discharge and contract with necessary teachers and nonlicensed employees subject to the school's charter. The board of trustees may choose whether or not to offer the terms of any collective bargaining agreement already established by the school district for its employees, but the board shall adopt any health and safety provisions of the agreement. The charter school and its employees shall be subject to the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.). A charter school shall not set a teacher salary lower than the minimum teacher salary specified pursuant to section 7 of P.L.1985, c.321 (C.18A:29-5.6) nor higher than the highest step in the salary guide in the collective bargaining agreement which is in effect in the district in which the charter school is located.

c. All classroom teachers and professional support staff shall hold appropriate New Jersey certification. The commissioner shall make appropriate adjustments in the alternate route program in order to expedite the certification of persons who are qualified by education and experience.

d. A public school employee, tenured or non-tenured, may request a leave of absence of up to three years from the local board of education or State district superintendent in order to work in a charter school. Approval for a leave of absence shall not be unreasonably withheld. Employees on a leave of absence as provided herein shall remain in, and continue to make contributions to, their retirement plan during the time of the leave and shall be enrolled in the health benefits plan of the district in which the charter school is located. The charter school shall make any required employer's contribution to the district's health benefits plan.

e. Public school employees on a leave shall not accrue tenure in the public school system but shall retain tenure, if so applicable, and shall continue to accrue seniority, if so applicable, in the public school system if they return to their non-charter school when the leave ends. An employee of a charter school shall not accrue tenure pursuant to N.J.S.18A:17-2, N.J.S.18A:17-3, or N.J.S.18A:28-5, but shall acquire streamline tenure pursuant to guidelines promulgated by the commissioner, and the charter shall specify the security and protection to be afforded to the employee in accordance with the guidelines.

f. Any public school employee who leaves or is dismissed from employment at a charter school within three years shall have the right to return to the employee's former position in the public school district which granted the leave of absence, provided the employee is otherwise eligible for employment in the public school.

L.1995,c.426,s.14.

18A:36A-15. Complaints to board of trustees

15. Any individual or group may bring a complaint to the board of trustees of a charter school alleging a violation of the provisions of this act. If, after presenting the complaint to the board of trustees, the individual or group determines that the board of trustees has not adequately addressed the complaint, they may present that complaint to the commissioner who shall investigate and respond to the complaint. The board shall establish an advisory grievance committee consisting of both parents and teachers who are selected by the parents and teachers of the school to make nonbinding recommendations to the board concerning the disposition of a complaint.

L.1995,c.426,s.15.

18A:36A-16 Annual assessment, review of charter schools, independent study, report, recommendations.

16. a. The commissioner shall annually assess whether each charter school is meeting the goals of its charter, and shall conduct a comprehensive review prior to granting a renewal of the charter. The county superintendent of schools of the county in which the charter school is located shall have on-going access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and that State board regulations concerning assessment, testing, civil rights, and student health and safety are being met.

b. In order to facilitate the commissioner's review, each charter school shall submit an annual report to the local board of education, the county superintendent of schools, and the commissioner in the form prescribed by the commissioner. The report shall be received annually by the local board, the county superintendent, and the commissioner no later than August 1.

The report shall also be made available to the parent or guardian of a student enrolled in the charter school.

c. By April 1, 2001, the commissioner shall hold public hearings in the north, central, and southern regions of the State to receive input from members of the educational community and the public on the charter school program.

d. The commissioner shall commission an independent study of the charter school program. The study shall be conducted by an individual or entity identified with expertise in the field of education and the selection shall be approved by the Joint Committee on the Public Schools. The individual or entity shall design a comprehensive study of the charter school program.

e. The commissioner shall submit to the Governor, the Legislature, and the State Board of Education by October 1, 2001 an evaluation of the charter school program based upon the public input required pursuant to subsection c. of this section and the independent study required pursuant to subsection d. of this section. The evaluation shall include, but not be limited to, consideration of the following elements:

(1) the impact of the charter school program on resident districts' students, staff, parents, educational programs, and finances;

(2) the impact of the charter school program and the increased number of schools on the economics of educational services on a Statewide basis;

(3) the fairness and the impact of the reduction of available resources on the ability of resident districts to promote competitive educational offerings;

(4) the impact of the shift of pupils from nonpublic schools to charter schools;

(5) the comparative demographics of student enrollments in school districts of residence and the charter schools located within those districts. The comparison shall include, but not be limited to, race, gender, socioeconomic status, enrollment of special education students, enrollment of students of limited English proficiency, and student progress toward meeting the core curriculum content standards as measured by student results on Statewide assessment tests;

(6) the degree of involvement of private entities in the operation and financial support of charter schools, and their participation as members of charter school boards of trustees;

(7) verification of the compliance of charter schools with applicable laws and regulations;

(8) student progress toward meeting the goals of the charter schools;

(9) parent, community and student satisfaction with charter schools;

(10) the extent to which waiting lists exist for admission to charter schools and the length of those lists;

(11) the extent of any attrition among student and faculty members in charter schools; and

(12) the results of the independent study required pursuant to subsection d. of this section.

The evaluation shall include a recommendation on the advisability of the continuation, modification, expansion, or termination of the program. If the evaluation does not recommend termination, then it shall include recommendations for changes in the structure of the program which the commissioner deems advisable. The commissioner may not implement any recommended expansion, modification, or termination of the program until the Legislature acts on that recommendation.

L.1995,c.426,s.16; amended 2000,c.142,s.3.

18A:36A-17. Granting, renewal of charter

17. A charter granted by the commissioner pursuant to the provisions of this act shall be granted for a four-year period and may be renewed for a five-year period. The commissioner may revoke a school's charter if the school has not fulfilled any condition imposed by the commissioner in connection with the granting of the charter or if the school has violated any provision of its charter. The commissioner may place the charter school on probationary status to allow the implementation of a remedial plan after which, if the plan is unsuccessful, the charter may be summarily revoked. The commissioner shall develop procedures and guidelines for the revocation and renewal of a school's charter.

L.1995,c.426,s.17.

18A:36A-17.1 Commissioner's actions relative to possible loss, not granting of charter.

4. If at any time the commissioner determines that a board of trustees is in jeopardy of losing its charter or an applicant is in jeopardy of not being granted a charter, the commissioner shall so notify the board of trustees or the applicant. The board of trustees or the applicant shall, within 48 hours of receipt of such notification, provide to the commissioner, in writing, a complete list of the names and addresses of all students and staff currently enrolled and working in the school, or in the case of an applicant, a complete list of the names and addresses of all students and staff intending to enroll or work at the school, so the commissioner may send the appropriate notice to the parents or guardians and staff.

L.2000,c.142,s.4.

18A:36A-18. Rules, regulations

18. The State Board of 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 provisions of this act.

L.1995,c.426,s.18.

18A:36B-1 Short title.

1. This act shall be known and may be cited as the "Interdistrict Public School Choice Program Act of 1999."

L.1999,c.413,s.1; per s.17, section expires June 30, 2006.

18A:36B-2 Definitions relative to the interdistrict public school choice program.

2. As used in this act:

"Choice district" means a public school district, established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, which is authorized under the interdistrict public school choice program to open a school or schools to students from sending districts;

"Commissioner" means the Commissioner of Education;

"Receiving district" means the district receiving a student from a sending district;

"Sending district" means the district of residence of a student.

L.1999,c.413,s.2; per s.17, section expires June 30, 2006.

18A:36B-3 Interdistrict public school choice program.

3. The Commissioner of Education shall establish an interdistrict public school choice program which shall provide for the creation of choice districts as follows: for the first year of the program, no more than 10 choice districts Statewide and no more than one per county; for the second year, no more than 15 choice districts Statewide and no more than one per county; and for the third, fourth and fifth years, no more than 21 choice districts Statewide and no more than one per county A choice district may enroll students across district lines in designated schools of the choice district.

L.1999,c.413,s.3; per s.17, section expires June 30, 2006.

18A:36B-4 Application process; commissioner's actions to provide diversity in program.

4. a. A proposed choice district shall submit an application to the commissioner no later than April 30 in the year prior to the school year in which the choice program will be implemented; except that for the first year of implementation of the program the application shall be submitted no later than the date specified by the commissioner. The application shall include, but not be limited to, the following information:

(1) a description of programs and schools and the number of student openings in each school identified by grade level which are available for selection;

(2) the provision for the creation of a parent information center;

(3) a description of the student application process and any criteria required for admission;

(4) an analysis of the potential impact of the program on student population diversity in all potential participating districts and a plan for maintaining diversity in all potential participating districts, which plan shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan; and

(5) the provision for screening out students during the application process who wish to attend a school for athletic, extracurricular or social reasons.

The commissioner shall notify a choice district of the approval or disapproval of its application no later than July 30, and the reasons for disapproval shall be included in the notice. An appeal of any determination by the commissioner not to grant an application for participation in the choice program may be filed by a school district with the State Board of Education.

b. The commissioner may take appropriate action, consistent with State and federal law, to provide that student population diversity in all districts participating in a choice district program is maintained. Student population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The actions may include, but not be limited to:

(1) directing a choice district to take appropriate steps to successfully implement the district's plan for maintaining student population diversity;

(2) restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and

(3) revoking approval of the choice district. Any choice student who is attending a designated school in a choice district at the time of the commissioner's revocation of approval shall be entitled to continue to be enrolled in that school until graduation.

L.1999,c.413,s.4; per s.17, section expires June 30, 2006.

18A:36B-5 Application evaluated.

5. The commissioner shall evaluate an application submitted by a proposed choice district according to the following criteria:

a. the fiscal impact on the district;

- b. the quality and variety of academic programs offered within the district;
- c. the potential effectiveness of the student application process and of the admissions criteria utilized;
- d. the impact on student population diversity in the district; and
- e. the degree to which the program will promote or reduce educational quality in the choice district and the sending districts.

L.1999,c.413,s.5; per s.17, section expires June 30, 2006.

18A:36B-6 Approval conditions.

16. Any school choice district established by the commissioner prior to the effective date of this act is authorized to continue operation as if the choice district had been approved pursuant to the provisions of this act. The commissioner shall not, prior to the effective date of section 11 of this act, approve any additional choice districts or modify or increase the scope of the interdistrict public school choice programs in the choice districts except in conformance with sections 4 and 5 of this act.

L.1999,c.413,s.16.

18A:36B-7 Student application process.

6. a. The parents or guardian of a student shall notify the sending district of the student's intention to participate in the choice program and shall submit an application to the choice district, indicating the school the student wishes to attend, no later than the date specified by the commissioner. To be eligible to participate in the program, a student shall be enrolled at the time of application in grades K through 9 in a school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district. Openings in a designated school of a choice district shall be on a space available basis, and if more applications are received for a designated school than there are spaces available, a lottery shall be held to determine the selection of students. Preference for enrollment may be given to siblings of students who are enrolled in a designated school.

b. A choice district may evaluate a prospective student on reasonable criteria, including the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any other basis prohibited by State or federal law.

c. A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.

d. A student whose application is rejected by a choice district shall be provided with a reason for the rejection in the letter of notice. The appeal of a rejection notice may be made to the commissioner.

e. Once a student is enrolled in a designated school, the student shall not be required to reapply for each school year and shall continue to be enrolled until graduation. A student shall be permitted to transfer back to a school of the sending district or may apply to a different choice district during the next application period.

f. A choice district shall accept all of the credits earned toward graduation by a student in the schools of the sending district.

g. A choice district shall notify a sending district upon the enrollment of a choice student resident in that district.

L.1999,c.413,s.6; per s.17, section expires June 30, 2006.

18A:36B-8 State aid; enrollment restrictions.

7. a. For the purpose of calculating State aid for a choice student in a choice district, the student shall not be counted in the resident enrollment of the receiving district for the calculation of core curriculum standards aid, but shall be treated in the same manner as a student who resides in the receiving district for the purpose of calculating all other forms of State aid under the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.). The receiving district shall receive school choice aid for each choice student in the amount of the weighted per pupil T & E amount established pursuant to section 12 of P.L.1996, c.138 (C.18A:7F-12); except that for a choice student who attends a district factor group A or B receiving

district, the receiving district shall receive the weighted per pupil maximum T & E amount.

b. (1) Upon adoption of a resolution, the school board of a sending district may restrict enrollment of its students in a choice district to 2% of the number of students per grade level per year in the sending district, limited by any resolution adopted pursuant to paragraph (2) of this subsection.

(2) Upon adoption of a resolution, the school board of a sending district may restrict enrollment of its students in a choice district to 7% of the total number of students enrolled in the sending district.

(3) The school board of a sending district may adopt a resolution to exceed the enrollment restriction percentages of paragraphs (1) and (2) of this subsection to a maximum of 10% of the number of students per grade level per year limited by any resolution adopted pursuant to this paragraph and 15% of the total number of students enrolled in the sending district, provided that the resolution shall be subject to approval by the commissioner upon a determination that the resolution is in the best interest of the district's students and that it will not adversely affect the district's programs, services, operations, or fiscal conditions, and that the resolution will not adversely affect or limit the diversity of the remainder of the student population in the district who do not participate in the choice program.

(4) Enrollment restriction percentages adopted by any resolution pursuant to paragraph (1), (2), or (3) shall not be compounded from year to year and shall be based upon the enrollment counts for the year preceding the sending district's initial year of participation in the choice program, except that in any year of the program in which there is an increase in enrollment, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment at any time during the duration of the program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice program in the initial year of the district's participation in the program, provided that a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

(5) The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.

c. The school board of a sending district may restrict enrollment of a student on the basis of an exceptional circumstance that would affect the sending district's instructional program upon the adoption of a resolution detailing the reasons for the restriction. The restriction shall be subject to the approval of the commissioner.

d. A choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.18A:38-3 while participating in the public school choice program. Any student enrolled on a tuition basis prior to the establishment of the choice program shall be entitled to remain enrolled in the choice district as a choice student.

L.1999,c.413,s.7; per s.17, section expires June 30, 2006.

18A:36B-9 Transportation provided; responsible district.

8. Transportation, or aid in lieu of transportation, shall be provided to an elementary school pupil who lives more than two miles from the receiving district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the receiving district school of attendance, provided the receiving district school is not more than 20 miles from the residence of the pupil. Transportation, or aid in lieu of transportation, shall be the responsibility of the choice district.

L.1999,c.413,s.8; per s.17, section expires June 30, 2006.

18A:36B-10 Parent information center.

9. A choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school.

L.1999,c.413,s.9; per s.17, section expires June 30, 2006.

18A:36B-11 Annual reports, independent studies.

10. a. The commissioner shall annually report to the State Board of Education and the Legislature on the effectiveness of the interdistrict public school choice program. No later than June 30 following the second year of the operation of the program the report shall include a recommendation on the continuation of the program.

b. The Joint Committee on the Public Schools shall commission an independent study of the first two years of the operation of the program. The study shall be conducted by an individual or entity primarily identified with expertise in the field of

education. The individual or entity shall design a comprehensive study of the program which shall include, but not be limited to, consideration of the following:

- (1) the impact of the choice program on the sending district's students, staff, parents, educational programs, and finances;
- (2) the impact of the choice program on the choice district's students, staff, parents, educational programs, and finances; and
- (3) the impact of the choice program on student enrollment patterns.

Before undertaking the study, the Joint Committee on the Public Schools shall hold a public hearing to solicit public comments regarding all features of the study. Prior to the hearing, the committee shall disseminate a draft of the proposed study including, but not limited to, the content, procedures, criteria and methodology to be used.

c. On or before January 1 of the third year of the program, the Joint Committee on the Public Schools shall submit a report to the Legislature on the implementation of the choice program based on the study and the commissioner's annual reports to the Legislature, which report shall include a recommendation on whether the program should be continued in accordance with the provisions of section 3 of this act. If the Legislature does not act on the recommendation by the adoption of a concurrent resolution within 60 days of the Joint Committee's submission of the report, then the program shall be continued in accordance with the provisions of section 3 of this act.

L.1999,c.413,s.10; per s.17, section expires June 30, 2006.

18A:36B-12 Annual appropriations.

14. a. There shall annually be appropriated for the first two years of the choice program \$1,600,000 and annually for the third through fifth years of the program \$3,000,000, or such other amounts as may be necessary, to the Department of Education. The funds shall be distributed by the commissioner for the purpose of funding school choice aid awarded pursuant to subsection a. of section 7 of P.L.1999, c.413 (C.18A:36B-8) for choice students from a sending district that does not qualify for core curriculum standards aid pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15).

b. There shall annually be appropriated such additional amounts in core curriculum standards aid as may be necessary to prevent any increase in the local share of school districts as a result of the authorization for sending districts to count resident pupils attending a choice district in their weighted enrollment pursuant to section 13 of P.L.1996, c.138 (C.18A:7F-13).

L.1999,c.413,s.14.

18A:36B-13 Student enrolled may remain until graduation.

15. Any student enrolled in a designated school in a choice district upon the expiration of the choice program shall be entitled to remain enrolled in that school until graduation.

L.1999,c.413,s.15.

18A:37-1. Submission of pupils to authority

Pupils in the public schools shall comply with the rules established in pursuance of law for the government of such schools, pursue the prescribed course of study and submit to the authority of the teachers and others in authority over them.

L.1967, c.271.

18A:37-2. Causes for suspension or expulsion of pupils

Any pupil who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

Conduct which shall constitute good cause for suspension or expulsion of a pupil guilty of such conduct shall include, but not be limited to, any of the following:

- a. Continued and willful disobedience;
- b. Open defiance of the authority of any teacher or person, having authority over him;
- c. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;
- d. Physical assault upon another pupil;
- e. Taking, or attempting to take, personal property or money from another pupil, or from his presence, by means of force or fear;

f. Willfully causing, or attempting to cause, substantial damage to school property;

g. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other building owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;

h. Incitement which is intended to and does result in unauthorized occupation by any group of pupils or others of any part of a school or other facility owned by any school district;

i. Incitement which is intended to and does result in truancy by other pupils; and

j. Knowing possession or knowing consumption without legal authority of alcoholic beverages or controlled dangerous substances on school premises, or being under the influence of intoxicating liquor or controlled dangerous substances while on school premises.

Amended by L.1969, c. 156, s. 1, eff. Sept. 5, 1969; L.1979, c. 189, s. 1, eff. Sept. 11, 1979; L.1981, c. 59, s. 1, eff. March 3, 1981.

L.1967, c.271.

18A:37-2.1. Suspension, expulsion of pupil for assault, appeal; report

2. a. Any pupil who commits an assault, as defined pursuant to N.J.S.2C:12-1, upon a teacher, administrator, board member or other employee of a board of education, acting in the performance of his duties and in a situation where his authority to so act is apparent, or as a result of the victim's relationship to an institution of public education of this State, not involving the use of a weapon or firearm, shall be immediately suspended from school consistent with procedural due process pending suspension or expulsion proceedings before the local board of education. Said proceedings shall take place no later than 30 calendar days following the day on which the pupil is suspended. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq.

b. Whenever a teacher, administrator, board member, other employee of a board of education or a labor representative on behalf of an employee makes an allegation in writing that the board member or employee has been assaulted by a pupil, the principal shall file a written report of the alleged assault with the district's superintendent of schools. The superintendent to whom the alleged assault is reported or, if there is no superintendent in the district, the principal who received the allegation from the board member, employee, or labor representative shall report the alleged assault to the board of education of the district at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the members of the board of education, shall be kept confidential at the public board of education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to this subsection may be liable to disciplinary action by the board of education of the district.

L.1979,c.189,s.2; amended 1995, c.128, s.5; 1997, c.372.

18A:37-2.2. Offense by pupil involving assault, removal from school's regular education program

1. Any pupil who commits an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education.

For purposes of this section "assault" means those actions defined under subsection a.(1) of N.J.S.2C:12-1.

For purposes of this section "weapon" includes but is not limited to those items enumerated in subsection r. of N.J.S.2C:39-1, except a firearm as defined by N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any student that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

L.1995,c.128,s.1.

18A:37-2.3. Responsibility for removal, report

2. The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

L.1995,c.128,s.2.

18A:37-2.4. Hearing

3. a. Any pupil removed pursuant to section 1 of P.L.1995, c.128 (C.18A:37-2.2) shall be entitled to a hearing before the local board of education to determine if the pupil is guilty of committing an assault upon a teacher, administrator, board member, other employee of a school board or another student, with a weapon, on any school property, on a school bus, or at a school-sponsored function. If it is found that the pupil is not guilty of the offense the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no longer than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

L.1995,c.128,s.3.

18A:37-2.5. Determination of pupil's preparedness to return

4. The chief school administrator shall determine when the pupil is prepared to return to the regular education program in accordance with procedures to be established by the Commissioner of Education.

L.1995,c.128,s.4.

18A:37-3. Liability of parents or guardian of minor for damage to property

The parents or guardian of any minor who shall injure any public or nonpublic school property shall be liable for damages for the amount of injury to be collected by the board of education of the district or the owner of the premises in any court of competent jurisdiction, together with costs of suit.

L.1967, c.271; amended by L.1983, c. 302, s. 1, eff. Aug. 11, 1983.

18A:37-4. Suspension of pupils by teacher or principal

The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause but such suspension shall be reported forthwith by the teacher or principal so doing to the superintendent of schools of the district if there be one. The superintendent to whom a suspension is reported or if there be no superintendent in the district, the teacher or principal suspending the pupil shall report the suspension to the board of education of the district at its next regular meeting. Such teacher, principal or superintendent may reinstate the pupil prior to the second regular meeting of the board of education of the district held after such suspension unless the board shall reinstate the pupil at such first regular meeting.

L.1967, c.271; amended by L.1968, c. 295, s. 14, eff. Sept. 9, 1968.

18A:37-5. Continuation of suspension; reinstatement or expulsion

No suspension of a pupil by a teacher or a principal shall be continued longer than the second regular meeting of the board of education of the district after such suspension unless the same is continued by action of the board, and the power to reinstate, continue any suspension reported to it or expel a pupil shall be vested in each board.

L.1967, c.271.

18A:37-6. Rules, regulations

6. The State Board of Education, in consultation and cooperation with the Attorney General, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations regarding law enforcement activities on school grounds and the reporting of suspected offenses and acts of delinquency to law enforcement.

L.1994,c.56,s.6.

18A:37-6.1 Strip, body cavity searches of pupil prohibited.

1. Any teaching staff member, principal or other educational personnel shall be prohibited from conducting any strip search or body cavity search of pupil under any circumstances.

L.1997,c.242,s.1.

18A:37-7. Short title

1. This act shall be known as the "Zero Tolerance for Guns Act."

L.1995,c.127,s.1.

18A:37-8. Offense by pupil involving firearm, removal from school's regular education program

2. Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program pending a hearing before the local board of education to remove the pupil from the regular education program for a period of not less than one calendar year subject to modification on a case-by-case basis by the chief school administrator.

For the purposes of this section "firearm" means those items enumerated in N.J.S.2C:39-1f and 18 U.S.C. s.921.

Any pupil that is removed from the regular education program pursuant to this section shall be placed in an alternative education program. If placement in an alternative education program is not available, the pupil shall be provided home instruction or other suitable facilities and programs until placement is available. The provisions herein shall be construed in a manner consistent with 20 U.S.C. s.1400 et seq. Nothing herein shall be construed as prohibiting the expulsion of a pupil.

L.1995,c.127,s.2.

18A:37-9. Responsibility for removal, report

3. The principal or his or her designee shall be responsible for the removal of any pupil pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8). The principal or his or her designee shall immediately report the removal of any pupil to the district's chief school administrator. The district's chief school administrator may modify such removal of a pupil on a case-by-case basis. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

L.1995,c.127,s.3.

18A:37-10. Hearing

4. a. Any pupil removed pursuant to section 2 of P.L.1995, c.127 (C.18A:37-8) shall be entitled to a hearing before the local board of education to determine if the pupil was convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or is guilty of knowingly possessing a firearm on any school property, on a school bus or at a school-sponsored function. If it is found that the pupil is not guilty of these offenses the pupil shall be immediately returned to the regular education program.

b. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

c. The decision of the board shall be made within five days after the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

L.1995,c.127,s.4.

18A:37-11. Determination of pupil's preparedness to return

5. The chief school administrator shall determine whether the pupil is prepared to return to the regular education program or whether the pupil shall remain in an alternative education program, home instruction or other suitable facilities and programs, in accordance with procedures to be established by the Commissioner of Education.

L.1995,c.127,s.5.

18A:37-12. Nonapplicability of act

6. This act shall not apply to any pupil who has obtained the written authorization of the chief school administrator to lawfully possess a firearm while participating in a school-sponsored function. The chief school administrator shall not provide such authorization to any pupil who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

L.1995,c.127,s.6.

18A:37-13 Findings, declarations relative to adoption of harassment and bullying prevention policies.

1. The Legislature finds and declares that: a safe and civil environment in school is necessary for students to learn and achieve high academic standards; harassment, intimidation or bullying, like other disruptive or violent behaviors, is conduct that disrupts both a student's ability to learn and a school's ability to educate

its students in a safe environment; and since students learn by example, school administrators, faculty, staff, and volunteers should be commended for demonstrating appropriate behavior, treating others with civility and respect, and refusing to tolerate harassment, intimidation or bullying.

L.2002,c.83,s.1.

18A:37-14 Definitions relative to adoption of harassment and bullying prevention policies.

2. As used in this act:

"Electronic communication" means a communication transmitted by means of an electronic device, including, but not limited to, a telephone, cellular phone, computer, or pager;

"Harassment, intimidation or bullying" means any gesture, any written, verbal or physical act, or any electronic communication that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus and that:

a. a reasonable person should know, under the circumstances, will have the effect of harming a student or damaging the student's property, or placing a student in reasonable fear of harm to his person or damage to his property; or

b. has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.

L.2002, c.83, s.2; amended 2007, c.129, s.1.

18A:37-15 Adoption of policy concerning intimidation or bullying by each school district.

3. a. Each school district shall adopt a policy prohibiting harassment, intimidation or bullying on school property, at a school-sponsored function or on a school bus. The school district shall attempt to adopt the policy through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

b. A school district shall have local control over the content of the policy, except that the policy shall contain, at a minimum, the following components:

(1) a statement prohibiting harassment, intimidation or bullying of a student;

(2) a definition of harassment, intimidation or bullying no less inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-14);

(3) a description of the type of behavior expected from each student;

(4) consequences and appropriate remedial action for a person who commits an act of harassment, intimidation or bullying;

(5) a procedure for reporting an act of harassment, intimidation or bullying, including a provision that permits a person to report an act of harassment, intimidation or bullying anonymously; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) a procedure for prompt investigation of reports of violations and complaints, identifying either the principal or the principal's designee as the person responsible for the investigation;

(7) the range of ways in which a school will respond once an incident of harassment, intimidation or bullying is identified;

(8) a statement that prohibits reprisal or retaliation against any person who reports an act of harassment, intimidation or bullying and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation;

(9) consequences and appropriate remedial action for a person found to have falsely accused another as a means of retaliation or as a means of harassment, intimidation or bullying;

(10) a statement of how the policy is to be publicized, including notice that the policy applies to participation in school-sponsored functions; and

(11) a requirement that the policy be posted on the school district's website and distributed annually to parents and guardians who have children enrolled in a school in the school district.

c. A school district shall adopt a policy and transmit a copy of its policy to the appropriate county superintendent of schools by September 1, 2003.

d. To assist school districts in developing policies for the prevention of harassment, intimidation or bullying, the Commissioner of Education shall develop a model policy applicable to grades kindergarten through 12. This model policy shall be issued no later than December 1, 2002.

e. Notice of the school district's policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

L.2002, c.83, s.3; amended 2007, c.303, s.7.

18A:37-15.1 "Electronic communication" included in school districts' harassment and bullying prevention policy.

2. a. A school district's policy on prohibiting harassment, intimidation or bullying adopted pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15), shall be amended, if necessary, to reflect the provisions of P.L.2007, c.129 (C.18A:37-15.1 et al.). The district shall transmit a copy of the amended policy to the appropriate county superintendent of schools. Notice of the amended policy shall appear in any publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for schools within the school district, and in any student handbook.

b. In the event that a school district's policy on prohibiting harassment, intimidation or bullying adopted pursuant to section 3 of P.L.2002, c.83 (C.18A:37-15) does not accord with the provisions of subsection a. of this section by the 90th day following the effective date of this act, the district's existing policy prohibiting harassment, intimidation or bullying shall be deemed to include an "electronic communication" as defined in section 2 of P.L.2002, c.83 (C.18A:37-14) as amended by section 1 of P.L.2007, c.129.

L.2007, c.129, s.2.

18A:37-15.2 Actions required relative to bullying policy.

8. Within 60 days of the effective date of this section each school district shall amend its bullying policy in accordance with section 3 of P.L.2002, c.83 (C.18A:37-15) as amended by section 7 of P.L.2007, c.303, make the policy available on the district's website, and notify students and parents that the policy is available on the district's website.

L.2007, c.303, s.8.

18A:37-16 Reprisal, retaliation, false accusation prohibited.

4. a. A school employee, student or volunteer shall not engage in reprisal, retaliation or false accusation against a victim, witness or one with reliable information about an act of harassment, intimidation or bullying.

b. A school employee, student or volunteer who has witnessed, or has reliable information that a student has been subject to, harassment, intimidation or bullying shall report the incident to the appropriate school official designated by the school district's policy.

c. A school employee who promptly reports an incident of harassment, intimidation or bullying, to the appropriate school official designated by the school district's policy, and who makes this report in compliance with the procedures in the district's policy, is immune from a cause of action for damages arising from any failure to remedy the reported incident.

L.2002,c.83,s.4.

18A:37-17 Establishment of bullying prevention programs.

5. a. Schools and school districts are encouraged to establish bullying prevention programs, and other initiatives involving school staff, students, administrators, volunteers, parents, law enforcement and community members.

b. To the extent funds are appropriated for these purposes, a school district shall: (1) provide training on the school district's harassment, intimidation or bullying policies to school employees and volunteers who have significant contact with students; and (2) develop a process for discussing the district's harassment, intimidation or bullying policy with students.

c. Information regarding the school district policy against harassment, intimidation or bullying shall be incorporated into a school's employee training program.

L.2002,c.83,s.5.

18A:37-18 Other remedies unaffected.

6. This act shall not be interpreted to prevent a victim from seeking redress under any other available law either civil or criminal. This act does not create or alter any tort liability.

L.2002,c.83,s.6.

18A:37-19 Application by school district for reimbursement.

7. A school district that incurs additional costs due to the implementation of the provisions of this act shall apply to the Commissioner of Education for reimbursement.

L.2002,c.83,s.7.

18A:38-1 Attendance at school free of charge.

18A:38-1. Public schools shall be free to the following persons over five and under 20 years of age:

a. Any person who is domiciled within the school district;

b. (1) Any person who is kept in the home of another person domiciled within the school district and is supported by such other person gratis as if he were such other person's own child, upon filing by such other person with the secretary of the board of education of the district, if so required by the board, a sworn statement that he is domiciled within the district and is supporting the child gratis and will assume all personal obligations for the child relative to school requirements and that he intends so to keep and support the child gratuitously for a longer time than merely through the school term, and a copy of his lease if a tenant, or a sworn statement by his landlord acknowledging his tenancy if residing as a tenant without a written lease, and upon filing by the child's parent or guardian with the secretary of the board of education a sworn statement that he is not capable of supporting or providing care for the child due to a family or economic hardship and that the child is not residing with the resident of the district solely for the purpose of receiving a free public education within the district. The statement shall be accompanied by documentation to support the validity of the sworn statements, information from or about which shall be supplied only to the board and only to the extent that it directly pertains to the support or nonsupport of the child. If in the judgment of the board of education the evidence does not support the validity of the claim by the resident, the board may deny admission to the child. The resident may contest the board's decision to the commissioner within 21 days of the date of the decision and shall be entitled to an expedited hearing before the commissioner on the validity of the claim and shall have the burden of proof by a preponderance of the evidence that the child is eligible for a free education under the criteria listed in this subsection. The board of education shall, at the time of its decision, notify the resident in writing of his right to contest the board's decision to the commissioner within 21 days. No child shall be denied admission during the pendency of the proceedings before the commissioner. In the event the child is currently enrolled in the district, the student shall not be removed from school during the 21-day period in which the resident may contest the board's decision nor during the pendency of the proceedings before the commissioner. If in the judgment of the commissioner the evidence does not support the claim of the resident, he shall assess the resident tuition for the student prorated to the time of the student's ineligible attendance in the school district. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance and shall be collected in the manner in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the resident, parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner;

(2) If the superintendent or administrative principal of a school district finds that the parent or guardian of a child who is attending the schools of the district is not domiciled within the district and the child is not kept in the home of another person domiciled within the school district and supported by him gratis as if the child was the person's own child as provided for in paragraph (1) of this subsection, the superintendent or administrative principal may apply to the board of education for the removal of the child. The parent or guardian shall be entitled to a hearing before the board and if in the judgment of the board the parent or guardian is not domiciled within the district or the child is not kept in the home of another person domiciled within the school district and supported by him gratis as if the child was the person's own child as provided for in paragraph (1) of this subsection, the board may order the transfer or removal of the child from school. The parent or guardian may contest the board's decision before the commissioner within 21 days of the date of the decision and shall be entitled to an expedited hearing before the commissioner and shall have the burden of proof by a preponderance of the evidence that the child is eligible for a free education under the criteria listed in this subsection. The board of education shall, at the time of its decision, notify the parent or guardian in writing of his right to contest the decision within 21 days. No child shall be removed from school during the 21-day period in which the parent may contest the board's decision or during the pendency of the proceedings before the commissioner. If in the judgment of the commissioner the evidence does not support the claim of the parent or guardian, the commissioner shall assess the

parent or guardian tuition for the student prorated to the time of the student's ineligible attendance in the schools of the district. Tuition shall be computed on the basis of 1/180 of the total annual per pupil cost to the local district multiplied by the number of days of ineligible attendance and shall be collected in the manner in which orders of the commissioner are enforced. Nothing shall preclude a board from collecting tuition from the parent or guardian for a student's period of ineligible attendance in the schools of the district where the issue is not appealed to the commissioner;

The provisions of this section requiring proof of support, custody or tenancy shall not apply to a person keeping a child in his home whose parent or guardian is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States and who has been ordered into active military service in any of the armed forces of the United States in time of war or national emergency. In such a situation, the child shall be eligible to enroll in the district in which he is being kept, and no tuition shall be charged by the district. Following the return of the child's parent or guardian from active military service, the child's eligibility for enrollment without tuition in the district in which he or she is being kept shall cease at the end of the current school year;

c. Any person who fraudulently allows a child of another person to use his residence and is not the primary financial supporter of that child and any person who fraudulently claims to have given up custody of his child to a person in another district commits a disorderly persons offense;

d. Any person whose parent or guardian, even though not domiciled within the district, is residing temporarily therein, but any person who has had or shall have his all-year-round dwelling place within the district for one year or longer shall be deemed to be domiciled within the district for the purposes of this section;

e. Any person for whom the Division of Youth and Family Services in the Department of Children and Families is acting as guardian and who is placed in the district by the division;

f. Any person whose parent or guardian moves from one school district to another school district as a result of being homeless and whose district of residence is determined pursuant to section 19 of P.L.1979, c.207 (C.18A:7B-12).

L.1967, c.271; amended 1977, c.373; 1985, c.6; 1989, c.290, s.2; 1993, c.380; 1994, c.169, s.1; 2006, c.47, s.94.

18A:38-2. Free attendance at school by nonresidents placed in district under court order

Public schools shall be free to any person over five and under 20 years of age nonresident in a school district who is placed in the home of another person, who is resident in the district, by order of a court of competent jurisdiction of this state or by any society, agency or institution incorporated and located in this state having for its object the care and welfare of indigent, neglected or abandoned children, or children in danger of becoming delinquent, or any person who is a resident in any institution operated, by any such society, agency or corporation, on a nonprofit basis, whether or not such other person, society, agency or institution is compensated for keeping such person; but no district shall be required to take an unreasonable number of persons under this section except upon the order of the commissioner issued in accordance with rules established by the state board.

L.1967, c.271.

18A:38-3. Admission for nonresident of school district; parent on active duty

18A:38-3. a. Any person not resident in a school district, if eligible except for residence, may be admitted to the schools of the district with the consent of the board of education upon such terms, and with or without payment of tuition, as the board may prescribe.

b. Any person not resident in a school district, if eligible except for residence, and if that person previously was a resident of the district, shall be admitted to the schools of the district without payment of tuition if that person's parent or guardian is a member of the New Jersey National Guard or a member of the reserve component of the armed forces of the United States and has been ordered into active military service in any of the armed forces of the United States in time of war or national emergency, resulting in the relocation of the student out of the district. A school district admitting a student pursuant to this subsection shall not be obligated for transportation costs.

L.1967, c.271; amended 1994, c.169, s.2.

18A:38-4. Free attendance to persons over age

The public schools of any district shall be free also to such persons, over the age of 20 years, who, except for age, would be entitled to free education in the district, as the board of education of the district shall determine.

L.1967, c.271.

18A:38-5. Admission of pupils under age

No child under the age of five years shall be admitted to any public school, except such as may be provided pursuant to law for children of his age.

No board of education shall be required to accept by transfer from public or private school any pupil who was not eligible by reason of age for admission on October 1 of that school year, but the board may in its discretion admit any such pupil if he or she meets such entrance requirements as may be established by rules or regulations of the board.

L.1967, c.271.

18A:38-5.1. No child to be excluded from school because of race, etc.

No child between the ages of four and 20 years shall be excluded from any public school on account of his race, creed, color, national origin, or ancestry. A member of any board of education who shall vote to exclude from any public school any child, on account of his race, creed, color, national origin, or ancestry shall be guilty of a misdemeanor, and punished by a fine of not less than \$50.00 nor more than \$250.00, or by imprisonment in the county jail, workhouse or penitentiary of the county in which the offense has been committed, for not less than 30 days nor more than six months, or by both such fine and imprisonment in the discretion of the court.

L.1967, c.271.

18A:38-6. Time of admission of pupils; first school year

Pupils who have never attended any public or private school may be admitted to a public school on or before October 1 following the opening of the school for the fall term, and at no other time except by a majority vote of all the members of the board of education of the district in which the school is situated.

L.1967, c.271.

18A:38-7. Pupils receiving free education subject to provisions of chapter

Any person entitled to or receiving free education pursuant to this article shall be subject to all of the provisions of this chapter.

L.1967, c.271.

18A:38-7.7. Finding, declaration

The Legislature finds and declares that all persons of school age who reside on federal property located within this State are entitled under the New Jersey Constitution and the laws of this State to a free public education.

L. 1988, c. 12, s. 1.

18A:38-7.8. Designated district

a. After July 1, 1988, persons of school age who reside on federal property which is located entirely within the geographic boundaries of two or more school districts, one of which is a constituent district of a limited purpose regional district with more than six constituent districts in a county of the fifth class shall be deemed to be domiciled in a district to be designated by the county superintendent of schools. These persons shall attend the schools of the designated district and the designated district shall count these pupils in the resident enrollment of the district for all State aid and all federal funds provided under Pub. L. 81-874, 20 U.S.C. s. 236 et seq.

b. The designated district shall be a district that contains within its boundaries a portion of the federal property on which the pupils reside. Not later than 10 days after the effective date of this act, the board of education of any school district that seeks to be designated by the county superintendent of schools pursuant to this section shall adopt a resolution by majority vote of its members indicating its interest and the resolution shall be forwarded to the county superintendent. Based on a determination of the best interests of the pupils residing on federal property and pupils residing in the districts seeking designation, the county superintendent shall, within 30 days of the effective date of this act, certify to the Commissioner of Education which local school district, if any, shall be the designated district. Once the county superintendent has certified the designated district, the county superintendent may not revoke or alter that certification. In the event that no board of education adopts a resolution indicating an interest in being designated pursuant to this section, the county superintendent shall not designate a district and the pupils residing on the federal property shall attend the schools of the district in which they reside.

c. Notwithstanding the provisions of this section, those pupils residing on federal property prior to October 1, 1987 shall be permitted at the option of each pupil to continue in the school they were attending on September 30, 1987 until graduation from the school. For the purpose of calculating State and federal aid, each pupil who elects to remain shall continue to be included in the resident enrollment of the district in which they reside.

L. 1988, c. 12, s. 2.

18A:38-7.9 Apportionment of State aid, taxes.

3. a. In the event the designated district is composed of more than one municipality, when allocating equalized valuations or district incomes, pursuant to the provisions of section 3 of P.L.2007, c.260 (C.18A:7F-45), for the purpose of calculating State aid, persons attending schools in the designated district pursuant to section 2 of this act shall be assigned to each municipality comprising the designated district in direct proportion to the number of persons ordinarily attending school from each municipality in the designated district without considering the persons attending pursuant to this act.

b. In the event the designated district is a constituent district of a limited purpose regional district, when allocating equalized valuations or district incomes, pursuant to the provisions of section 3 of P.L.2007, c.260 (C.18A:7F-45), for the purpose of apportioning the amounts to be raised by taxes for the limited purpose regional district of which the designated district is a constituent district, persons attending schools in the designated district pursuant to section 2 of this act shall not be counted.

L.1988, c.12, s.3; amended 1990, c.52, s.49; 1996, c.138, s.63; 2007, c.260, s.59.

18A:38-7.10. Findings, declarations

The Legislature finds and declares that all persons of school age who reside on federal property located within this State are entitled under the New Jersey Constitution and the laws of this State to a free public education.

L. 1988, c. 105, s. 1.

18A:38-7.11. Definition

As used in this act, "multi-district federal enclave" means a contiguous piece of federal property which is located entirely or partially within the geographic boundaries of a county of the second class with a population of not less than 315,000 and not more than 400,000 according to the 1980 federal decennial census and which federal property is located within more than one school district.

L. 1988, c. 105, s. 2.

18A:38-7.12. Multi-district federal enclave

Persons of school age who reside in a multi-district federal enclave shall be deemed to be domiciled in a single district to be designated by the county superintendent of schools. Where all persons of school age who reside in a multi-district federal enclave already attend a single district, the county superintendent shall designate that district as the district to be attended by all current and future pupils residing in the multi-district federal enclave. Any person attending on the effective date of this act a school in a district other than a district designated by the county superintendent pursuant to this act shall be permitted to continue in such school until graduation.

L. 1988, c. 105, s. 3.

18A:38-7.13 Designation of district for pupils residing in multi-district federal enclave.

4. The county superintendent of schools shall, within 120 days of the effective date of this act, certify to the Commissioner of Education which local school district shall be the designated district for persons of school age residing in a multi-district federal enclave. The district certified as the designated district shall count all pupils who reside in a multi-district federal enclave in the resident enrollment of the district for all State aid purposes and shall be designated by the commissioner to receive State aid and all federal funds provided under Pub.L.81-874 (20 U.S.C. s.236 et seq.).

For the purposes of calculating State aid pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), whenever pupils residing in one district are attending the schools of the designated district, the district income of the resident district shall be allocated between the resident district and the designated district in proportion to the number of pupils residing in the resident district attending the schools of the resident district and designated district.

L.1988, c.105, s.4; amended 1990, c.52, s.82; 1996, c.138, s.64; 2007, c.260, s.60.

18A:38-7.14. Boundaries, eligibility unaltered

Nothing contained in this act shall be construed to alter any existing school district boundary or to alter any district's eligibility for federal funds pursuant to Pub. L. 81-874, 20 U.S.C. s. 237 et seq. or similar subsequent legislation.

L. 1988, c. 105, s. 5.

18A:38-8. Duty to receive pupils from other districts

The board of education of any school district having the necessary accommodations may receive, or may be required to receive by order of the state board, pupils from another district not having sufficient accommodations, at rates of tuition fixed as in this article provided.

L.1967, c.271.

18A:38-8.1. Representation of board of education of sending district; matters covered

1. In addition to the members of the board of education of a Type I and Type II school district provided by law, in a school district which is receiving pupils from another district or districts pursuant to N.J.S.18A:38-8, there shall be an additional member as provided pursuant to section 2 of this act to represent the board of education of each sending district. Any additional member shall be a member of the board of education of a sending district designated annually by the board of that district and shall be eligible to vote on the following matters before the receiving district board of education:

a. Tuition to be charged the sending district by the receiving district and the bill lists or contracts for the purchase, operation or maintenance of facilities, equipment and instructional materials to be used in the education of the pupils of the sending district;

b. New capital construction to be utilized by sending district pupils;

c. Appointment, transfer or removal of teaching staff members providing services to pupils of the sending district, including any teaching staff member who is a member of the receiving district's central administrative staff; and

d. Addition or deletion of curricular and extracurricular programs involving pupils of the sending district.

L.1995,c.8,s.1; amended 1996, c.103.

18A:38-8.2. Representation from sending school district to board of receiving district

2. A school district which is sending pupils to another school district pursuant to N.J.S.18A:38-8 shall have representation on the board of education of the receiving school district as follows:

a. (1) If the pupils of the sending district comprise less than 10 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending district shall have no representation on the receiving district board of education.

(2) If the pupils of the sending district comprise at least 10 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled, the sending district shall have one representative on the receiving district board of education.

b. If the total number of pupils of two or more sending districts, which do not qualify for representation under subsection a. of this section, comprise at least 15 percent of the total enrollment of the pupils in the grades of the receiving district in which the pupils of the sending districts will be enrolled, they shall have collectively two representatives on the receiving district board of education. The annual designation of the representatives, in the event more than two districts collectively qualify under this subsection, shall be rotated among the boards of education of the sending districts according to a schedule determined by the joint agreement of the boards.

c. Notwithstanding the provisions of subsections a. and b. of this section, the number of representatives designated by the sending districts to be additional members shall not exceed three additional members on a receiving board with originally nine or more members, two additional members on a receiving board with originally seven or eight members, and one additional member on a receiving board with originally less than seven members. In the event that this restriction results in an unequal representation of sending districts, the annual designation of the representative or representatives shall be rotated among the boards of education of the sending districts according to a schedule determined by the joint agreement of the boards.

d. A representative of a sending district board of education shall be designated at the meeting of the board which is closest in time to the annual organizational meeting of the receiving district board of education and shall serve a one-year term beginning with the organizational meeting of the receiving district board. The representative shall be subject to the rules and procedures of the receiving district board of education.

e. The calculation of percentages required under this section shall be based on the number of pupils reported as of the last school day prior to October 16 of each prebudget year.

L.1995,c.8,s.2; amended 1996, c.138, s.65.

18A:38-8.3. Nonapplicability of act

3. The provisions of this act shall not apply to sending and receiving relationships which are established exclusively for the purposes of special education.

L.1995,c.8,s.3.

18A:38-8.4 Board of Education representation of sixth class county school district; certain.

1. Notwithstanding the provisions of section 2 of P.L.1995, c.8 (C.18A:38-8.2) or any other law or regulation to the contrary, a school district which is located in a county of the sixth class according to the latest federal decennial census, which has an October 1998 resident enrollment greater than 2,400 pupils but less than 2,600 pupils, and which sends its pupils in grades 9 through 12 to a school district in the same county pursuant to N.J.S.18A:38-8 shall have representation on the board of education of the receiving district as follows:

a. (1) If the pupils of the sending district comprise less than 10% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have no representation on the receiving district board of education;

(2) If the pupils of the sending district comprise at least 10% but not more than 29% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have one representative on the receiving district board of education;

(3) If the pupils of the sending district comprise at least 30% but not more than 39% of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have two representatives on the receiving district board of education; and

(4) If the pupils of the sending district comprise at least 40% or more of the total enrollment of the pupils in grades 9 through 12 of the receiving district, the sending district shall have three representatives on the receiving district board of education.

b. The calculation of the percentages required under this section shall be based on the number of pupils reported as of the last school day prior to October 16 of the prebudget year.

c. The representatives of the sending district board of education shall be designated by the sending district board at a meeting of the board which is closest in time to the annual organizational meeting of the receiving district board of education.

d. The representatives of a sending district board of education appointed to a receiving district board of education pursuant to this section shall be in addition to the members of the board of education of a Type I or Type II school district provided pursuant to chapter 12 of Title 18A of the New Jersey Statutes. The representatives of the sending district board of education shall be eligible to vote on those matters authorized pursuant to section 1 of P.L.1995, c.8 (C.18A:38-8.1).

L.1999, c.414, s.1.

18A:38-9. Attendance in adjoining district because of remoteness from school

Any child living remote from any public school in the district in which he resides shall be allowed to attend a public school in an adjoining district, with the written consent of the county superintendent or county superintendents of each county in which the districts are situate. One copy of such written consent shall be filed with the secretary of the board of education of the district in which the child resides and one copy thereof shall be filed with the secretary of the board of education of the district in which such child shall attend school.

L.1967, c.271

18A:38-10. Attendance outside of state

Any board of education of a district may arrange for the attendance of any or all of the pupils of the district in the public school or schools of an adjacent school district outside of the state, if it shall determine that it is advisable so to do in order to secure better school facilities for the pupils or for reasons of economy or other good cause and that it is inadvisable for said pupils to attend public schools in another school district within the state because of the distance to be traveled, the topography of the intervening country, the condition of the roads or the likelihood of unusual hazardous traveling conditions during certain seasons of the year, and if the commissioner shall concur in the determination of the board and give his consent thereto, but the commissioner may withdraw such consent upon reasonable notice whenever the reason or reasons for giving his consent shall cease to exist.

L.1967, c.271.

18A:38-11. Designation of high school of another district for attendance by pupils

The board of education of every school district which lacks high school facilities within the district and has not designated a high school or high schools outside of the district for its high school pupils to attend shall designate a high school or high schools of this state for the attendance of such pupils.

L.1967, c.271.

18A:38-12. Allocation and apportionment of pupils among two or more high schools

Whenever the board of education of a district shall designate two or more high schools without the district for the attendance of its high school pupils it shall, by

resolution, allocate and apportion such pupils among the designated high schools and if no such allocation and apportionment has been made prior to the academic year 1943-1944, the actual allocation and apportionment of pupils among said high schools in effect in said academic year shall be effective as such allocation and apportionment but if any board of education of any district which is not now sending pupils to a high school or high schools without the district shall hereafter so designate two or more high schools for said purpose and shall fail to allocate and apportion them by resolution among said high schools, the actual allocation and apportionment of high school pupils made in the first academic year of the designation shall be effective as the allocation and apportionment of such pupils.

L.1967, c.271.

18A:38-13. Change in designation, allocation

No such designation of a high school or high schools and no such allocation or apportionment of pupils thereto, heretofore or hereafter made pursuant to law, shall be changed or withdrawn, nor shall a district having such a designated high school refuse to continue to receive high school pupils from such sending district except upon application made to and approved by the commissioner. Prior to submitting an application the district seeking to sever the relationship shall prepare and submit a feasibility study, considering the educational and financial implications for the sending and receiving districts, the impact on the quality of education received by pupils in each of the districts, and the effect on the racial composition of the pupil population of each of the districts. The commissioner shall make equitable determinations based upon consideration of all the circumstances, including the educational and financial implications for the affected districts, the impact on the quality of education received by pupils, and the effect on the racial composition of the pupil population of the districts. The commissioner shall grant the requested change in designation or allocation if no substantial negative impact will result therefrom.

L.1967, c.271; amended by L. 1986, c. 156, s. 1, eff. Nov. 24, 1986.

18A:38-13.1. 5-year minimum

Any school district entering into a sending-receiving relationship subsequent to severing a prior sending-receiving relationship pursuant to the provisions of N.J.S. 18A:38-13 shall remain in the subsequent relationship for not less than five years. If, after that five year period that sending-receiving relationship is severed, any student in the sending district shall be permitted to complete his secondary education within the receiving district.

L. 1986, c. 156, s. 2, eff. Nov. 24, 1986.

18A:38-14. Appeal from determination of commissioner

The determination of the commissioner upon any such application may be appealed by the applying board of education or by the board of education of any school district affected thereby to the state board, which may in its discretion affirm, reverse, revise or modify the determination appealed from.

L.1967, c.271.

18A:38-15. Attendance at special high school courses of study in another district

Any board of education not furnishing instruction in a particular high school course of study, which any pupil resident in the district and who has completed the elementary course of study provided therein may desire to pursue, may, in its discretion, pay the tuition of such pupil for instruction in such course of study in a high school of another district.

L.1967, c.271.

18A:38-16. Attendance at evening high school in another district

Any board of education not furnishing instruction in approved evening high school courses, which any pupil in the district may desire to pursue, may, in its discretion, pay the tuition of such pupil in an approved evening high school in another district.

L.1967, c.271.

18A:38-17. Attendance outside district for instruction beyond twelfth grade

Any board of education not furnishing instruction beyond the twelfth grade which any pupil, resident in the district, may desire to pursue, may arrange for the attendance of such pupil in any district where instruction beyond the twelfth grade, under rules prescribed by the commissioner and approved by the state board, is offered to residents and nonresidents of the district.

L.1967, c.271.

18A:38-18. High school education in another district; tuition

Any board of education offering instruction, to residents and nonresidents of the district beyond the twelfth grade, under rules, approved by the commissioner and the state board, may charge tuition for such instruction and any board of education, not furnishing such instruction, may arrange for the attendance, and pay the tuition fees, in whole or in part, of pupils, resident in its district, who desire to obtain such instruction.

L.1967, c.271.

18A:38-19 Tuition of pupils attending schools in another district.

18A:38-19. Whenever the pupils of any school district are attending public school in another district, within or without the State, pursuant to this article, the board of education of the receiving district shall determine a tuition rate to be paid by the board of education of the sending district to an amount not in excess of the actual cost per pupil as determined under rules prescribed by the commissioner and approved by the State board, and such tuition shall be paid by the custodian of school moneys of the sending district out of any moneys in his hands available for current expenses of the district upon order issued by the board of education of the sending district, signed by its president and secretary, in favor of the custodian of school moneys of the receiving district.

Amended 2001, c.285; 2007, c.260, s.61.

18A:38-20. Additional school facilities; agreement as to tuition

Whenever a board of education, now or hereafter furnishing elementary and high school education or either thereof for the pupils of another school district, finds it necessary to provide additional facilities for the furnishing of education to such pupils, it may, as a condition precedent to the provision of such additional facilities, enter into an agreement with the board of education of such other district for a term not exceeding 10 years whereby it agrees to provide such education to the pupils of such other district during the term of such agreement, in consideration of the agreement by the board of education of such other district that it will not withdraw its pupils and provide school facilities for them in its own or another district during the term of said agreement except as provided in this article, and that the sending district will provide for the payment of tuition in accordance with section 18A:38-19.

L.1967, c.271.

18A:38-21. Termination of agreement concerning tuition as to pupils

Any board of education which shall have entered into such an agreement may apply to the commissioner for consent to terminate the same, and to cease providing education to the pupils of the other contracting district on the ground that it is no longer able to provide facilities for the pupils of the other district, or to withdraw its pupils from the schools of the other contracting district and provide educational facilities for them in its own or another district on the ground that the board of education of the receiving district is not providing school facilities and an educational program suitable to the needs of the pupils of the sending district or that the board of education of the receiving district will not be seriously affected educationally or financially by their withdrawal.

L.1967, c.271.

18A:38-21.1. Termination of sending-receiving relationship.

1. a. Notwithstanding the provisions of N.J.S.18A:38-13 and N.J.S.18A:38-21, any board of education which sends students to another school district may terminate a sending-receiving relationship pursuant to the following conditions:

(1) The resident enrollment of the receiving district shall represent more than 95% of the total student enrollment attending the receiving district and the number of students from the sending district who attend the receiving district shall represent less than three percent of the total student enrollment attending the receiving district. Enrollments shall be determined using resident enrollment figures compiled in October of the preceding school year;

(2) The sending district shall agree to join a regional school district subsequent to the termination of its sending-receiving relationship;

(3) Any secondary school student in the sending district at the time of termination of the sending-receiving relationship shall be permitted to complete his secondary education within the receiving district. The sending-receiving relationship shall be continued for these students;

(4) The termination will not significantly disrupt the racial composition of the sending and receiving school districts; and

(5) A petition of the sending district to terminate the sending-receiving relationship has not been denied since January 1, 1988 by the Commissioner of Education, the State Board of Education, or the New Jersey courts for reasons which include the impact on the racial composition of the pupil population of the districts.

b. Any school district which meets the conditions of subsection a. of this section must take final action to terminate its sending-receiving relationship within three years following the effective date of this act.

c. Any school district which has taken final action to terminate its sending-receiving relationship pursuant to this section shall notify the receiving school district no later than December 1 of the school year prior to the school year in which

the termination is to occur. Termination of the sending-receiving relationship shall not occur until the sending district has been admitted to an existing regional school district pursuant to N.J.S.18A:13-43 and N.J.S.18A:13-44, or subsection d. of this section, or has become part of a newly formed all purpose regional district pursuant to N.J.S.18A:13-34 and N.J.S.18A:13-35.

d. Notwithstanding the provisions of N.J.S.18A:13-43 and N.J.S.18A:13-44, upon the effective date of P.L.1996, c.91 (C.18A:38-21.1), a school district which meets the conditions of subsection a. of this section shall be admitted to an existing regional school district upon the adoption of a resolution by its board of education and the board of education of the regional school district approving the inclusion of the school district within the regional district. Copies of the resolutions shall be forwarded to the county superintendent or superintendents of the counties in which the districts are situate. The county superintendent or superintendents shall notify the commissioner and the enlargement of the regional district by the admission of the proposed constituent district shall become effective on the 20th day following the adoption of the resolutions.

e. Notwithstanding the provisions of N.J.S.18A:13-8, N.J.S.18A:13-36, and N.J.S.18A:13-46, the board of education of a regional school district which admits a new constituent school district by resolution pursuant to the provisions of subsection d. of this section shall be composed of 11 members unless the regional district consists of more than 11 members. One of the additional board members shall represent the new constituent district and shall be appointed by the county superintendent of the county in which the new constituent district is situate. The second additional member shall be apportioned among the other constituent districts of the regional school district as determined by the county superintendent or superintendents of the county or counties in which the constituent local districts of the enlarged district are situate. The members so appointed shall serve until the first Monday succeeding the first annual school election of the enlarged regional district and their successors shall be elected at that election.

L.1993,c.384,s.1; amended 1996, c.91.

18A:38-22. Hearing on application for termination of agreement

Upon the making of any such application, an opportunity to be heard before the commissioner shall be given to the board of education of the other district before any determination is made by the commissioner, and if the commissioner finds that there are good grounds for the application, as provided in this article, he shall give his consent, and the applying board of education shall thereupon be entitled to terminate the agreement in accordance therewith but the commissioner's determination shall be subject to appeal to the state board.

L.1967, c.271.

18A:38-23. Pupils not excluded for nonpayment of tuition; withdrawal of pupils

Whenever at the beginning of or during a school year a board of education receives pupils from another district on a tuition basis, it shall not exclude during that year any such pupils because of the nonpayment of tuition if the sending board delivers to the receiving board a school warrant in accordance with the terms of the contract or agreement between such boards. Such warrant shall bear interest at the legal rate. The board of education sending the pupils to said district shall not withdraw any such pupils during the year without the consent of the receiving board.

L.1967, c.271.

18A:38-24. Attendance of pupils at demonstration schools

18A:38-24. Any pupil may with the consent of the board of education of the district in which he resides and of the commissioner be admitted to any demonstration school maintained in connection with any State college. The board of education of the district and the board of trustees of the State college shall determine the amount to be paid for the education of the pupil, and the board of education of the district shall pay the amount so determined to the treasurer of the college out of any money available for the current expenses of the district. Pupils attending such demonstration schools for whom tuition is paid by the sending district shall be counted in the determination of State aid for the school district in the same manner as pupils attending schools in any school district other than the sending district.

L.1967, c.271; amended 1994,c.48,s.67.

18A:38-25. Attendance required of children between six and 16; exceptions

Every parent, guardian or other person having custody and control of a child between the ages of six and 16 years shall cause such child regularly to attend the public schools of the district or a day school in which there is given instruction equivalent to that provided in the public schools for children of similar grades and attainments or to receive equivalent instruction elsewhere than at school.

L.1967, c.271.

18A:38-26. Days when attendance required; exceptions

Such regular attendance shall be during all the days and hours that the public schools are in session in the district, unless it is shown to the satisfaction of the

board of education of the district that the mental condition of the child is such that he cannot benefit from instruction in the school or that the bodily condition of the child is such as to prevent his attendance at school, but nothing herein shall be construed as permitting the temporary or permanent exclusion from school by the board of education of any district of any child between the ages of five and 20, except as explicitly otherwise provided by law.

L.1967, c.271.

18A:38-27. Truancy and juvenile delinquency defined

Any child between the ages of six and 16 years who shall repeatedly be absent from school, and any child of such age found away from school during school hours whose parent, guardian or other person having charge and control of the child is unable to cause him to attend school and any pupil who is incorrigible, actually vagrant, vicious, or immoral in conduct, shall be deemed to be a juvenile delinquent and shall be proceeded against as such.

L.1967, c.271.

18A:38-28. Truants; return to parents or school

Any attendance officer who shall find any child between six and 16 years of age who is a truant from school, shall take the child and deliver him to the parent, guardian or other person having charge and control of the child, or to the teacher of the school which such child is lawfully required to attend.

L.1967, c.271.

18A:38-29. Warning and arrest of vagrants or habitual truants

The attendance officer shall examine into all violations of this article, shall warn any child violating any of the provisions of this article and the parent, guardian or other person having charge and control of the child of the consequences of the violation if persisted in, and shall notify such person in writing to cause the child to attend school within five days from the date on which notice is served, and regularly thereafter. The attendance officer shall have full police power to enforce the provisions of this article and may arrest without warrant any vagrant child or habitual truant or any child who is habitually incorrigible or who is vicious or immoral in conduct or illegally absent from school.

L.1967, c.271.

18A:38-30. Assistance of sheriffs, police officers, etc.

The sheriff and his officers and all police officers and constables shall assist attendance officers in the performance of their duties.

L.1967, c.271.

18A:38-31. Failure to comply with provisions of article; fine

A parent, guardian or other person having charge and control of a child between the ages of 6 and 16 years, who shall fail to comply with any of the provisions of this article relating to his duties, shall be deemed to be a disorderly person and shall be subject to a fine of not more than \$25.00 for a first offense and not more than \$100.00 for each subsequent offense, in the discretion of the court.

In any such proceeding, the summons issuing therein, or in special circumstances a warrant, shall be directed to the alleged disorderly person and the child.

L.1967, c.271; amended by L.1980, c. 153, s. 1, eff. Nov. 24, 1980.

18A:38-32. District and county vocational school attendance officers

For the purpose of enforcing the provisions of this article, the board of education of each school district and the board of education of each county vocational school shall appoint a suitable number of qualified persons to be designated as attendance officers, and shall fix their compensation; except that if a county attendance officer or officers are appointed for any county, any district board of education of such county may be exempt from the appointment of a local attendance officer if such exemption is approved by the county superintendent. Each board shall make rules not inconsistent with the provisions of this article and subject to the approval of the commissioner, for the government of the attendance officers.

L.1967, c.271.

18A:38-33. Tenure of attendance officers in city districts

The services of all attendance officers of the public schools of a city district shall, after employment in such district for one year, be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, conduct unbecoming an officer, or other just cause, and only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title.

L.1967, c.271.

18A:38-34. Attendance officers in counties other than counties of first class; duties; terms; salaries

Whenever a majority of the boards of education of any county other than counties of the first class has by resolution requested the appointment of a county attendance officer or officers and, upon investigation, the commissioner and the state board shall deem the appointment of a county attendance officer or officers to be for the best interest of the schools of that county, the commissioner shall appoint, subject to the approval of the state board, a suitable person or persons to be known as the county attendance officer or officers for the county who shall perform in all districts of the county exclusive of city school districts such duties as may be prescribed by rules of the state board. Each county attendance officer shall have the same power to enforce the compulsory school law and rules connected therewith as is conferred upon attendance officers appointed by local boards of education. If any such person so appointed a county attendance officer is in possession of a proper visiting teacher's certificate, in full force and effect, such county attendance officer shall be designated "home and school counsellor," and such "home and school counsellor," in addition to the powers of a county attendance officer, shall have all the powers of a visiting teacher. The term of office of such county attendance officer shall be for one year and the commissioner shall fix the salary of such county attendance officer or officers with the approval of the state board.

L.1967, c.271

18A:38-35. Salaries and expenses of county attendance officers

The salary of each county attendance officer shall be paid as other state salaries are paid. The director of the division of budget and accounting shall on order of the commissioner draw his warrant for such salary on the state treasurer. All claims for the expenses of a county attendance officer shall be paid after being audited by the county superintendent on orders issued by the county superintendent and drawn on the county treasurer. The expenses for each such officer shall not exceed in any one year the sum of \$700.00.

L.1967, c.271.

18A:38-36. Employment certificates to part-time pupils; revocation

The commissioner of education and the commissioner of labor and industry may issue employment certificates to pupils over 14 years of age who study part time in elementary or high school grades or in public vocational schools, to work part time in factories, workshops, mills, and all places where the manufacture of goods is carried on designated by the board of education, which employment shall be considered as a part of the schooling of such children and shall conform to state and federal rules and regulations for the employment of youth.

The commissioner of education or the commissioner of labor may revoke the certificate at any time without assigning cause.

L.1967, c.271.

18A:39-1 Transportation of pupils remote from school.

18A:39-1. Whenever in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance, the district shall provide transportation to and from school for these pupils.

When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil; except that if the district is located in a county of the third class with a population of not less than 80,000 and not more than 120,000 transportation shall be provided to a nonpublic school located outside the State not more than 20 miles from the residence of the pupil, if there is no appropriate nonpublic school within the State located closer to the residence of the pupil; provided the per pupil cost of the lowest bid received does not exceed \$675 for the 1992-93 school year or the amount determined for subsequent years pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and if such bid shall exceed that cost then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a) for subsequent years toward the cost of his transportation to a qualified school other than a public school, regardless of whether such transportation is along established public school routes. It shall be the obligation of the parent, guardian or other person having legal custody of the pupil attending a remote school, other than a public school, not operating for profit in whole or in part, to register said pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State board in order to be eligible for the transportation provided by this section. If the registration of any such pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide such transportation, then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 or the amount determined pursuant to section 2 of P.L.1981, c.57 (18A:39-1a), or an amount computed by multiplying 1/180 times the number of school days remaining in the school year at the time of registration, times \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of

P.L.1981, c.57 (C.18A:39-1a) for subsequent years, whichever is the smaller amount. Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, said regional district shall assume responsibility for the transportation of all such pupils, and the cost of such transportation for pupils below the grade level for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis, after approval of such costs by the county superintendent. This section shall not require school districts to provide any transportation for pupils attending a school other than a public school, where the only transportation presently provided by said district is for school children transported pursuant to chapter 46 of Title 18A of the New Jersey Statutes or for pupils transported to a vocational, technical or other public school offering a specialized program. Any transportation to a school, other than a public school, shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

The board of education may make rules and contracts for the pupil transportation provided pursuant to this section.

Nothing in this section shall be so construed as to prohibit a board of education from making contracts for the transportation of pupils to a school in an adjoining district, when such pupils are transferred to the district by order of the county superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue of an agreement made by the respective boards of education.

Nothing herein contained shall limit or diminish in any way any of the provisions for transportation for children pursuant to chapter 46 of this Title.

L.1967, c.271; amended 1968,c.29,s.1; 1968,c.200; 1968,c.299; 1974,c.78; 1977,c.206; 1981,c.57,s.1; 1985,c.513; 1990,c.52,s.50; 1992,c.33,s.1.

18A:39-1a Adjustment of non-public school transportation costs.

2. For the 2002-2003 school year, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal \$735 and this amount shall be increased in each subsequent year in direct proportion to the increase in the State transportation aid per pupil in the year prior to the prebudget year compared to the amount for the prebudget year or by the CPI, whichever is greater.

As used in this section, State transportation aid per pupil shall equal the total State transportation aid payments made pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) divided by the number of pupils eligible for transportation. "CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

In the 2002-2003 school year and thereafter, any additional costs incurred by a school district due to the increase in the maximum amount of nonpublic school transportation costs per pupil pursuant to this section shall be borne by the State.

L.1981, c.57, s.2; amended 1990, c.52, s.51; 1992, c.33, s.2; 1996, c.138, s.66; 2001, c.437, s.1; 2007, c.260, s.62.

18A:39-1b. Furnishing of district information

3. Each school district shall furnish to the Department of Education the information necessary for the department to complete a comparison of transportation costs, so that equitable adjustments may be made in the amount of the payments in lieu of transportation required pursuant to N.J.S.18A:39-1.

L.1992,c.33,s.3.

18A:39-1.1 Transportation of other pupils by board.

18A:39-1.1. In addition to the provision of transportation for pupils pursuant to N.J.S.18A:39-1 and N.J.S.18A:46-23, the board of education of any district may provide, by contract or otherwise, in accordance with law and the rules and regulations of the State board, for the transportation of other pupils to and from school.

Districts shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section.

Amended 1990, c.52, s.52; 1996, c.138, s.67; 2007, c.260, s.63.

18A:39-1.2. Provision of transportation for certain pupils, contracts, charges, method of collection

18A:39-1.2. Whenever the governing body of a municipality finds that for safety reasons it is desirable to provide transportation to and from a school for pupils living within the municipality, other than those living remote from the school or those physically handicapped or mentally retarded, the governing body and the board of education of the district are authorized to enter into a contract pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) under the terms of which the board shall provide such transportation. Any funds required to be paid by the

municipality to the board of education under such a contract shall be appropriated by the governing body and paid to the custodian of school moneys of the district. The governing body of the municipality may charge the parents or guardians of children who are transported for safety reasons in order to help defray expenses, provided that no charge shall be imposed on the parent or guardian of any child who meets the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program. The amount of any charges and the method of collection shall be specified in the contract between the municipal governing body and the board of education. Nothing in this section shall prevent a board of education from providing transportation at its own expense.

L.1967, c.271; amended 1995,c.271,s.1.

18A:39-1.3 Contract for transportation of certain pupils; costs.

1. Any board of education which transports pupils to and from school pursuant to N.J.S.18A:39-1 or a cooperative transportation services agency may enter into a contract for the transportation of public school pupils who are not eligible for transportation services pursuant to N.J.S.18A:39-1 or any other law, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance. A board of education or a cooperative transportation services agency may also enter into a contract for the transportation of pupils who attend not for profit nonpublic schools and who are not eligible for transportation services pursuant to N.J.S.18A:39-1 or any other law or who receive in-lieu-of transportation payments, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to the contract, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education or the cooperative transportation services agency, provided that the parent, guardian or other person having legal custody of the pupil attending the public or nonpublic school shall pay no more than the per pupil cost of the route for the transportation provided pursuant to this section.

Boards of education shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section; however, the pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

L.1995, c.106, s.1; amended 2001, c.65, s.1; 2007, c.260, s.64.

18A:39-1.4. Determination of financial hardship

2. A board of education which enters into a contract for the transportation of pupils pursuant to section 1 of this act may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the cost of that transportation because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

L.1995,c.106,s.2.

18A:39-1.5 Adoption of policy regarding transportation of students who walk along hazardous routes.

2. a. A school district that provides courtesy busing services shall adopt a policy regarding the transportation of students who must walk to and from school along hazardous routes. The policy shall include a list of hazardous routes in the district requiring the courtesy busing of students and the criteria used in designating the hazardous routes. In adopting its policy, the school district may consider, but shall not be limited to, the following criteria:

- (1) Population density;
- (2) Traffic volume;
- (3) Average vehicle velocity;
- (4) Existence or absence of sufficient sidewalk space;
- (5) Roads and highways that are winding or have blind curves;
- (6) Roads and highways with steep inclines and declines;

- (7) Drop-offs that are in close proximity to a sidewalk;
- (8) Bridges or overpasses that must be crossed to reach the school;
- (9) Train tracks or trestles that must be crossed to reach the school; and
- (10) Busy roads or highways that must be crossed to reach the school.

b. A school district shall work in conjunction with municipal officials in determining the criteria necessary for the designation of a hazardous route.

L.1999,c.310,s.2.

18A:39-1.6 Transportation of nonpublic school students, remote, certain.

1. As used in this section, "regional district" means a regional school district composed of only two constituent municipalities or a consolidated school district composed of only two municipalities.

Notwithstanding any provision of N.J.S.18A:39-1 to the contrary, if a school district provides transportation to and from school to a school pupil who resides remote from school and attends a nonpublic school located within the State not more than 20 miles from the residence of the pupil, or in the case of a regional district provides transportation or an in-lieu-of-payment to such pupil, the school district or regional district shall provide transportation, when seats are available on existing routes, or an in-lieu-of payment to all nonpublic school pupils who reside within the municipality of that pupil or in the case of a regional district reside within the district, attend that school, and reside more than 20 miles from that school. The school district may require all nonpublic school pupils in the municipality or regional district to use the bus stops which serve the pupils whose residences are not more than 20 miles from the nonpublic school. Any cost incurred by a school district or a regional district in providing transportation or an in-lieu-of payment to a pupil who is eligible for the transportation or an in-lieu-of payment under the provisions of this section shall not exceed the maximum cost per pupil established pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and shall be paid by the State.

L.1999,c.350,s.1; amended 2000, c.103; 2001, c.324.

18A:39-1.7 Purchase of transportation by nonpublic school pupils; conditions.

1. A board of education responsible for the transportation of public school pupils to and from school pursuant to N.J.S.18A:39-1 or a cooperative transportation services agency as identified by the Commissioner of Education may permit nonpublic school pupils who live in or outside of the district and who are not eligible for pupil transportation pursuant to N.J.S.18A:39-1 because the distance from the pupil's residence to the nonpublic school is greater than the mileage limit established pursuant to N.J.S.18A:39-1 or any other law to purchase transportation to the nonpublic school from the board of education or the cooperative transportation services agency provided that:

- a. there is available space on the appropriate bus route; and
- b. the parent, guardian or other person having legal custody of the pupil attending the nonpublic school agrees to transport the pupil to an existing bus stop as determined by the board of education or the cooperative transportation services agency.

The parent, guardian or other person having legal custody of the pupil attending the nonpublic school shall pay no more than the per pupil cost of the route for the transportation provided pursuant to this section. The costs of the transportation shall be paid at the time and in the manner determined by the board of education or cooperative transportation services agency.

A board of education or the cooperative transportation services agency shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this section.

Boards of education shall not receive State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for the transportation of pupils pursuant to this section; however these pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

Prior to providing transportation pursuant to this section to a nonpublic school pupil who lives within the district, a board of education shall determine if the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c.350 (C.18A:39-1.6). If the board of education determines that the pupil is eligible for transportation or an in-lieu-of payment pursuant to section 1 of P.L.1999, c.350 (C.18A:39-1.6), then that provision of law shall govern the transportation services provided to the pupil by the board of education.

L.2000, c.114, s.1; amended 2007, c.260. s.65.

18A:39-1.8 Payment by parents for transportation of certain pupils.

1. Any board of education which transports pupils to and from school pursuant to N.J.S.18A:39-1 may provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles from school and secondary school pupils who live less than two and a half miles from school along an established school bus route, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported, the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation. A board of education may also provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles and secondary school pupils who live less than two and a half miles from any not for profit nonpublic school which satisfies the maximum distance requirements set forth in N.J.S.18A:39-1 along an established school bus route, and may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported, the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation. The costs of the transportation shall be paid at the time and in the manner determined by the board of education, provided that the costs shall be equitable for both public and nonpublic pupils.

A board of education shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of this act.

L.2001,c.327,s.1.

18A:39-1.9 Payment not required based on financial hardship.

2. A board of education which provides for the transportation of pupils pursuant to section 1 of this act may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the costs of that transportation because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

L.2001,c.327,s.2.

18A:39-2. Methods of providing transportation

Any board of education having power to provide for the transportation of school pupils in its district to and from school may provide such transportation by a bus or buses owned by it or may enter into contract for such transportation, approved by the county superintendent, for a term not exceeding 4 years.

All multiyear contracts made pursuant to the above taking effect subsequent to September 1, 1975 may, at the discretion of the local board of education, and subject to approval by the county superintendent, be increased not to exceed 7 1/2 annually of the original yearly contract cost beginning with the second year of the contract.

L.1967, c.271; amended by L.1977, c. 68, s. 1, eff. April 21, 1977; L.1982, c. 74, s. 2, eff. July 21, 1982.

18A:39-2.1. Interdistrict transportation bidding procedure

Any board of education of a school district providing transportation for any child pursuant to N.J.S. 18A:46-23 to and from any other school district, may solicit any bid therefor, on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district of the board. The board may award any contract therefor pursuant to the provisions of chapter 39 of Title 18A of the New Jersey Statutes. Any adjustment in price authorized under the contract may be made on a per pupil, per vehicle or per mileage basis, whichever is least costly to the school district.

L. 1985, c. 344, s. 1, eff. Oct. 29, 1985.

18A:39-2.2 Determination of cost efficiencies by combining public, nonpublic school bus routes.

2. A county superintendent of schools, during the approval process of pupil transportation contracts conducted pursuant to N.J.S.18A:39-2, shall examine the contract to determine whether cost efficiencies could be realized by combining public and nonpublic school pupils on the same school bus routes.

L.2001,c.437,s.2.

18A:39-3 Pupil transportation contracts.

18A:39-3. a. No contract for the transportation of pupils to and from school shall be made, when the amount to be paid during the school year for such transportation shall exceed \$7,500.00 or the amount determined pursuant to subsection b. of this section, and have the approval of the executive county superintendent of schools, unless the board of education making such contract shall have first publicly advertised for bids therefor in a newspaper published in the district or, if no newspaper is published therein, in a newspaper circulating in the district, once, at least 10 days prior to the date fixed for

receiving proposals for such transportation, and shall have awarded the contract to the lowest responsible bidder.

Nothing in this chapter shall require the advertisement and letting on proposals or bids of annual extensions, approved by the executive county superintendent, of any contract for transportation entered into through competitive bidding when--

(1) Such annual extensions impose no additional cost upon the board of education, regardless of the fact that the route description has changed; or

(2) The increase in the contractual amount as a result of such extensions does not exceed the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, regardless of the fact that the route description has changed or an aide has been added or removed; or

(3) (Deleted by amendment, P.L.1982, c.74.)

(4) The increase in the contractual amount as a result of an extension exceeds the rise in the Consumer Price Index as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45) for that school year, but the following apply to the extensions:

(a) The increase is directly attributable to a route change to accommodate new student riders or safety concerns as provided for in the original bid, or the increase is directly attributable to the addition of an aide as provided for in the original bid; and

(b) The school destination remains unchanged from the original contract.

Any such extension as described in this paragraph shall require the approval of the executive county superintendent of schools.

Nothing in this chapter shall require the immediate bid of any contract renewal for the remainder of a school year in which the only change, in addition to route description, is the bus type. However, any such extension shall be approved by the executive county superintendent of schools and shall be bid for the next school year.

b. The Governor, in consultation with the Department of the Treasury, shall, no later than March 1 of each odd-numbered year, adjust the threshold amount set forth in subsection a. of this section, or subsequent to 1985 the threshold amount resulting from any adjustment under this subsection or section 17 of P.L.1985, c.469, 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 all local school districts of the adjustment. The adjustment shall become effective on July 1 of each odd-numbered year.

Amended 1968, c.29, s.2; 1977, c.68, s.2; 1982, c.74, s.1; 1985, c.469, s.1; 1991, c.316; 2001, c.111; 2003, c.69; 2007, c.260, s.66.

18A:39-3.1 Consultation for transportation of nonpublic school pupils.

3. A board of education shall consult with the appropriate nonpublic school administrators seeking such consultation prior to preparing bus routes for the transportation of nonpublic school pupils for the school year and in a timely manner that allows sufficient time to publicly advertise for bids.

L.2001,c.65,s.3.

18A:39-3.2 Rules, regulations.

4. The State Board of Education 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 this act.

L.2001,c.65,s.4.

18A:39-4. Form of bid; deposit; forfeiture or return of deposit

Each transportation bid shall be accompanied by information required on a standard form of questionnaire approved by the state board and by a cashier's or certified check for 5% of the annual amount of the contract, which deposit shall be forfeited upon the refusal of a bidder to execute a contract; otherwise, checks shall be returned when the contract is executed and a bond filed.

L.1967, c.271

18A:39-5. Opening of bids; rejection, etc.

At the time and place fixed in such advertisement for the submission of proposals the board of education, or any committee thereof authorized so to do, or any officer or employee of such board designated therefor, shall receive such proposals and immediately proceed to unseal the same and publicly announce the contents in the presence of the parties bidding or their agents, if such parties choose to be then and there present. Such board shall have the right to reject any and all bids. No proposals shall be

opened previous to the hour designated in the advertisement and none shall be received thereafter.

L.1967, c.271

18A:39-6. Liability insurance, etc., to be furnished

Liability insurance covering the operation of every bus transporting pupils to and from schools and the drivers thereof or other appropriate similar coverage shall be furnished by each contractor or, in the case of any bus owned and operated by a board of education, by the board of education, in such amounts, with such indemnity, with such coverage, and in such manner, as shall be prescribed by rule of the state board.

L.1967, c.271.

18A:39-6.1. Liability insurance; rates

In every contract for the transportation of pupils to and from school entered into by a board of education, the costs of furnishing the liability insurance coverage required under N.J.S. 18A:39-6 shall be based on the insurance rate applicable only to such transportation.

L.1973, c. 248, s. 1, eff. Nov. 26, 1973.

18A:39-10. Expenditures by contractor in compliance with law or rules, after contract made

Notwithstanding the terms of any contract for transportation of pupils to and from school, or renewal thereof, entered into pursuant to this chapter, any board of education, in its discretion, with the approval of the county superintendent, may compensate any transportation contractor, in whole or in part, for any necessary expenditure made to comply with the provisions of any law enacted, or any rules and regulations promulgated pursuant to any law, after said contract was entered into.

L.1967, c.271.

18A:39-11. Joint transportation authorized

The boards of education of 2 or more school districts may provide jointly for the transportation of pupils to and from any school or schools within or outside the districts.

Whenever in the judgment of the county superintendent of schools transportation of pupils to any qualified school other than a public school could be more economically accomplished by joint transportation with 2 or more school districts, he may order such joint transportation, assign the administration to one board of education and prorate the cost on a per pupil mileage basis to the other boards of education involved.

L.1967, c.271; amended by L.1968, c. 29, s. 3, eff. May 6, 1968.

18A:39-11.1 List of agencies providing cooperative transportation services; provision of transportation for certain pupils.

1. a. The Commissioner of Education shall identify and publish a list of local school boards of education, educational services commissions, county special services school districts, and any other established agencies providing cooperative transportation services.

b. Any school district responsible for the transportation of pupils to and from a school, other than a local district school, pursuant to N.J.S.18A:39-1 which transports pupils to a county vocational school and pupils classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes shall utilize one of the agencies identified by the commissioner for the transportation of the pupils. Transportation by one of the agencies shall not be required when the local district can provide transportation at a lower cost than those agencies, or the transportation to be provided by one of the agencies does not fall within the policies of the resident school district regarding length of ride and assignment of students to a route based on student age or classification.

c. (1) A board of education shall bid or coordinate nonpublic school transportation services with another school district or a cooperative transportation services agency in accordance with criteria established by the commissioner.

(2) Any school district which has in the prior year provided payments in lieu of transportation for any nonpublic school pupil pursuant to N.J.S.18A:39-1, or which cannot provide transportation in the ensuing school year in accordance with the commissioner's criteria, shall attempt to provide transportation through an agency identified by the commissioner prior to determining to pay aid in lieu of transportation. The school district shall provide to the agency any unique limitations or restrictions of the required transportation. If the costs to provide transportation by the agency identified by the commissioner are less than the in-lieu-of payments, the agency shall provide transportation. The school district shall make the determination on the manner in which transportation services shall be provided and shall notify the nonpublic school and the parent or guardian of the nonpublic school pupil by August 1 prior to the beginning of the school year. For the purposes of this subsection, "costs to provide transportation" shall not include any administrative fee charged by the agency. If the sum of the costs to provide transportation plus any administrative fee charged by the agency exceeds on a

per pupil basis the maximum amount for nonpublic school transportation established pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), the board of education may apply to the commissioner for that portion which exceeds the maximum amount.

d. The county superintendents shall:

(1) assist local boards of education and the chief school administrators of nonpublic schools in coordinating the calendars and schedules of the public and nonpublic schools to facilitate the coordination of transportation of pupils to and from school in their respective county:

(2) arbitrate any disputes between local boards of education and the chief school administrators of nonpublic schools regarding pupil transportation; and

(3) convene a meeting, at least once a year, of representatives of all public and nonpublic schools in the county to discuss issues related to pupil transportation.

L.1997,c.53,s.1; amended 2001, c.65, s.2.

18A:39-11.2 Bidding requirements for certain pupil transportation contracts.

1. a. Except as provided in subsection g. of this section, the provision of transportation services to a local school district by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity, other than a local school district using school buses it owns or leases, shall be subject to the bidding requirements and requirements concerning the renewal of transportation contracts set forth in chapter 39 of Title 18A of the New Jersey Statutes, including the requirements concerning the advertisement for bids, the submission of quotations and the renewal of contracts.

b. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall adhere to every substantial bid specification for a pupil transportation contract, including bonding requirements.

c. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district that is intending to bid for transportation services shall be precluded from preparing specifications. Specifications shall be prepared by the local school district seeking transportation services or by any other cooperative transportation services agency, as designated by the Commissioner of Education, that is not bidding.

d. The cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district shall not charge any fee above the bid price.

e. A local school district may negotiate and award a contract for transportation services with a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district if the provisions of subsection c. of N.J.S.18A:18A-5 have been met.

f. The following forms, prescribed by the Commissioner of Education, shall be included in any bid submitted by a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity other than a local school district to provide transportation services:

(1) if applicable, a membership form for the cooperative transportation services agency, educational services commission, county special services school district or jointure commission indicating each member school district and the name of each member school district's superintendent;

(2) a form indicating the transportation experience of the bidder;

(3) a non-collusion form indicating that the bidder has not drafted specifications or route descriptions for the local board of education that is seeking transportation services;

(4) an affirmative action statement; and

(5) a bidder's guarantee in an amount required pursuant to statute and regulation.

g. The provisions of this section shall not apply to:

(1) an educational services commission or a jointure commission for the provision of transportation services to pupils who reside in school districts which, as of January 1, 2004, are members of the educational services commission or jointure commission, if, as of that date, the commission owns or leases school buses and is providing pupil transportation;

(2) an educational services commission or jointure commission for the provision of transportation services to pupils who reside in school districts which are located in a county of the first class and which are not members of the educational services commission or jointure commission and which, as of January 1, 1999, have been receiving pupil transportation from that commission with buses the commission owns or leases;

(3) a county special services school district for the provision of transportation services to pupils who are enrolled in the county special services school district or pupils enrolled in nonpublic schools who reside within the county, if, as of January 1, 2004, the district owns or leases school buses and is providing pupil transportation ; and

(4) a county special services school district for the provision of special education transportation for pupils residing within that county or within a contiguous county, if, as of January 1, 2004, the county special services school district is located in a county of the fifth class, and has been providing special education transportation with buses it owns or leases.

L.2005,c.84,s.1.

18A:39-11.3 Disqualification of bidder; "prior negative experience" defined.

2. a. A board of education may, by resolution approved by a majority of the board of education and subject to the provisions of subsection b. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder for a pupil transportation contract, if the board of education finds that it has had prior negative experience with the bidder. The disqualification shall be for a reasonable, defined period of time which shall not exceed three years.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been determined to be "nonperforming" under a pupil transportation contract after a hearing which shall include the bidder, the superintendent of schools, and the county superintendent of schools. The county superintendent of schools shall make the determination as to nonperformance and this determination may be appealed to Commissioner of Education and the State Board of Education, as provided by law;

(2) the bidder defaulted on a transportation contract thereby requiring the board of education to utilize the services of another contractor to complete the contract;

(3) the bidder defaulted on a transportation contract thereby requiring the board of education to look to the bidder's surety for completion of the contract or tender of the costs of completion; or

(4) the bidder has at least a 10% ownership in any contractor that had prior negative experience with the board of education as described in paragraphs (1) through (3) of this subsection.

L.2005,c.84,s.2.

18A:39-11.4 Continuation of prior agreement in violation of act.

3. A joint transportation agreement entered into by a local school district and a cooperative transportation services agency, educational services commission, county special services school district, jointure commission or other public entity prior to the effective date of P.L.2005, c.84 (C.18A:39-11.2 et seq.) which violates the provisions of this act may continue in effect for the remainder of the school year in which the agreement was made.

L.2005,c.84,s.3.

18A:39-12. Agreement for joint transportation

Any such joint transportation shall be provided under the terms of an agreement adopted by resolution of each of the boards of education concerned wherein shall be set forth the essential information concerning the transportation to be provided, the method of computing the proportion of the cost each party to the agreement shall assume, and the proportion of the state aid to which each district shall be entitled, and any other matters deemed necessary to carry out the purposes of the agreement.

L.1967, c.271.

18A:39-13. Joint transportation; laws and rules governing

Any such joint transportation shall be subject to all the provisions of law and rules of the state board governing the transportation of school pupils.

L.1967, c.271.

18A:39-14. Joint transportation; expenses; payment

Each district's proportionate share of the cost of such joint transportation shall be paid in the manner set forth in the agreement and in the same manner as other expenses of the district are paid.

L.1967, c.271.

18A:39-15 State aid for joint transportation.

18A:39-15. If the executive county superintendent of the county in which the districts are situate shall approve the necessity, the cost, and the method of providing joint transportation and the agreement whereby the same is to be provided, each board of education providing joint transportation shall be entitled to State transportation aid pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57).

Amended 1975, c.212, s.33; 1978, c.158, s.1; 1990, c.52, s.53; 1996, c.138, s.68; 2007, c.260, s.67.

18A:39-16. Disputes; determination; appeal

In the event that any controversy or dispute shall arise among the parties to any such agreement for joint transportation, the same shall be referred to the county superintendent of the county in which the districts are situate for determination and his determination thereon shall be binding, subject to appeal to the commissioner. In the event that the districts are in more than one county, the controversy or dispute shall be referred to the county superintendents of the counties for joint determination, and if they shall be unable to agree upon a joint determination within 30 days, the controversy or dispute shall be referred to the commissioner for determination.

L.1967, c.271.

18A:39-17 Names, certain information relative to bus drivers to be filed by secretary of board of education.

18A:39-17. In each school year, prior to the assignment of any driver or substitute driver to any vehicle operated by the board of education of any district as a school bus, there shall be filed by the secretary of such board with the county superintendent the name and social security number of each such driver or substitute driver and certification of a valid school bus driver's license, criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1).

L.1967, c.271; amended 1989, c.104, s.1; 2003, c.66, s.2.

18A:39-18 Information relative to bus drivers furnished by contractor.

18A:39-18. In each school year, prior to the beginning of transportation of school pupils under a contract awarded by a board of education, the contractor shall furnish to the county superintendent the name, social security number, and certification of a valid school bus driver's license and criminal background check, and evidence of a check for the driver's record of alcohol and drug-related motor vehicle violations pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1) of each driver or substitute driver to be assigned to any vehicle in the performance of his contract.

L.1967, c.271; amended 1989, c.104, s.2; 2003, c.66, s.3.

18A:39-19.1 Bus drivers required to submit certain information to commissioner; notice of pending charges.

6. a. Prior to employment as a school bus driver, and upon application for renewal of a school bus driver's license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints in accordance with procedures established by the commissioner. No criminal history record check or check for alcohol and drug-related motor vehicle violations shall be furnished without his or her written consent to such a check. The applicant shall bear the cost for the checks, including all costs for administering and processing the checks.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, and information on the check for alcohol and drug-related motor vehicle violations from the Division of Motor Vehicle Services, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. If the applicant is disqualified, the convictions which constitute the basis for the disqualification shall be identified in the written notice to the applicant. A school bus driver, except as provided in subsection e. of this section, shall be permanently disqualified from employment or service if the individual's criminal history record reveals a record of conviction for which public school employment candidates are disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1) or if the driver has been convicted at least two times within the last 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or section 16 of P.L.1990, c.103 (C.39:3-10.24); or once for a violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school children.

Following qualification for employment as a school bus driver pursuant to this section, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information which the bureau receives on a charge pending against the school bus driver. If the charge is for one of the crimes or offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the employing board of education or contractor, and the board or contractor shall take appropriate action. If the pending charge results in conviction, the school bus driver shall not be eligible for continued employment.

A school bus driver shall not be eligible to operate a school bus if the individual's bus driver's license is currently revoked or suspended by the Division of Motor Vehicle Services in accordance with R.S.39:3-10.1.

Following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately forward to the Commissioner of Education any information which the division receives on a conviction for an alcohol or drug-related motor vehicle violation that would disqualify the driver from employment pursuant to the provisions of this subsection. The commissioner shall notify the employing board of education or contractor that the driver is no longer eligible for employment.

b. Notwithstanding the provisions of this section, an individual shall not be disqualified from employment or service under this act on the basis of any conviction disclosed by a criminal history record check or a check for alcohol and drug-related motor vehicle violations performed pursuant to this section without an opportunity to challenge the accuracy of the disqualifying records.

c. When charges are pending for a crime or any other offense enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the employing board of education or contractor shall be notified that the candidate shall not be eligible for employment until the commissioner has made a determination regarding qualification or disqualification upon adjudication of the pending charges.

d. The applicant shall have 30 days from the date of the written notice of disqualification to challenge the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation. If no challenge is filed or if the determination of the accuracy of the criminal history record information or the record of convictions for an alcohol or drug-related motor vehicle violation upholds the disqualification, notification of the applicant's disqualification for employment shall be forwarded to the Division of Motor Vehicle Services. The local board of education or the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicle Services shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S.39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

e. This section shall first apply to criminal history record checks conducted on or after the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); except that in the case of a school bus driver employed by a board of education or a contracted service provider who is required to undergo a check upon application for renewal of a school bus driver's license, the individual shall be disqualified only for the following offenses:

(1) any offense enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

(2) any offense enumerated in this section which had not been enumerated in this section prior to the effective date of P.L.1998, c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense on or after the effective date of that act.

f. (1) Notwithstanding any provision of this section to the contrary, the check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver and upon application for renewal of a school bus driver's license until such time as the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, are effective and implemented by the State.

(2) Notwithstanding any provision of this section to the contrary, upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, a check for alcohol and drug-related motor vehicle violations shall be conducted in accordance with the provisions of this section prior to initial employment as a school bus driver. A check for alcohol and drug-related motor vehicle violations conducted for any subsequent renewal of a school bus driver's license shall be subject to the provisions of the "Motor Carrier Safety Improvement Act of 1999," Pub. L.106-159.

(3) Upon the implementation by the State of the "Motor Carrier Safety Improvement Act of 1999," Pub. L. 106-159, following qualification for employment as a school bus driver, the Division of Motor Vehicle Services shall immediately notify the Commissioner of Education of the suspension or revocation of a school bus driver's commercial driver's license. The commissioner shall notify the employing board of education or contractor of the suspension or revocation, and the employment of the school bus driver shall be immediately terminated. In the case of a school bus driver whose commercial driver's

license has been suspended, the driver may apply for re-employment at the end of the period of suspension.

L.1989,c.104,s.6; amended 1998, c.31, s.10; 2002, c.119, s.7; 2003, c.66, s.4.

18A:39-20 Compliance required for assigning bus driver; violations; fine.

18A:39-20. No board of education or contractor shall knowingly approve or knowingly assign an individual, as a driver or substitute driver of a school bus, without first complying with the provisions of this chapter, and any person violating, or failing to comply with such provisions shall be subject to a fine of not more than \$5,000 for each driver unlawfully approved or assigned.

L.1967, c.271; amended 1989, c.104, s.3; 1998, c.31, s.11; 2003, c.66, s.5.

18A:39-20.1. Transportation to and from related school activities in private vehicle with capacity of eight or less; authorization of qualified school personnel, state employees or parents

Notwithstanding any statute or regulation to the contrary, any board of education, governing body of a nonpublic school or State agency may authorize qualified school personnel, State employees or parents, to transport school children to and from related school activities in a private vehicle with a capacity of eight or less. Any person authorized by a board, body or agency to provide such transportation services shall not be required to be licensed or regulated as a school bus driver. Such transportation shall be exempt from all registration, equipment, inspection and maintenance requirements imposed on the transportation of pupils by school bus.

L.1981, c. 51, s. 1, eff. Feb. 25, 1981.

18A:39-21. Rules governing pupil transportation by state board

The state board shall make rules governing the transportation of pupils to and from school to carry out the provisions of this chapter.

L.1967, c.271.

18A:39-22. Permission to use school buses for transporting senior citizens, handicapped citizens, children and adults in recreation or other programs

The board of education of any district may, pursuant to rules adopted by it, permit the use of school buses owned or leased by the school district for the purpose of transporting senior citizens' groups to and from events within its district or in any contiguous district, for transporting handicapped citizens in any district, and for transporting children and adults participating in a recreation or other program operated by the municipality or municipalities in which the district is located or the municipality in which any constituent district of a regional school district is located; provided that each use of school buses for these purposes is approved by the board; provided that such use of school buses shall not interfere with the transportation of school pupils; and provided that school buses so used shall be operated only by persons licensed as bus drivers. The board shall require groups seeking such use of school buses to pay all or part of any costs incurred by the district in permitting such use, including but not limited to the costs of fuel, driver salaries, insurance and depreciation.

L.1977,c.5,s.1; amended 1979, c.403, s.2; 1989,c.136,s.2.

18A:39-22.1. School bus used to transport Developmental Disabilities client; permitted

1. The board of education of a school district may, pursuant to rules adopted by it, permit the use of school buses owned, leased or contracted by the school district for the purpose of transporting a handicapped adult who is a client of the Division of Developmental Disabilities in the Department of Human Services and who is continuing his education and training following graduation from secondary school. Transportation pursuant to this section will be limited to space availability on vehicles engaged in the transportation of school-age pupils along established routes. The board shall require that the individual transported, or his parent or guardian, pay all or part of any costs incurred by the district in providing the transportation, including but not limited to, the costs of fuel, driver salaries, insurance and depreciation.

L.1994,c.172.

18A:39-23. No fee registration continued

The use of school buses as herein provided shall not be construed as use for hire and shall in no way affect the no fee registration of such vehicles as provided in R.S.39:3-27.

L.1977,c.5,s.2; amended 1979, c.403, s.3; 1989,c.136,s.3.

18A:39-24. Rules and regulations

The State Board of Education shall develop rules and regulations governing the use of school buses pursuant to section 1 of this act.

L.1977, c. 5, s. 3.

18A:39-25. Board of public utility commissioners; regulation or jurisdiction of school buses used under this act

Notwithstanding the provisions of any law, rule or regulation of this State to the contrary, the use of school buses or the recovery of costs as herein authorized, shall not subject such school buses to regulation by or the jurisdiction of the Board of Public Utilities Commissioners.

L.1977, c. 5, s. 4.

18A:39-26. Short title

1. This act shall be known and may be cited as the "School Bus Safety Act."

L.2003,c.19,s.1.

18A:39-27. Bus driver required to be on bus when pupil present, exceptions

2. a. Notwithstanding the provisions of any other law, rule or regulation to the contrary, no school pupil shall be allowed on board a school bus unless the bus driver or other employee of the school board or school bus contractor is also on board the bus.

b. The provisions of subsection a. of this section shall not apply when a bus driver leaves the bus to assist in the boarding or exiting of a disabled pupil or in the case of an emergency.

L.2003,c.19,s.2.

18A:39-28 Inspection of school bus for pupils by driver at end of transportation route.

1. A school bus driver shall visually inspect the school bus to which he is assigned at the end of the transportation route to determine that no pupil has been left on the bus. For the purposes of this act, "school bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education, which complies with the regulations of the Department of Education affecting school buses, including "School Vehicle Type I" and "School Vehicle Type II" as defined pursuant to R.S.39:1-1.

L.2007,c.77,s.1.

18A:39-29 Violation, suspension, revocation of school bus endorsement.

2. In the event that, after notice and opportunity to be heard, a school bus driver is found to have left a pupil on the school bus at the end of his route, his school bus endorsement shall be:

- a. suspended for six months, for a first offense; or
- b. permanently revoked, for a second offense.

L.2007,c.77,s.2.

18A:39-30 Permanent revocation for gross negligence.

3. In the event that a pupil, who was left on a bus by a school bus driver at the end of the route, is harmed as a result of foreseeable danger and the driver is found, after notice and opportunity to be heard, to have acted with gross negligence, his school bus endorsement shall be permanently revoked.

L.2007,c.77,s.3.

18A:40-1. Employment of medical inspectors, optometrists and nurses; salaries; terms; rules

Every board of education shall employ one or more physicians, licensed to practice medicine and surgery within the state, to be known as the medical inspector or medical inspectors, and any board, not furnishing nursing services under a contract pursuant to section 18A:40-3.1 shall employ one or more school nurses, and it may also employ one or more optometrists, licensed to practice optometry within the state, to be known as the school vision examiner or school vision examiners, and the board shall fix their salaries and terms of office.

Every board of education shall adopt rules, subject to the approval of the state board, for the government of such employees.

L.1967, c.271.

18A:40-2. Appointment of county medical inspector

Whenever the county superintendent shall certify to the commissioner that there has been subscribed or donated a sum not less than \$4,000.00 for the purpose of paying the salary of a person to be known as county medical inspector of a county, the commissioner shall appoint, by and with the approval of the state board, a physician, licensed to practice medicine and surgery within the state, of at least two years practical experience, to be known as county medical inspector for such county. He shall perform such duties as shall be prescribed by rules adopted by the state board. His term of office shall be one year. No person shall be appointed as a county medical inspector in any year until there has been certified to the commissioner that a sum sufficient to

pay the salary of such officer, but not less than \$4,000.00, has been subscribed or donated as aforesaid.

L.1967, c.271.

18A:40-3. Lectures to teachers

A medical inspector or nurse shall lecture to the teachers at such times as may be designated by the board of education instructing them concerning the methods employed to detect the first signs of communicable disease and the recognized measures for the promotion of health and the prevention of disease.

L.1967, c.271.

18A:40-3.1. Appointment and salary, school nurses, etc.

Every person employed as a school nurse, school nurse supervisor, head school nurse, chief school nurse or school nurse coordinator, or performing any school nursing service, in the public schools of this state shall be appointed by the board of education having charge of the school or schools in which the services are to be rendered and shall be under the direction of said board or an officer or employee of the board designated by it and the salary of such person shall be fixed by, and paid from the funds of said board according to law, except that the performance of school nursing services in any public school in this state may be continued, under any original contract or agreement entered into, prior to February 27, 1957, or under any renewal or modification thereof, during the term of such contract or agreement or renewal or modification thereof.

L.1967, c.271.

18A:40-3.2. Findings, declarations relative to school nursing

1. The Legislature finds and declares that school nursing is a separate and distinct specialty within the nursing and educational professions and that therefore competence in specified areas of health and education is needed in order for school nurses to act as health advocates for school-age children.

L.1999,c.153,s.1.

18A:40-3.3. Employment of nursing, non-nursing personnel

2. A school district shall only utilize or employ for the provision of nursing services in the public schools of the district persons holding an educational services certificate with an endorsement as a school nurse issued by the State Board of Examiners, except for those non-nursing personnel who are otherwise authorized by statute or regulation to perform specific health related services. Special education students and those with medical needs requiring specialized care shall have that care rendered by an appropriate provider as appointed by the Board of Education. No person shall be issued such certificate unless the person is licensed as a registered nurse pursuant to the provisions of P.L.1947, c.262 (C.45:11-23 et seq.) and meets all of the requirements prescribed by the board for a nursing endorsement. A school district may supplement the services provided by the certified school nurse with non-certified nurses, provided that the non-certified nurse is assigned to the same school building or school complex as the certified school nurse.

L.1999,c.153,s.2.

18A:40-3.4. Employment of person to assist school nurse by providing secretarial, clerical duties

3. A school district may utilize or employ a person to perform secretarial or clerical duties that assist in providing nursing services only under the supervision of a certified school nurse. Secretarial or clerical duties may include, but not be limited to, recording information on a pupil or school record, making telephone calls, and preparing correspondence.

L.1999,c.153,s.3.

18A:40-3.5. Issuance of county substitute certificate, emergency certificates

4. The holder of a valid New Jersey registered nurse license may be issued a county substitute certificate to serve as a substitute for a certified school nurse in accordance with N.J.A.C.6:11-4.5. Emergency certificates may be issued in accordance with N.J.A.C.6:11-4.3.

L.1999,c.153,s.4.

18A:40-3.6. Rules, regulations

5. The State Board of 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.

L.1999,c.153,s.5.

18A:40-4 Health records; examinations for physical defects, hearing

18A:40-4. The medical inspector, or the nurse or licensed medical and health care personnel under the immediate direction of the medical inspector, shall examine every pupil to learn whether any physical defect exists, or in lieu thereof the medical

inspector may accept the report of such an examination by a physician licensed to practice medicine and surgery within the State or by a nurse practitioner/clinical nurse specialist certified by the New Jersey Board of Nursing working in collaboration with a physician licensed to practice medicine and surgery within the State. If any deviations in health status are detected, the nurse practitioner/clinical nurse specialist shall refer the pupil to the collaborating physician. The frequency and procedure of and selection of pupils for examinations shall comply with the rules of the State board. Additionally a screening of hearing examination shall be conducted on each pupil during the school year pursuant to rules, regulations and standards established by the State Department of Education in consultation with the State Department of Health.

A pupil who presents a statement signed by his parents or guardian that such required examinations interfere with the free exercise of his religious beliefs shall be examined only to the extent necessary to determine whether he is ill or infected with a communicable disease or to determine his fitness to participate in any health, safety and physical education course required by law.

A health record of each pupil shall be kept, in which shall be entered the findings of each examination, and such record shall be the property of the board of education and shall be forwarded to any public school to which the pupil is transferred, if such school is known.

L.1967, c.271; amended 1969, c.217; 1979, c.427; 1997, c.47.

18A:40-4.3 Biennial examination for scoliosis.

1. Every board of education shall provide for the biennial examination of every pupil between the ages of 10 and 18 for the condition known as scoliosis in accordance with standards jointly established and promulgated by the Departments of Health and Senior Services and Education. Such examination shall be carried out by a school physician, school nurse, physical education instructor or other school personnel properly trained in the screening process for scoliosis. Every board of education shall further provide for the notification of the parents or guardian of any pupil suspected of having scoliosis. Such notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the public services available, after diagnosis, for such treatment.

L.1978,c.97,s.1; amended by 2000, c.126, s.2.

18A:40-4.4. Exemption

Any pupil shall be exempt from the examination upon written request of his parent or guardian.

L.1978, c. 97, s. 2, eff. Aug. 14, 1978.

18A:40-4.5. Immunity from action of any kind due to provisions of act

No action of any kind in any court of competent jurisdiction shall lie against any physician, school nurse, physical education instructor or other school personnel by virtue of the provisions of this act.

L.1978, c. 97, s. 3, eff. Aug. 14, 1978.

18A:40-5. Method of examination; notice to parent or guardian

In conducting such examinations of pupils the medical inspector may require pupils to loosen, open, or remove their clothing above the waist in a manner to facilitate inspection and examination, but in any such case the parents or guardians shall be notified in writing of such proposed examination and in such notice the presence of one of the parents or guardians shall be requested, and it shall be stated in the notice that in the absence of a parent or guardian there shall be present a nurse or teacher and in the examination of a female pupil the nurse or teacher present shall be of the female sex, and that if the parent or guardian objects to such examination, then the parent or guardian may file with the medical inspector a report of the family physician upon the condition for which such examination was deemed advisable by the medical inspector.

L.1967, c.271.

18A:40-6. In general

The board of education of any district may provide such equipment, supplies, and services as in its judgment will aid in the preservation and promotion of the health of the pupils, subject to the provisions of section 18A:18-5.1.

L.1967, c.271.

18A:40-7. Exclusion of pupils who are ill

When there is evidence of departure from normal health of any pupil, the principal of the school shall upon the recommendation of the school physician or school nurse exclude such pupil from the school building, and in the absence from the building of the school physician or school nurse, the classroom teacher may exclude the pupil from the classroom and the principal may exclude the pupil from the school building.

L.1967, c.271.

18A:40-8. Exclusion of pupils whose presence is detrimental to health and cleanliness

The principal may, upon the recommendation of the school physician or the school nurse, if either of them are present in the building, exclude from school any pupil who has been exposed to a communicable disease or whose presence in the school room certified by the medical inspector as detrimental to the health or cleanliness of the pupils in the school, and in the absence from the building of the school physician or school nurse, the classroom teacher may exclude the pupil from the classroom and the principal may exclude the pupil from the school building and the principal or the classroom teacher, as the case may be, shall notify the parent, guardian or other person having control of the pupil of the reason for his exclusion.

L.1967, c.271.

18A:40-9. Failure of parent to remove cause for exclusion; penalty

If the cause for exclusion under this article is such that it can be remedied, and the parent, guardian or other person having control of the pupil excluded shall fail within a reasonable time to have the cause for the exclusion removed, the parent, guardian or other person shall be proceeded against, and upon conviction, be punishable as a disorderly person.

L.1967, c.271.

18A:40-10. Exclusion of teachers and pupils exposed to disease

No teacher or pupil who is a member of a household in which a person is ill with smallpox, diphtheria, scarlet fever, whooping cough, yellow fever, typhus fever, cholera, measles, or such other contagious or infectious disease as may be designated by the board of education, or of a household exposed to contagion as aforesaid, shall attend any public school during such illness, nor until the board of education has been furnished with a certificate from the board of health, or from the physician attending such person, or from a medical inspector, certifying that all danger of communicating the disease by the teacher or pupil has passed.

L.1967, c.271.

18A:40-11. Exclusion of pupils having communicable tuberculosis

Any pupil found to have communicable tuberculosis shall be excluded from school and a report of each such case shall be filed by the school medical inspector with the health officer of the municipality in which the pupil resides. Readmission to school may be granted when proof satisfactory to the school medical inspector is furnished to indicate that the pupil is free from communicable tuberculosis.

L.1967, c.271; amended by L.1977, c. 63, s. 1, eff. April 15, 1977.

18A:40-12. Closing schools during epidemic

Whenever the board of health of any municipality shall declare any epidemic or cause of ill health to be so injurious or hazardous as to make it necessary to close any or all of the public schools in the municipality, the board shall immediately serve notice on the board of education of the school district situated in the municipality that it is desirable to close the school or schools. Upon receipt of the notice the board of education may close the schools under its control, or such of them as may be designated by the board of health. The schools so closed shall not be reopened until the board of education is satisfied that all danger from the epidemic or cause of ill health has been removed.

L.1967, c.271.

18A:40-12.1. Protective eye devices required for teachers, pupils and visitors in certain cases

The board of education of every school district shall require each pupil and teacher in the public schools of the district to wear industrial quality eye protective devices while attending classes in vocational or industrial art shops or laboratories in which caustic or explosive chemicals, hot liquids or solids, hot molten metals, or explosives are used or in which welding of any type, repair or servicing of vehicles, heat treatment or tempering of metals, or the milling, sawing, stamping or cutting of solid materials, or any similar dangerous process is taught, exposure to which might have a tendency to cause damage to the eyes. Visitors to such classrooms or laboratories shall also be required to wear such protective devices.

L.1967, c.271.

18A:40-12.2. Rules prescribing kinds, types and quality of devices

The commissioner, by rule or regulation, shall prescribe the kinds, types and quality of such protective devices and in so doing, the commissioner shall be guided by the standards promulgated by the American Standards Association, Inc. for such protective devices.

L.1967, c.271.

18A:40-12.3 Self-administration of medication by pupil permitted.

1. a. A board of education or the governing board or chief school administrator of a nonpublic school shall permit the self-administration of medication by a pupil for

asthma or other potentially life-threatening illnesses or a life-threatening allergic reaction provided that:

(1) the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a nonpublic school written authorization for the self-administration of medication;

(2) the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a nonpublic school written certification from the physician of the pupil that the pupil has asthma or another potentially life-threatening illness or is subject to a life-threatening allergic reaction and is capable of, and has been instructed in, the proper method of self-administration of medication;

(3) the board of education or the governing board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil;

(4) the parents or guardians of the pupil sign a statement acknowledging that the district or the nonpublic school shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents or the nonpublic school and its employees or agents against any claims arising out of the self-administration of medication by the pupil; and

(5) the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in paragraphs (1) through (4) of this subsection.

b. Notwithstanding any other law or regulation to the contrary, a pupil who is permitted to self-administer medication under the provisions of this section shall be permitted to carry an inhaler or prescribed medication for allergic reactions, including a pre-filled auto-injector mechanism, at all times, provided that the pupil does not endanger himself or other persons through misuse.

c. Any person who acts in good faith in accordance with the requirements of this act shall be immune from any civil or criminal liability arising from actions performed pursuant to this act.

L.1993,c.308,s.1; amended 1997, c.21; 2001, c.61, s.1; 2007, c.57, s.1.

18A:40-12.4. Rules, regulations

2. a. In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) the State Board of Education shall promulgate such rules and regulations as it deems necessary no later than six months after the effective date of this act.

b. A board of education shall not be prohibited from permitting the administration of medication pursuant to section 1 of this act prior to the promulgation of rules and regulations by the State Board of Education.

L.1993,c.308,s.2.

18A:40-12.5 Development of policy for emergency administration of epinephrine via pre-filled auto-injector mechanism to pupil.

1. Each board of education or chief school administrator of a nonpublic school shall develop a policy in accordance with the guidelines established by the Department of Education pursuant to section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency administration of epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis provided that:

a. the parents or guardians of the pupil provide to the board of education or chief school administrator of a nonpublic school written authorization for the administration of the epinephrine;

b. the parents or guardians of the pupil provide to the board of education or chief school administrator of a nonpublic school written orders from the physician or advanced practice nurse that the pupil requires the administration of epinephrine for anaphylaxis;

c. the board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees or agents shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism;

d. the parents or guardians of the pupil sign a statement acknowledging their understanding that the district or the nonpublic school shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil and that the parents or guardians shall indemnify

and hold harmless the district and its employees or agents or the nonpublic school and its employees or agents against any claims arising out of the administration of the epinephrine via a pre-filled auto-injector mechanism; and

e. the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in subsections a. through d. of this section.

The policy developed by a board of education or chief school administrator of a nonpublic school shall require:

(1) the placement of a pupil's prescribed epinephrine in a secure but unlocked location easily accessible by the school nurse and designees to ensure prompt availability in the event of an allergic emergency at school or at a school-sponsored function. The location of the epinephrine shall be indicated on the pupil's emergency care plan. Back-up epinephrine shall also be available at the school if needed;

(2) the school nurse or designee to be promptly available on site at the school and school-sponsored functions in the event of an allergic reaction; and

(3) the transportation of the pupil to a hospital emergency room by emergency services personnel after the administration of epinephrine, even if the pupil's symptoms appear to have resolved.

L.1997,c.368,s.1; amended 2007, c.57, s.2.

18A:40-12.6 Policy for administration of epinephrine to pupil.

2. The policy for the administration of medication to a pupil shall provide that the school nurse shall have the primary responsibility for the administration of the epinephrine. The school nurse shall designate, in consultation with the board of education, or chief school administrator of a nonpublic school additional employees of the school district or nonpublic school who volunteer to administer epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis when the nurse is not physically present at the scene. The school nurse shall determine that:

a. the designees have been properly trained in the administration of the epinephrine via a pre-filled auto-injector mechanism using standardized training protocols established by the Department of Education in consultation with the Department of Health and Senior Services;

b. the parents or guardians of the pupil consent in writing to the administration of the epinephrine via a pre-filled auto-injector mechanism by the designees;

c. the board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees and agents shall have no liability as a result of any injury arising from the administration of the epinephrine to the pupil;

d. the parents or guardians of the pupil sign a statement acknowledging their understanding that the district or nonpublic school shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents against any claims arising out of the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil; and

e. the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in subsections a. through d. of this section.

The Department of Education, in consultation with the Department of Health and Senior Services, shall require trained designees for students enrolled in a school who may require the emergency administration of epinephrine for anaphylaxis when the school nurse is not available.

Nothing in this section shall be construed to prohibit the emergency administration of epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis by the school nurse or other employees designated pursuant to this section when the pupil is authorized to self-administer epinephrine pursuant to section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a coexisting diagnosis of asthma, or when a prescription is received from a licensed health care professional for epinephrine coupled with another form of medication.

L.1997,c.368,s.2; amended 2007, c.57, s.3.

18A:40-12.6a Guidelines for schools for management of food allergies, administration of epinephrine.

4. The Department of Education, in consultation with the Department of Health and Senior Services, appropriate medical experts, and professional organizations representing school nurses, principals, teachers, and the food allergy community, shall establish and disseminate to each board of education and chief school administrator of a

nonpublic school guidelines for the development of a policy by a school district or nonpublic school for the management of food allergies in the school setting and the emergency administration of epinephrine to students for anaphylaxis.

L.2007,c.57,s.4.

18A:40-12.6b Implementation of established guidelines.

5. Each board of education and chief school administrator of a nonpublic school shall implement in the schools of the district or the nonpublic school the guidelines established and disseminated pursuant to section 4 of P.L.2007, c.57 (C.18A:40-12.6a).

L.2007,c.57,s.5.

18A:40-12.6c Training protocols for volunteer designees to administer epinephrine.

6. a. In an effort to assist the certified school nurse in a public school district and the school nurse in a nonpublic school in recruiting and training additional school employees as volunteer designees to administer epinephrine for anaphylaxis when the school nurse is not physically present, the Department of Education and the Department of Health and Senior Services shall jointly develop training protocols, in consultation with the New Jersey School Nurses Association.

b. The certified school nurse in consultation with the board of education, or the school nurse in consultation with the chief school administrator of a nonpublic school, shall recruit and train volunteer designees who are determined acceptable candidates by the school nurse within each school building as deemed necessary by the nursing service plan.

L.2007, c.57, s.6; amended 2007, c.229.

18A:40-12.6d Immunity from liability.

7. No school employee, including a school nurse, or any other officer or agent of a board of education or nonpublic school shall be held liable for any good faith act or omission consistent with the provisions of P.L.1997, c.368 (C.18A:40-12.5 et seq.), nor shall an action before the New Jersey State Board of Nursing lie against a school nurse for any such action taken by a person designated in good faith by the school nurse pursuant to section 2 of P.L.1997, c.368 (C.18A:40-12.6). Good faith shall not include willful misconduct, gross negligence or recklessness.

L.2007,c.57,s.7.

18A:40-12.7 Nebulizer required in schools.

2. Each public and nonpublic school in the State shall have and maintain for the use of pupils at least one nebulizer in the office of the school nurse or a similar accessible location

L.2001,c.61,s.2.

18A:40-12.8 Regulations for use of nebulizer in schools.

3. The State Board of Education, in consultation with the Commissioner of Health and Senior Services, shall adopt regulations requiring each public school board of education to develop policies for the administration of asthma medication through the use of a nebulizer by the school nurse or other person authorized by regulation. The regulations shall include:

a. a requirement that each certified nurse or other person authorized to administer asthma medication receive training in airway management and in the use of nebulizers and inhalers consistent with nationally recognized standards, including, but not limited to, those of the National Institutes of Health and the American Association of Allergy and Immunology; and

b. a requirement that each pupil authorized to use asthma medication pursuant to section 1 of P.L.1993, c.308 (C.18A: 40-12.3), or a nebulizer have an asthma treatment plan prepared by the physician of the pupil, which shall identify, at a minimum, asthma triggers, the treatment plan, and such other elements as shall be determined by the State Board of Education.

L.2001,c.61,s.3.

18A:40-12.9 Annual asthma education opportunities.

4. The Commissioner of Education shall ensure that annual asthma education opportunities are made available for medical inspectors and all members of the teaching staff.

L.2001,c.61,s.4.

18A:40-12.10 Reimbursement to school.

5. A public or nonpublic school shall apply to the Department of Education for reimbursement of the costs incurred in implementing the provisions of this act. The department is authorized to accept contributions of funds to reimburse public and nonpublic schools for those costs.

L.2001,c.61,s.5.

18A:40-16. Tuberculosis infection; determination of presence

The board of education of every school district shall periodically determine or cause to be determined the presence or absence of tuberculosis infection in any or all pupils in public schools, and, with respect to frequency, procedure, and selection of pupils, shall comply with the rules of the State board.

L.1967, c.271; amended by L.1977, c. 63, s. 2, eff. April 15, 1977.

18A:40-17. Equipment, materials and services for tuberculosis test

The board may provide at its expense the equipment, materials, and services necessary to make such determination, or it may contract to use for that purpose, with or without financial reimbursement, the equipment, materials, and services available through a hospital or public health agency approved by the State Department of Health.

L.1967, c.271; amended by L.1977, c. 63, s. 3, eff. April 15, 1977.

18A:40-18. Exclusion of pupils failing to comply with rules and orders

Any pupil failing to comply with the rules of the board of education relating to the determination of the presence of tuberculosis or any order issued by a school officer pursuant to such rules may be excluded from school.

L.1967, c.271; amended by L.1977, c. 63, s. 4, eff. April 15, 1977.

18A:40-19. Records and reports of tuberculosis testing; disposition; inspection

All records and reports of tuberculosis testing conducted by or under the auspices of a board of education shall be the property of the board, and shall be filed with the medical inspector as confidential information except that such records and reports shall be open for inspection by officers of the State Department of Health and of the local board of health, of the municipality in which the pupil resides and of the municipality in which the school is located.

L.1967, c.271; amended by L.1977, c. 63, s. 5, eff. April 15, 1977.

18A:40-20. Immunization at public expense

A board of education may provide, at public expense, the necessary equipment, materials and services for immunizing pupils from the diseases which pupils are required to be immunized against by the State Sanitary Code or for diseases against which immunization may be recommended by the State Department of Health

L.1967, c.271; amended by L.1974, c. 150, s. 3, eff. Nov. 11, 1974.

18A:40-21.1. Hepatitis B vaccination required for public, private school students in grades nine through twelve

3. The Commissioner of Health and Senior Services shall require the immunization of a child for hepatitis B as a condition of enrollment in grades nine through 12.

b. Beginning with the 2003-2004 school year, a principal, director or other person in charge of a public or private school in this State shall not knowingly admit or retain in grades nine through 12 a child whose parent or guardian has not submitted acceptable evidence of the child's immunization for hepatitis B prior to or during enrollment in ninth grade, as provided by regulation of the Commissioner of Health and Senior Services.

c. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of this section.

L.2002,c.58,s.3.

18A:40-21.2 Distribution of fact sheet on meningitis.

2. a. (1) For the 2006 school year, a school district shall distribute to parents and guardians of students in grades 6 through 12 the educational fact sheet on meningitis prepared pursuant to section 1 of P.L.2006, c.64 (C.26:2X-3), in a manner prescribed by the Commissioner of Education.

(2) Beginning with the 2007 school year, a school district shall distribute the educational fact sheet annually to parents or guardians of students in the sixth grade in a manner prescribed by the Commissioner of Education.

b. The Commissioner of Education shall also make the educational fact sheet available to private schools educating students in grades 6 through 12, or any combination thereof. Such schools are encouraged to distribute the fact sheet to parents or guardians of students at the school; however, nothing in this section shall be construed to require such schools to distribute the fact sheet.

L.2006, c.64, s.2.

18A:40-23. Findings, declarations

1. The Legislature hereby finds and determines that the welfare of the State requires that all school-age children be assured equal access to appropriate health care services. In order to achieve this objective, it is the intent of the Legislature to require that the State and local communities provide basic nursing services for children in both public and nonpublic schools.

L.1991,c.226,s.1.

18A:40-24. Definitions

2. As used in this act:

"Commissioner" means the State Commissioner of Education.

"Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the "Civil Rights Act of 1964," Pub.L.88-352, (42 U.S.C. s.2000d et seq.)

"Support limit" means the maximum amount which may be appropriated each year for the purposes of this act for each pupil enrolled full-time in nonpublic schools of the State.

L.1991,c.226,s.2.

18A:40-25. Provision of nursing services to pupils in nonpublic schools

3. Each board of education of a district in which a nonpublic school is located shall:

a. provide nursing services for pupils who are enrolled full-time in the nonpublic school. The services shall include:

(1) assistance with medical examinations, including dental screening;

(2) conducting screening of hearing examinations;

(3) the maintenance of student health records, and notification of local or county health officials of any student who has not been properly immunized; and

(4) conducting examinations of pupils between the ages of 10 and 18 for the condition known as scoliosis.

b. adopt written policies and procedures extending the emergency care provided to public school pupils to those pupils who are enrolled full-time in the nonpublic school who are injured or become ill at school or during participation on a school team or squad.

L.1991,c.226,s.3.

18A:40-26. Provision of additional medical services to nonpublic school pupils

4. Each board of education of a district in which a nonpublic school is located may:

a. within the limit of funds appropriated or otherwise made available, adopt policies and procedures to provide the pupils who are enrolled full-time in the nonpublic school with additional medical services; and

b. provide the necessary equipment, materials and services for immunizing the pupils who are enrolled full-time in the nonpublic school from the diseases which pupils are required to be immunized against by the State Sanitary Code adopted pursuant to section 7 of P.L.1947, c.177 (C.26:1A-7) or for diseases against which immunization may be recommended by the State Department of Health.

L.1991,c.226,s.4.

18A:40-27. Instructional services not included

5. The nursing services provided to nonpublic schools under sections 3 and 4 of this act shall not include instructional services.

L.1991,c.226,s.5.

18A:40-28. Provision of nursing services through collaboration contracts

6. A board of education may join with other boards of education or contract with any public or private agency approved by the commissioner for the provision of nursing services required or permitted under sections 3 and 4 of this act.

L.1991,c.226,s.6.

18A:40-29. Nonpublic school may decline nursing services

7. A nonpublic school may decline the nursing services which are required or permitted under sections 3 and 4 of this act by submitting written notification to the board of education from the appropriate administrator of the nonpublic school.

L.1991,c.226,s.7.

18A:40-30. Pupils of nonpublic schools not compelled to receive services

8. A pupil who is enrolled in a nonpublic school and whose parent or guardian objects to the pupil receiving any services provided under this act shall not be compelled to receive the services except for a physical or medical examination to determine whether the pupil is ill or infected with a communicable disease.

L.1991,c.226,s.8.

18A:40-31. Determination of support limit for school year

9. a. The support limit for the 1997-98 school year shall be \$61.44. For each school year thereafter the commissioner shall determine the support limit by multiplying the support limit for the previous school year times the sum of 1.0 plus the average annual percentage increase in the consumer price index for the New York and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

b. On or before November 5 of each year, each board of education shall forward to the commissioner an estimate of the cost of providing, during the next school year, the services required pursuant to this act and the number of pupils attending nonpublic schools located within the district as of the last school day of October of the current school year, excluding those pupils who have refused nursing services pursuant to section 8 of this act. The commissioner shall provide State aid to each school district in an amount equal to the number of nonpublic school pupils within the district identified by the district on or before November 5 multiplied by the State support limit. In the event that the expenditure incurred by any district is less than the amount of State aid received, the district shall refund the unexpended State aid after the completion of the school year, but not later than December 1 of the following school year.

c. If in any year, the amount of State aid appropriated is insufficient to carry out in full the provisions of this act, the commissioner shall apportion that appropriation among the districts in proportion to the State aid each district would have received had the full amount of State aid been appropriated. In any year, no district shall be required to make expenditures for the purposes of this act in excess of the amount of State aid received for these purposes.

L.1991,c.226,s.9; amended 1996, c.138, s.69.

18A:40-32. "Cancer Awareness Week" designated

1. The second week of January shall be designated "Cancer Awareness Week" in all the public schools in New Jersey.

L.1993,JR5,s.1.

18A:40-33. School program development

2. The Commissioner of Education, in consultation with the State school boards, shall develop a cancer awareness program appropriate for school-aged children.

L.1993,JR5,s.2.

18A:40-34 Regulations adopted by Commissioner of Education relative to children's health care coverage.

3. The Commissioner of Education, in consultation with the Commissioner of Human Services and pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt regulations to:

a. provide for the implementation by the board of education in each school district of such procedures by each public elementary and secondary school in the district as the commissioner deems necessary to effectuate the purposes of subsection h. of section 5 of P.L.2005, c.156 (C.30:4J-12); and

b. facilitate and provide for the participation of nonpublic elementary and secondary schools in the enrollment initiative created pursuant to subsection h. of section 5 of P.L.2005, c.156 (C.30:4J-12).

L.1999,c.171,s.3; amended 2005, c.156, s.7.

18A:40-35 Findings, declarations relative to comprehensive eye examinations for certain students.

1. The Legislature finds and declares that: approximately one-half of all New Jersey students with a special education classification are classified as Specific Learning Disabled (SLD); the rate of growth in SLD classified students in recent years has been 9%, while total school enrollment has grown at only 2%; nationwide, approximately 80% of SLD students have primary difficulties with reading, and as many as 70% of those students might not have been classified if they had received appropriate early intervention; undiagnosed and untreated vision-related learning problems are significant contributors to early reading difficulties and often lead to special education classification; under current State Board of Education regulations, only one vision assessment is required by the end of grade three and that screening tests only for vision acuity; the number of children classified as requiring special education continues to increase, and once classified few students return to full-time general education; it is therefore imperative that the State takes steps to study the impact of comprehensive eye examinations for students in the primary grades to assess their impact on eliminating the special education classification of students for treatable vision-related difficulties.

L.2007,c.122,c.1.

18A:40-36 "Comprehensive eye examination", defined.

2. As used in this act, "comprehensive eye examination" means an evaluation that includes a child's history, external and ophthalmoscopic examination, visual acuity, ocular alignment and motility, refraction, and assessment of accommodation and binocular vision, performed by an optometrist or ophthalmologist.

L.2007,c.122,c.2.

18A:40-37 Three-year comprehensive eye examination pilot program for second grade students.

3. a. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall establish a three-year comprehensive eye examination pilot program for second grade students. The purpose of the program shall be to eliminate inappropriate referrals for special education programs and services by examining students at the end of second grade for vision-related problems that may go undiagnosed and result in special education classification.

b. The commissioner shall select for participation in the pilot program one school district in each of the northern, central, and southern regions of the State, including an urban school district, a suburban school district, and a rural school district. In selecting the pilot school districts, the commissioner may consider the percentage of students in the district classified as eligible for special education programs and services, the percentage increase in such classifications over the prior five school years, and the district's interest in participating in the program. The commissioner shall collaborate with each pilot school district on the procedures to be implemented to conduct the comprehensive eye examinations, including the coverage of any costs associated with the examinations. In any agreement concerning the cost of providing examinations, no parent or guardian of a student shall be required to make any payment to the optometrist or ophthalmologist providing a comprehensive eye examination, or the school district or any other entity; except that if the student is covered by a health insurance plan which has a copayment requirement, the parent or guardian shall pay the health care provider the required copayment. In this case, the parent or guardian may apply to the Comprehensive Eye Examination Fund for reimbursement of the copayment.

c. The commissioner shall develop and distribute to the pilot districts a form to document and provide information on each comprehensive eye examination conducted under the program.

L.2007,c.122,c.3.

18A:40-38 Collection of data on pilot program from school districts.

4. The commissioner shall implement a plan to collect data from each participating school district on the impact of the pilot program on reducing the number of students classified as eligible for special education programs and services. The data collected from each district shall include, but not be limited to: information regarding the types, number, and severity of vision-related problems diagnosed; the percentage of students classified as eligible for special education programs and services in the district in each of the five school years prior to the inception of the pilot program; the percentage of students classified as eligible for special education programs and services in each of the school years in which the district participates in the pilot program; an analysis of the cost-savings to the school district attributable to a reduction in the number of classified students; the level of parental satisfaction with the program; and any other information required by the commissioner.

L.2007,c.122,c.4.

18A:40-39 "Comprehensive Eye Examination Fund," use.

5. There is hereby created a special fund in the Department of Education, which shall be entitled the "Comprehensive Eye Examination Fund." The fund shall be maintained in a separate account and administered by the commissioner to carry out the provisions of this section. The fund shall consist of (1) any monies appropriated by the State for the purposes of the fund; (2) any monies donated for the purposes of the fund; and (3) all interest and investment earnings received on monies in the fund. The fund shall be used

to cover the costs of comprehensive eye examinations conducted pursuant to P.L.2007, c.122 (C.18A:40-35 et seq.), for any uninsured students and students without applicable healthcare coverage and to reimburse the cost of copayments for any insured students.

L.2007,c.122,c.5.

18A:40-40 Report to Governor, Legislature.

6. No later than June 30 of the third school year following the enactment of the pilot program, the commissioner shall submit to the Governor and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) a report that evaluates the effectiveness of the pilot program in reducing the number of students classified as in need of special education programs and services. The report shall include a recommendation on the advisability of the program's continuation and extension to additional school districts.

L.2007,c.122,c.6.

18A:40-41 Sudden cardiac death, pamphlet; development, distribution to school districts, parents of athletes.

1. a. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, the American Heart Association, and the American Academy of Pediatrics, shall develop a pamphlet that provides information about sudden cardiac death to the parents or guardians of student athletes. The pamphlet shall include an explanation of sudden cardiac death, its incidence among student athletes, a description of early warning signs, and an overview of the options that are privately available to screen for cardiac conditions that may lead to sudden cardiac death, including a statement about the limitations of these options.

b. The commissioner shall distribute the pamphlet, at no charge, to all school districts in the State. The commissioner shall update the pamphlet as necessary, and shall make additional copies available to nonpublic schools upon request.

c. In the 2007-2008 school year and in each school year thereafter, each school district shall distribute the pamphlet to the parents or guardians of students participating in school sports.

L.2007,c.125.

18A:40-42 Educational fact sheet about HPV.

2. a. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall develop an educational fact sheet about the human papillomavirus (HPV) for distribution to parents or guardians of students in grades seven through 12. The educational fact sheet shall include information about the causes, symptoms and means of transmission of HPV, and where additional information can be obtained.

b. For the 2007-2008 school year, a school district shall distribute to parents and guardians of students in grades seven through 12 the educational fact sheet on HPV, in a manner prescribed by the Commissioner of Education.

c. Beginning with the 2008-2009 school year, a school district shall distribute the educational fact sheet annually to parents or guardians of students in grade seven in a manner prescribed by the Commissioner of Education.

d. The Commissioner of Education also shall make the educational fact sheet available to private schools educating students in grades seven through 12. Such schools are encouraged, but not required, to distribute the fact sheet to parents or guardians of students at the school.

L.2007, c.134, s.2.

18A:40-43 Information available to certain public school students about "New Jersey Safe Haven Infant Protection Act."

2. In the 2006-2007 school year and in each school year thereafter, each board of education which operates an educational program for public school students in grades 7 through 12 shall:

a. ensure that posters providing information on the provisions of the "New Jersey Safe Haven Infant Protection Act," P.L.2000, c.58 (C.30:4C-15.5 et al.), are prominently displayed in the school nurse's office and health education classrooms;

b. have pamphlets and other educational materials providing information about the safe haven procedures available in the guidance office of every public school with students in grades 7 through 12 for free distribution to students; and

c. utilize, for the purposes of this section, informational pamphlets, posters and other educational materials distributed by the Department of Children and Families pursuant to section 1 of P.L.2007, c.143 (C.30:4C-15.11).

L.2007, c.143, s.2.

18A:40A-1. Instructional programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances; curriculum guidelines

Instructional programs on the nature of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, as defined in section 2 of P.L.1970, c.226 (C.24:21-2), and their physiological, psychological, sociological and legal effects on the individual, the family and society shall be taught in each public school and in each grade from kindergarten through 12 in a manner adapted to the age and understanding of the pupils. The programs shall be based upon the curriculum guidelines established by the Commissioner of Education pursuant to section 2 of this act, and shall be included in the curriculum for each grade in such a manner as to provide a thorough and comprehensive treatment of the subject.

L.1987, c.389, s.1; amended 1989,c.216,s.3; 1989,c.225,s.2.

18A:40A-2. Curriculum guidelines; annual review and updating; minimum requirements

The Commissioner of Education, in consultation with the Commissioner of Health, shall develop curriculum guidelines for education programs on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. These guidelines shall be reviewed annually, and shall be updated as necessary to insure that the curriculum reflects the most current information available on the nature and treatment of drug, alcohol, anabolic steroids, tobacco and controlled dangerous substance abuse and treatment. The guidelines shall provide for a sequential course of study for each grade, K-12, and shall, at a minimum, include:

a. Detailed, factual information regarding the physiological, psychological, sociological and legal aspects of substance abuse;

b. Detailed information concerning the availability of help and assistance for pupils and their families with chemical dependency problems;

c. Decision making and coping skills; and,

d. The development of activities and attitudes which are consistent with a healthy life style.

he guidelines shall include model instructional units, shall define specific behavioral and learning objectives and shall recommend instructional materials suitable for each grade level.

L.1987, c.389, s.2; amended 1989,c.216,s.4; 1989,c.225,s.3.

18A:40A-3. Initial inservice training programs; curriculum; availability

a. Upon completion of the curriculum guidelines required pursuant to section 2 of this act, the Commissioner of Education, in consultation with the Commissioner of Health, shall establish inservice workshops and training programs to train selected public school teachers to teach an education program on drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The inservice training programs may utilize existing county or regional offices, or such other institutions, agencies or persons as the Commissioner of Education deems appropriate. The programs and workshops shall provide instructional preparation for the teaching of the drug, alcohol, anabolic steroids, tobacco and controlled dangerous substances curriculum, and shall, in addition to the curriculum material, include information on the history, pharmacology, physiology and psychosocial aspects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances, symptomatic behavior associated with substance abuse, the availability of rehabilitation and treatment programs, and the legal aspects of substance abuse. Each local board of education shall provide time for the inservice training during the usual school schedule in order to insure that appropriate teaching staff members are prepared to teach the education program in each grade in each school district.

b. Upon completion of the initial inservice training program, the Commissioner of Education shall insure that programs and workshops that reflect the most current information on substance abuse are prepared and are made available to teaching staff members at regular intervals.

c. In addition to providing inservice training programs for teaching staff members who will provide instruction on substance abuse in the public schools, the Commissioner of Education shall make these training programs available to such other instructional and supervisory personnel as he deems necessary and appropriate.

L.1987, c.389, s.3; amended 1989,c.216,s.5; 1989,c.225,s.4.

18A:40A-4. Preservice training

In addition to the provisions for inservice training established pursuant to this act, the commissioner shall insure that the preservice training of individuals intending to enter the teaching profession provides for an adequate treatment of the subject of substance abuse.

No certificate to teach in the public schools shall be issued to any teaching staff member who has not passed a satisfactory examination in (1) physiology and hygiene; and (2) substance abuse issues which includes material on the physiological, psychological, sociological and legal aspects of drug and alcohol abuse, methods of educating students on the negative effects of substance abuse, and intervention strategies for dealing with students engaged in substance abuse.

1987, c. 389, s.4.

18A:40A-5. Loaning of educational materials

The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education pursuant to this act for the instruction of public school pupils on the nature and effects of drugs, alcohol, anabolic steroids, tobacco and controlled dangerous substances. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

L.1987, c.389, s.5; amended 1989,c.216,s.6; 1989,c.225,s.5.

18A:40A-6. Evaluation

The Commissioner of Education, in consultation with the Commissioner of Health, shall establish and administer a system for the evaluation of the effectiveness of instructional programs established pursuant to this act. Programs which are shown to be effective shall be made available to other school districts throughout the State.

1987, c. 389, s.6.

18A:40A-7. Rules, regulations

The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary for the implementation of this act.

1987, c. 389, s.7.

18A:40A-7.1 Confidentiality of certain information provided by pupil; exceptions.

1. a. Except as provided by section 3 of P.L.1971, c.437 (C.9:6-8.10), if a public or private elementary or secondary school pupil who is participating in a school-based drug and alcohol abuse counseling program provides information during the course of a counseling session in that program which indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a substance as that term is defined in section 2 of P.L.1987, c.387 (C.18A:40A-9), that information shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsection b. of this section.

b. The information provided by a pupil pursuant to subsection a. of this section may be disclosed:

(1) subject to the pupil's written consent, to another person or entity whom the pupil specifies in writing in the case of a secondary school pupil, or to a member of the pupil's immediate family or the appropriate school personnel in the case of an elementary school pupil;

(2) pursuant to a court order;

(3) to a person engaged in a bona fide research purpose, except that no names or other information identifying the pupil or the person with respect to whose substance abuse the information was provided, shall be made available to the researcher; or

(4) to the Division of Youth and Family Services or to a law enforcement agency, if the information would cause a person to reasonably suspect that the elementary or secondary school pupil or another child may be an abused or neglected child as the terms are used in R.S.9:6-1, or as the terms are defined in section 2 of P.L.1971, c.437 (C.9:6-8.9), or section 1 of P.L.1974, c.119 (C.9:6-8.21).

c. Any disclosure made pursuant to paragraph (1) or (2) of subsection b. of this section shall be limited to that information which is necessary to carry out the purpose of the disclosure, and the person or entity to whom the information is disclosed shall be prohibited from making any further disclosure of that information without the pupil's written consent. The disclosure shall be accompanied by a written statement advising the recipient that the information is being disclosed from records the confidentiality of which is protected by P.L.1997, c.362 (C.18A:40A-7.1 et seq.), and that this law prohibits any further disclosure of this information without the written consent of the person from whom the information originated. Nothing in this act shall be construed as prohibiting the Division of Youth and Family Services or a law enforcement agency from

using or disclosing the information in the course of conducting an investigation or prosecution. Nothing in this act shall be construed as authorizing the violation of any federal law.

d. The prohibition on the disclosure of information provided by a pupil pursuant to subsection a. of this section shall apply whether the person to whom the information was provided believes that the person seeking the information already has it, has other means of obtaining it, is a law enforcement or other public official, has obtained a subpoena, or asserts any other justification for the disclosure of this information.

L.1997, c.362,s.1; amended 1999, c.320.

18A:40A-7.2. Violations, penalties

2. Except as provided by section 6 of P.L.1971, c.437 (C.9:6-8.13), a person who discloses or willfully permits the disclosure of information provided by a pupil in violation of the provisions of section 1 of this act is subject to a fine of not more than \$500 for a first offense and not more than \$5,000 for a second and each subsequent offense. The penalty shall be collected and enforced in summary proceedings under "the penalty enforcement law" (N.J.S.2A:58-1 et seq.).

L.1997,c.362,s.2.

18A:40A-8. Findings, declarations

The Legislature finds and declares that:

a. A significant number of young people are unfortunately already involved in the abuse of alcohol and other drugs;

b. Research indicates that particular groups of youngsters, such as the children of alcoholic parents, may in fact face an increased risk of developing alcohol and other substance abuse problems and that early intervention services can be critical in their prevention, detection and treatment; and,

c. School-based initiatives have proven particularly effective in identifying and assisting students at a high risk of developing alcohol and other drug disturbances and in reducing absenteeism, decreasing the consumption of alcohol and other drugs, and in lessening the problems associated with such addictions.

1987,c.387, s.1.

18A:40A-9. Definitions

For the purposes of this act:

"Substance" shall mean alcoholic beverages, controlled dangerous substances as defined in section 2 of P.L.1970, c.266 (C.24:21-2), anabolic steroids or any chemical or chemical compound which releases vapors or fumes causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of the brain or nervous system including, but not limited to, glue containing a solvent having the property of releasing toxic vapors or fumes as defined in section 1 of P.L.1965, c.41 (C.2A:170-25.9).

"Substance abuse" shall mean the consumption or use of any substance as defined herein for purposes other than for the treatment of sickness or injury as prescribed or administered by a person duly authorized by law to treat sick and injured human beings.

L.1987, c.387, s.2; amended 1989,c.216,s.1.

18A:40A-10. Referral program in schools

Each local board of education shall, pursuant to guidelines developed by the Commissioner of Education, in consultation with the Commissioner of Health, establish a comprehensive substance abuse intervention, prevention and treatment referral program in the public elementary and secondary schools of the district. The purpose of the program shall be to identify pupils who are substance abusers, assess the extent of these pupils' involvement with these substances and, where appropriate, refer pupils and their families to organizations and agencies approved by the Department of Health to offer competent professional treatment. Treatment shall not be at the expense of the local board of education.

Each school district shall develop a clear written policy statement which outlines the district's program to combat substance abuse and which provides for the identification, evaluation, referral for treatment and discipline of pupils who are substance abusers. Copies of the policy statement shall be distributed to pupils and their parents at the beginning of each school year.

1987,c.387, s.3.

18A:40A-11. Policies for evaluations, referral, discipline

Each board of education shall adopt and implement, in accordance with rules and regulations promulgated by the State board, policies and procedures for the evaluation, referral for treatment and discipline of pupils involved in incidents of possession or abuse of substances as defined in section 2 of this act, on school property or at school

functions, or who show significant symptoms of the use of those substances on school property or at school functions. In adopting and implementing these policies and procedures, the board shall consult and work closely with a local organization involved with the prevention, detection and treatment of substance abuse approved by the Department of Health.

1987,c.387, s.4.

18A:40A-12. Reporting of pupils under influence; examination; report; return home; evaluation of possible need for treatment; referral for treatment

a. Whenever it shall appear to any teaching staff member, school nurse or other educational personnel of any public school in this State that a pupil may be under the influence of substances as defined pursuant to section 2 of this act, other than anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an immediate examination of the pupil by a doctor selected by the parent or guardian, or if that doctor is not immediately available, by the medical inspector, if he is available. If a doctor or medical inspector is not immediately available, the pupil shall be taken to the emergency room of the nearest hospital for examination accompanied by a member of the school staff designated by the principal and a parent or guardian of the pupil if available. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil is under such influence. A written report of that examination shall be furnished within 24 hours by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil was under the influence of a substance, the pupil shall be returned to his or her home as soon as possible and shall not resume attendance at school until the pupil submits to the principal a written report certifying that he or she is physically and mentally able to return thereto, which report shall be prepared by a personal physician, the medical inspector or the physician who examined the pupil pursuant to the provisions of this act.

In addition, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

b. Whenever any teaching staff member, school nurse or other educational personnel of any public school in this State shall have reason to believe that a pupil has used or may be using anabolic steroids, that teaching staff member, school nurse or other educational personnel shall report the matter as soon as possible to the school nurse or medical inspector, as the case may be, or to a substance awareness coordinator, and to the principal or, in his absence, to his designee. The principal or his designee, shall immediately notify the parent or guardian and the superintendent of schools, if there be one, or the administrative principal and shall arrange for an examination of the pupil by a doctor selected by the parent or guardian or by the medical inspector. The pupil shall be examined as soon as possible for the purpose of diagnosing whether or not the pupil has been using anabolic steroids. A written report of that examination shall be furnished by the examining physician to the parent or guardian of the pupil and to the superintendent of schools or administrative principal. If it is determined that the pupil has been using anabolic steroids, the pupil shall be interviewed by a substance awareness coordinator or another appropriately trained teaching staff member for the purpose of determining the extent of the pupil's involvement with these substances and possible need for treatment. In order to make this determination the coordinator or other teaching staff member may conduct a reasonable investigation which may include interviews with the pupil's teachers and parents. The coordinator or other teaching staff member may also consult with such experts in the field of substance abuse as may be necessary and appropriate. If it is determined that the pupil's involvement with and use of these substances represents a danger to the pupil's health and well-being, the coordinator or other teaching staff member shall refer the pupil to an appropriate treatment program which has been approved by the Commissioner of Health.

L.1987, c.387, s.5; amended 1989,c.216,s.2.

18A:40A-13. Immunity for personnel

6. No action of any kind in any court of competent jurisdiction shall lie against any teaching staff member, including a substance awareness coordinator, any school nurse or other educational personnel, medical inspector, examining physician or any other officer, agent or any employee of the board of education or personnel of the emergency room of a hospital because of any action taken by virtue of the provisions of this act, provided the skill and care given is that ordinarily required and exercised by other such teaching staff members, nurses, educational personnel, medical inspectors, physicians or

other officers, agents, or any employees of the board of education or emergency room personnel.

L.1987,c.387,s.6; amended 1992,c.158,s.1.

18A:40A-14. Civil immunity for reporting

7. Any teacher, guidance counselor, school psychologist, school nurse, substance awareness coordinator or other educational or noneducational personnel, employed by or in any of the public or private schools of this State, who in good faith reports a pupil to the principal or his designee or to the medical inspector or school physician or school nurse in an attempt to help such pupil cure his abuse of substances as defined in section 2 of this act, shall not be liable in civil damages as a result of making any such report.

Nothing in this section is intended to preclude the protections provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or otherwise provided by law.

L.1987,c.387,s.7; amended 1992,c.158,s.2.

18A:40A-15. Inservice training program

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall develop an inservice training program for public school teachers to enable the teachers to recognize and respond to substance abuse by public school pupils. The program shall, at a minimum, include:

(1) Instruction to assist the teacher in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse;

(2) Appropriate intervention strategies; and,

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

The inservice training program required pursuant to this section shall be updated at regular intervals in order to insure that teaching staff members have the most current information available on this subject.

b. Each local board of education shall insure that all teaching staff members in the district who are involved in the instruction of pupils are provided with the inservice training program developed pursuant to this section. The inservice training program of the local board of education shall also include information concerning the policy of the board regarding the referral for treatment of pupils involved in substance abuse, as required pursuant to section 5 of this act.

1987, c. 387, s.8.

18A:40A-16. Guidelines, materials for program

a. The Commissioner of Education, in consultation with the Commissioner of Health, shall establish guidelines for substance abuse education programs to be offered by local boards of education to the parents or legal guardians of public school pupils. The program shall, at a minimum, provide:

(1) A thorough and comprehensive review of the substance abuse education curriculum which will be taught to the child of the parent or guardian during the school year, with recommendations as to the ways in which the parent or guardian may enhance, reinforce and supplement that program;

(2) Information on the pharmacology, physiology, psychosocial and legal aspects of substance abuse, and instruction to assist the parent or guardian in the identification of the symptoms and behavioral patterns which might indicate that a child may be involved in substance abuse; and

(3) Information on the State, local and community organizations which are available for the prevention, early intervention, treatment and rehabilitation of individuals who show symptoms of substance abuse.

b. In addition to the guidelines required pursuant this section, the Commissioner of Education, in consultation with the Commissioner of Health, shall develop and provide to local boards of education suggested materials for the substance abuse education program for parents or legal guardians of school pupils, and shall maintain and continuously update a roster of individuals or groups available to assist boards of education in implementing this program and a list of State and local agencies and organizations which are approved by the Department of Health to provide services for the prevention, early intervention, treatment or rehabilitation of individuals who show symptoms of substance abuse.

1987, c. 387, s.9.

18A:40A-17. Outreach program

a. Under the guidelines established by the Commissioner of Education, each local board of education shall establish an outreach program to provide substance abuse

education for the parents or legal guardians of the pupils of the district. In establishing the program, the local board of education shall consult with such local organizations and agencies as are recommended by the commissioner. The board of education shall insure that the program is offered at times and places convenient to the parents of the district on school premises, or in other suitable facilities.

b. In addition to the substance abuse education program required pursuant to this section, each local board of education shall establish policies and procedures to provide assistance to parents or legal guardians who believe that their child may be involved in substance abuse. These policies and procedures shall be consistent with the policies and procedures for intervention by school personnel developed pursuant to this act.

c. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to loan to the parents or legal guardians of all pupils attending nonpublic schools located within the district all educational materials developed by the Commissioner of Education for the instruction of the parents or legal guardians of public school pupils on the nature and effects of substances and substance abuse. The Commissioner of Education shall make these materials available so that the local board of education shall not be required to expend funds for the loan of these materials.

1987, c. 387, s.10.

18A:40A-18 Employment of substance awareness coordinators in certain school districts.

11. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall develop and administer a program which provides for the employment of substance awareness coordinators in certain school districts.

a. Within 90 days of the effective date of this act, the Commissioner of Education shall forward to each local school board a request for a proposal for the employment of a substance awareness coordinator. A board which wants to participate in the program shall submit a proposal to the commissioner which outlines the district's plan to provide substance abuse prevention, intervention and treatment referral services to students through the employment of a substance awareness coordinator. Nothing shall preclude a district which employs a substance awareness coordinator at the time of the effective date of this act from participating in this program. The commissioner shall select school districts to participate in the program through a competitive grant process. The participating districts shall include urban, suburban and rural districts from the north, central and southern geographic regions of the State with at least one school district per county. In addition to all other State aid to which the local district is entitled under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) and other pertinent statutes, each board of education participating in the program shall receive from the State, for a three-year period, the amount necessary to pay the salary of its substance awareness coordinator.

b. The position of substance awareness coordinator shall be separate and distinct from any other employment position in the district, including, but not limited to district guidance counselors, school social workers and school psychologists. The State Board of Education shall approve the education and experience criteria necessary for employment as a substance awareness coordinator. The criteria shall include a requirement for certification by the State Board of Examiners. In addition to the criteria established by the State board, the Department of Education and the Department of Health and Senior Services shall jointly conduct orientation and training programs for substance awareness coordinators, and shall also provide for continuing education programs for coordinators.

c. It shall be the responsibility of substance awareness coordinators to assist local school districts in the effective implementation of this act. Coordinators shall assist with the in service training of school district staff concerning substance abuse issues and the district program to combat substance abuse; serve as an information resource for substance abuse curriculum development and instruction; assist the district in revising and implementing substance abuse policies and procedures; develop and administer intervention services in the district; provide counseling services to pupils regarding substance abuse problems; and, where necessary and appropriate, cooperate with juvenile justice officials in the rendering of substance abuse treatment services.

d. The Commissioner of Education, in consultation with the Commissioner of Health and Senior Services, shall implement a plan to collect data on the effectiveness of the program in treating problems associated with substance abuse and in reducing the incidence of substance abuse in local school districts. Six months prior to the expiration of the program authorized pursuant to this section, the Commissioner of Education shall submit to the Governor and the Legislature an evaluation of the program and a recommendation on the advisability of its continuation or expansion to all school districts in the State.

L.1987, c.387, s.11; amended 1990, c.52, s.54; 1996, c.138, s.70; 2007, c.260, s.68.

18A:40A-19. Pilot programs

The Commissioner of Education is authorized to make grants to local school districts in such amounts as he shall determine, to assist the districts in the implementation of

innovative pilot programs designed to educate pupils of elementary and secondary schools and members of the general public on the subject of substance abuse, and to prevent the abuse of those substances. Application for grants shall be made on forms furnished by the Commissioner of Education and shall set forth the program proposed and appropriate administrative procedures for the proper and efficient implementation of the program. These pilot programs shall, at a minimum, include:

a. An early intervention competitive grant pilot program to be established by the Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, to enable local school districts to identify and assist elementary school pupils who are affected by family substance abuse problems or who are at risk of developing such problems themselves. The purpose of the program shall be to encourage the creation of effective model programs for the early identification of children at risk for substance abuse related problems and to provide for effective intervention when these children are identified.

Grants shall be awarded to boards of education through a competitive grant process based upon written applications submitted by local boards of education. The Commissioner of Education shall select not more than eight of the proposals submitted by boards of education for participation in the pilot program. The commissioner, in addition to considering the overall quality of each proposal and the likelihood that the proposal can be replicated in other districts, shall seek to achieve the broadest geographic distribution of recipients consistent with the purposes of this act.

b. The pilot program established in Ocean County by the Department of Education in conjunction with the Juvenile Services Unit in the Family Division of the Administrative Office of the Courts, to coordinate the efforts of school and juvenile justice personnel in the county to combat alcohol and substance abuse by students.

The commissioner shall evaluate the effectiveness of the model program developed and tested pursuant to this section and disseminate information about successful model programs to school districts that do not participate in the pilot program.

1987, c. 387, s.12.

18A:40A-20. Annual report

The Commissioner of Education, in consultation with the Commissioner of Health and the Commissioner of Human Services, shall develop procedures for the evaluation of the impact of the programs established pursuant to this act and shall report annually to the Governor and the Legislature on the effects of these programs. That report shall include data concerning the incidence of substance abuse in the public schools; the nature and scope of intervention, prevention and treatment referral programs; an assessment of the impact of those programs on the problem of substance abuse; and, any recommendations for modifications in the programs established pursuant to this act.

1987, c. 387, s.13.

18A:40A-21. Rules, regulations

The State Board of Education shall, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of this act.

1987, c. 387, s.14.

18A:40A-22 Findings, declarations relative to substance abuse testing policies in public school districts.

1. The Legislature finds and declares that there are many school districts within the State with a growing problem of drug abuse among their students. The Legislature further finds that federal and State courts have held that it may be appropriate for school districts to combat this problem through the random drug testing of students participating in extracurricular activities, including interscholastic athletics, and students who possess school parking permits. The Legislature also finds that a random drug testing program may have a positive effect on attaining the important objectives of deterring drug use and providing a means for the early detection of students with drug problems so that counseling and rehabilitative treatment may be offered.

L.2005,c.209,s.1.

18A:40A-23 Adoption of policy for random testing of certain students.

2. A board of education may adopt a policy, pursuant to rules and regulations adopted by the State Board of Education in consultation with the Department of Human Services, which are consistent with the New Jersey Constitution and the federal Constitution, for the random testing of the district's students in grades 9-12 who participate in extracurricular activities, including interscholastic athletics, or who possess school parking permits, for the use of controlled dangerous substances as defined in N.J.S.2C:35-2 and anabolic steroids. The testing shall be conducted by the school physician, school nurse or a physician, laboratory or health care facility designated by the board of education and the cost shall be paid by the board. Any disciplinary action taken against a student who tests positive for drug use or who refuses to consent to

testing shall be limited to the student's suspension from or prohibition against participation in extracurricular activities, or revocation of the student's parking permits.

L.2005,c.209,s.2.

18A:40A-24 Public hearing prior to adoption of drug testing policy.

3. Each board of education shall hold a public hearing prior to the adoption of its drug testing policy. The policy shall be in written form and shall be distributed to students and their parents or guardians at the beginning of each school year. The policy shall include, but need not be limited to, the following:

a. notice that the consent of the student and his parent or guardian for random student drug testing is required for the student to participate in extracurricular activities and to possess a school parking permit;

b. the procedures for collecting and testing specimens;

c. the manner in which students shall be randomly selected for drug testing;

d. the procedures for a student or his parent or guardian to challenge a positive test result;

e. the standards for ensuring the confidentiality of test results;

f. the specific disciplinary action to be imposed upon a student who tests positive for drug use or refuses to consent to testing;

g. the guidelines for the referral of a student who tests positive for drug use to drug counseling or rehabilitative treatment; and

h. the scope of authorized disclosure of test results

L.2005,c.209,s.3.

18A:40A-25 Rules, regulations.

4. The State Board of Education, in consultation with the Department of Human Services, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.2005,c.209,s.4.

18A:41-1 Fire drills.

18A:41-1. Every principal of a school of two or more rooms, or of a school of one room, when located above the first story of a building, shall have at least two fire drills each month within the school hours, including any summer months during which the school is open for instructional programs, and shall require all teachers of all schools, whether occupying buildings of one or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during the school hours. Where school buildings have been provided with fire escapes, they shall be used by a part or all of the pupils performing every fire drill.

Amended 2007, c.205.

18A:41-2. Fire and smoke doors closed

Every principal and janitor of a school building having furnace room, hallway, or stair-tower fire or smoke doors shall keep them closed during the time the building is occupied by teachers and pupils.

L.1967, c.271.

18A:41-3. Violations; misdemeanors

Any principal, teacher, or janitor failing to comply with the provisions of this chapter shall be guilty of a misdemeanor, and shall be punishable by a fine of not to exceed \$100.00 for each offense

L.1967, c.271.

18A:41-4. Posting copies of chapter

The commissioner shall prepare and have printed in proper form copies of this chapter and cause them to be posted in each school building.

L.1967, c.271.

18A:41-5. Notification

Each school district shall immediately notify the appropriate local fire department of any fire which occurs in a school building or on school property. The local fire

department shall forward the data to the bureau of fire safety in the Department of Community Affairs.

L. 1989, c. 42, s. 2.

18A:42-1. Safety patrol by pupils

Any board of education may make rules providing for the organization of school safety patrols in the public schools under its jurisdiction and for the appointment, with the permission of the parents, of pupils as members thereof, for the purpose of influencing and encouraging other pupils to refrain from crossing public highways at points other than at regular crossings, and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe. No liability shall attach either to the board of education or any person holding office, position or employment under it, by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained, and operated under the authority of this section.

L.1967, c.271.

18A:42-2. School orchestra not to compete with civilian musicians; exceptions

No music supervisor, music teacher or any person having charge of any band or orchestra connected with a public school of this state shall permit such band or orchestra to play, perform or furnish music as a school band or orchestra at any function in competition with civilian musicians. Excepted herefrom are functions connected with such public school and functions which shall be of a patriotic nature.

L.1967, c.271.

18A:42-3. Collection and deposit of savings of pupils

In order to encourage the habit of saving among the pupils in schools, the principal or superintendent of any public school, or any person designated for that purpose by the board of education or other school authority under which the school shall be, may collect once a week, or from time to time, small amounts of savings from the pupils of the school, to be deposited by the principal, superintendent, or designated person promptly upon collection in any financial institution having its principal office in New Jersey, whose accounts or deposits are insured or guaranteed by any corporation created or organized under the laws of the United States, which corporation is an instrumentality of the United States or of any successor corporation having for its purpose the insurance of deposits or accounts.

These moneys shall be placed to the credit of the respective pupils for whom the money has been collected, or if the amount collected at any one time is deemed insufficient for the opening of individual accounts, in the name of the principal, superintendent, or designated person, in trust, and to be by him eventually transferred to the credit of the respective pupils to whom the same belongs. In the meantime, the principal, superintendent, or designated person shall furnish to the financial institution a list giving the names, signatures, addresses, ages, places of birth, parents' names, and such other data concerning the respective pupils as the financial institution may require.

The words "system of school savings" or "school savings" may be used in circulars, reports, and other printed or written matter used in connection with this section.

L.1967, c.271.

18A:42-4. Distribution of literature as to candidacy, bond issues, or other public question to be submitted at election; prohibited

No literature which in any manner and in any part thereof promotes, favors or opposes the candidacy of any candidate for election at any annual school election, or the adoption of any bond issue, proposal, or any public question submitted at any general, municipal or school election shall be given to any public school pupil in any public school building or on the grounds thereof for the purpose of having such pupil take the same to his home or distribute it to any person outside of said building or grounds, nor shall any pupil be requested or directed by any official or employee of the public schools to engage in any activity which tends to promote, favor or oppose any such candidacy, bond issue, proposal, or public question. The board of education of each school district shall prescribe necessary rules to carry out the purposes of this section.

L.1967, c.271.

18A:42-5. Certain student organizations declared harmful

Every fraternity, sorority, secret society or organization composed in whole or in part of public school pupils, which seeks to organize and perpetuate itself by taking in members from among the pupils enrolled in such school in which they are students, upon the basis of decision of the membership of such organization, rather than from the free choice of any pupils in such school who are otherwise qualified to fill the special aims of such organization, is hereby declared to be an organization inimical to the good of the school system and to the democratic principles and ideals of public education and to the public good.

L.1967, c.271.

18A:42-6. Organizations forbidden in high schools; rules; exceptions

No such fraternity, sorority, society or organization shall be formed or maintained in any public high school, and the board of education of every school district shall adopt rules providing for the necessary disciplinary measures to enforce this section.

This section shall not apply to any state college.

L.1967, c.271.

18A:43-1. Accident insurance for pupils authorized

The board of education in any school district may arrange for and maintain, and may pay the premiums for policies of accident insurance with any insurance company created by or under the laws of this State or authorized by law to transact business in this State, to provide for payments to pupils of the school district in connection with loss resulting from bodily injury sustained by such pupils through accidental means while participating in, practicing or training for, or during transportation to or from games or contests conducted by the school district, or by any school of the district, or with the consent of the board of education or of the school and under the supervision of an employee of the board of education, and for payments to pupils injured in connection either with the conduct of the regular curricular and extra-curricular programs of the district or with student travel to and from the places where such programs are conducted and which travel is made necessary by such programs.

L.1967, c.271; amended by L.1975, c. 233, s. 1, eff. Oct. 24, 1975.

18A:43-2. Payment by pupils of proportionate share of premiums

A board of education maintaining such accident insurance for the benefit of its pupils may require the payment to the board of education by pupils, to whom the benefit of such insurance is extended, of a proportionate share of the premiums or any part thereof. The sums to be paid by the pupils shall be established by a schedule determined by the board of education, but no pupil electing not to participate in the accident insurance coverage, shall be required to make any payment toward the cost of the premiums therefor.

L.1967, c.271.

18A:43-3. No liability imposed on board of education

The provisions of this chapter shall not be construed to impose any liability on the part of a board of education for injury sustained by a pupil as a result of or in connection with any of the games or contests hereinabove mentioned, or as a result of or in connection with the conduct of the physical education program of the school district or of any school of the district.

L.1967, c.271.

18A:43A-1. Children's bureau

The board of education of any school district including any regional school district, by resolution, may provide for the establishment of a children's bureau for the district.

L.1967, c.271.

18A:43A-2. Director

Every children's bureau so established shall be under the immediate supervision of a director to be appointed by the board of education of the district and who shall be a person qualified by training and experience to direct the work of such bureau.

L.1967, c.271.

18A:43A-3. Staffing and assignment of personnel

The board of education shall provide for the operation of the bureau, for the payment of its expenses, for the staffing and assignment of personnel to the bureau including provision for the services of a social welfare caseworker or caseworkers and such other professional personnel as may be required by the bureau. Except as provided in section 18A:43A-8, the board may fix the compensation of the employees of the bureau including the director, assign duties and regulate the terms and conditions of all such employments.

L.1967, c.271

18A:43A-4. Function

It shall be the function of any children's bureau so established, to coordinate the various student supervisory and counseling programs of the school district; and to cooperate with, and seek the cooperation of, state, county and municipal authorities and public or private social welfare and recreational agencies to assist in the solution of juvenile problems generally and in providing those services recognized as basic to the team approach in solving problems of individuals in their relations to others and to their environment.

L.1967, c.271

18A:43A-5. Services that may be provided or administered

The bureau may, subject to the approval of the board of education, provide for or administer any or all of the following services:

(a) Take, keep and maintain a census of all children residing in the district pursuant to the provisions of section 18A:11-2;

(b) Supervise and maintain a school attendance service to carry out the provisions of article 3 of chapter 38 of this title, Compulsory Education;

(c) Maintain a register and classification of mentally retarded and handicapped children pursuant to the provisions of chapter 46 of this title;

(d) Supervise the issuance of employment certificates, age certificates and special permits pursuant to the provisions of chapter 153 of the Laws of 1940, the law limiting and regulating child labor;

(e) Establish and maintain group and individual child guidance and counseling programs;

(f) Establish and operate speech and remedial reading clinics and such other clinics as will promote the normal educational development of the children of the district;

(g) Arrange with the respective county and municipal authorities concerned with proper juvenile development and particularly with those concerned with juvenile delinquency for mutual cooperation and assistance including service of the children's bureau as a receiving center for juvenile delinquents;

(h) Carry out, under guidance, the recommendations of mental health and diagnostic centers and clinics and of family psychiatrists and physicians;

(i) Counsel with parent and child;

(j) Cooperate in providing long- or short-term supervision of any child in connection with any of the services authorized by this section;

(k) Assist in the promotion of the normal development of youth and their proper adjustment in society.

L.1967, c.271.

18A:43A-6. Cooperation by other services and civil authorities

In connection with any of the functions or services authorized by this chapter, the bureau shall cooperate with and receive the cooperation of, the medical inspector, nurse, psychological examiner or any approved clinic or agency providing psychological or psychiatric services to the district, the teachers, guidance counsellor, attendance officer, and all other personnel of the district as may be of assistance to the bureau in the performance of its authorized functions or services under this chapter. In addition the bureau is authorized to cooperate with and seek the cooperation of state, county and municipal authorities and public or private social welfare and recreational agencies.

L.1967, c.271.

18A:43A-7. Cooperation by county and municipal government

The board of chosen freeholders of any county in which the board of education of any district therein has established a children's bureau pursuant to this chapter and the governing body of the municipality or municipalities of which such district is comprised is authorized and empowered to cooperate with and assist any such children's bureau in the performance of any of its functions or services authorized by this chapter and any such board of chosen freeholders or governing body may authorize the assignment of any county or municipal employee, including members of the municipal police department, subject to the approval of the director of such children's bureau, to serve with such children's bureau and under the direction of the director thereof.

L.1967, c.271.

18A:43A-8. Employee to retain rights

Any such county or municipal employee, including members of the municipal police department, so assigned to serve with the children's bureau of a school district shall continue as an employee or member of, and be compensated by, the respective department or division from which he was assigned, and shall retain all his pension, tenure and other rights as an employee or member thereof.

L.1967, c.271.

18A:43A-9. Extension of service to other districts; contract

Any board of education, which has established a children's bureau, and the board of education of any other school district may, pursuant to resolutions duly adopted, contract for the extension of the services of such bureau to such other district, upon such terms as may be determined upon between them and in any such case the bureau shall be operated for the benefit of both such school districts, pursuant to such contract.

L.1967, c.271.

18A:43A-10. Empowers previously formed bureaus

Any children's bureau heretofore established in any school district and which has been and is performing any of the functions or services authorized by this chapter shall have all the powers conferred upon children's bureaus by this chapter in the same manner as though such bureau was established pursuant to this chapter.

L.1967, c.271.

18A:44-1. Establishment of preschool

18A:44-1. The board of education of any district may establish a preschool school or department in any school under its control, and shall admit to such preschool school or department any child who is under the age at which children are admitted to other schools or classes in such district.

L.1967, c.271; amended 1996, c.138, s.71.

18A:44-2. Establishment of kindergarten

18A:44-2. The board of education of any district may establish a kindergarten school or kindergarten department, which in order to receive State aid shall be a one-year program in advance of or in preparation for entrance to first grade, in any school under its control, and may admit to such kindergarten school or department any child over the age of four and under the age of five and shall admit to such kindergarten school or department any child over the age of five and under the age of six years who is a resident of the district.

L.1967, c.271; amended 1996, c.138, s.72.

18A:44-3. Nursery school and kindergarten school teachers; special certificates

Every teacher in a nursery school or department and every teacher in a kindergarten school or department shall hold an appropriate certificate, which shall be issued by the state board of examiners at the request of the board of education of the district in which such school or department is situate or by the board of examiners of the city in which he is teaching, if there is such a board.

L.1967, c.271.

18A:44-4 Expenses; how paid.

18A:44-4. a. Except as otherwise provided pursuant to subsection b. of this section, the expenses of preschool schools or departments and of kindergarten schools or departments shall be paid out of any moneys available for the general fund expenses of the schools, and in the same manner and under the same restrictions as the expenses of other schools or departments are paid, except when wholly or partly subsidized by restricted funding sources or restricted endowments.

b. A district may collect tuition from the parents or guardians of students enrolled in a preschool school or department for whom the district does not receive preschool education aid pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54). The amount of tuition may not exceed the per pupil cost of the preschool program.

Amended 1993, c.83, s.18; 1996, c.138, s.73; 2004, c.125; 2007, c.260, s.69.

18A:44-5 Commission on Early Childhood Education.

1. a. There is established a Commission on Early Childhood Education in, but not of, the Department of Education. The commission shall consist of 24 members, including the Commissioners of Education, Human Services and Children and Families and the State Treasurer, or their designees, who shall serve as ex officio members, and 20 public members who shall be appointed by the Governor, including two representatives of higher education and one representative of each of the following organizations: the New Jersey Child Care Advisory Council; the Association for Children of New Jersey; the Center for Early Education at Rutgers, the State University; the New Jersey Association for the Education of Young Children; the New Jersey Association of Child Care Resources and Referral Agencies; the New Jersey Association of Early Childhood Teacher Educators; the New Jersey Association of School Administrators; the New Jersey Child Care Association; the New Jersey Congress of Parents and Teachers; the Statewide Parent Advocacy Network; the New Jersey Education Association; the New Jersey State Federation of Teachers; the New Jersey School Boards Association; the New Jersey Head Start Association; the New Jersey Policy Development Board; the New Jersey Principals and Supervisors Association; the Advisory Committee for Nonpublic Schools of the Department of Education; and the New Jersey Professional Development Center of New Jersey.

Within 60 days of the effective date of this act, and at least one month prior to the expiration of the term of a member nominated by an organization listed above, that organization shall submit to the Governor three nominees for consideration, from which the Governor may choose. If any organization does not submit three nominees for consideration at any time required, the Governor may appoint a member of his choice.

Of the 20 public members appointed by the Governor, no more than 10 shall be of the same political party. Of the 20 public members appointed by the Governor, at least six

shall represent the northern region of the State and reside in one of the following counties: Bergen, Essex, Hudson, Morris, Passaic, Sussex, Union or Warren. Of the 20 public members appointed by the Governor, at least six shall represent the central region of the State and reside in one of the following counties: Hunterdon, Somerset, Middlesex, Mercer, Monmouth or Ocean. Of the 20 public members appointed by the Governor, at least six shall represent the southern region of the State and reside in one of the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester or Salem.

The public members shall serve for three-year terms, but of the members first appointed, six shall be appointed for a term of one year, seven shall be appointed for a term of two years and seven shall be appointed for a term of three years. A member shall hold office for the term of his appointment and until his successor has been appointed.

Vacancies in the membership of the commission shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.

The members of the commission shall serve without compensation but shall be reimbursed for the reasonable expenses necessarily incurred in the performance of their duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

b. The commission shall organize no later than 30 days after the appointment of all the members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

c. The department shall provide such stenographic, clerical and other administrative assistants, and such professional staff, as the commission requires to carry out its work.

d. It shall be the responsibility of the commission to provide advice on early childhood education issues, including, but not limited to:

- (1) the appropriate staff credentials for pre-school educators;
- (2) appropriate Statewide standards for early childhood education program design, implementation and assessment;
- (3) the development of standards for appropriate facilities for early childhood education programs;
- (4) coordination of early childhood programs and services across State agencies;
- (5) the identification and dissemination of information on model early childhood programs;
- (6) the funding levels necessary to support high quality early childhood education programs, including funding for certified, well-trained teachers, developmentally appropriate curriculum and materials, appropriate facilities and particularized needs.

L.2000, c.138, s.1; amended 2006, c.47, s.95.

18A:44-6 Division of Early Childhood Education.

2. a. There is established a Division of Early Childhood Education in the Department of Education. The administrator and head of the division shall be a person qualified by training and experience to perform the duties of the division and shall devote his entire time to the performance of those duties.

b. The division shall be responsible for:

- (1) setting required standards for early childhood education programs in districts that operate preschool programs for three- and four-year olds that emphasize the quality necessary to meet children's needs, including, but not limited to, standards for teacher qualifications, program design and facilities;
- (2) identifying and disseminating information on model early childhood education programs that meet and exceed high standards for program quality;
- (3) the coordination of early childhood programs and services in consultation with the Department of Human Services;
- (4) identifying the amount of funds necessary to implement successful early childhood education programs based on a comprehensive needs assessment;
- (5) providing assistance, as needed, to school districts in implementing early childhood education programs;
- (6) implementing the early childhood education orders of the New Jersey Supreme Court;

(7) overseeing the evaluation and monitoring of early childhood education programs in districts that operate preschool programs for three- and four-year olds; and

(8) providing, in consultation with the Department of Human Services, an annual report to the Legislature and public on early childhood education.

L.2000, c.139, s.2; amended 2007, c.260, s.70.

18A:45-1. Establishment of secondary schools and junior high schools

The board of education of any school district may, with the consent of the state board, establish and organize secondary schools including junior high schools which shall be subject to rules prescribed by the state board and the state board may withhold or withdraw its approval of any such school whenever in its opinion the academic work, location or enrollment and per capita cost of maintenance thereof shall not warrant its establishment or continuance.

L.1967, c.271.

18A:46-1. Definitions

18A:46-1. As used in this chapter a handicapped child shall mean and include any child who is mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped, autistic, or pre-school handicapped.

L.1967, c.271; amended 1981,c.415,ss.6,9(amended 1982,c.100); 1990,c.52,s.55.

18A:46-1.1 Burden of proof, production on school district relative to special education due process hearings.

1. Whenever a due process hearing is held pursuant to the provisions of the "Individuals with Disabilities Education Act," 20 U.S.C.s.1400 et seq., chapter 46 of Title 18A of the New Jersey Statutes, or regulations promulgated thereto, regarding the identification, evaluation, reevaluation, classification, educational placement, the provision of a free, appropriate public education, or disciplinary action, of a child with a disability, the school district shall have the burden of proof and the burden of production.

L.2007, c.331, s.1.

18A:46-2. Special educational services; appointment of professional personnel; advisory council; membership; no compensation

18A:46-2. The commissioner shall be responsible for the coordination of the work of the county departments of child study and the general administration of special educational services in the public schools of this State.

In order to carry out the provisions of this chapter, he shall appoint to his staff persons qualified to administer educational services in the general field of education for handicapped children including each of the following disability groups: (1) mentally retarded, (2) orthopedically handicapped, (3) communication handicapped, (4) visually handicapped, (5) neurologically or perceptually impaired, (6) chronically ill, (7) emotionally disturbed, (8) socially maladjusted, (9) the auditorily handicapped, (10) autistic and (11) the pre-school handicapped, and a consultant experienced in child psychiatry, and specialists in school psychology, health service, school social work, learning disabilities and special education and such other qualified personnel as he shall deem necessary and he shall fix their compensation with the approval of the State board.

The commissioner shall appoint biannually an advisory council with the approval of the State board which will consist of not less than seven nor more than 15 members representative of public and private professional and lay interests. The advisory council shall advise in the promulgation of rules, regulations and the implementation of this chapter and the establishment of standards and qualifications for the professional personnel. The council shall serve without remuneration.

L.1967, c.271; amended 1973,c.7; 1981,c.415,ss.7,9(amended 1982,c.100); 1990,c.52,s.56.

18A:46-2.1. Legislative findings

The Legislature finds that impaired hearing can greatly handicap a child's ability to acquire language and develop speech. This can have a profoundly negative effect, not only on the child's intellectual development, but on his emotional and social development as well. The Legislature further finds that in order to safeguard the well-being of those children in this State with significant hearing loss it is of the utmost importance that they be provided with adequate educational services. This bill attempts to insure that the educational needs of all hearing impaired children are met by establishing within the Department of Education the position of coordinator of deaf education.

L.1981, c. 351, s. 1, eff. Dec. 24, 1981.

18A:46-2.2. Coordinator of deaf education; appointment

The Commissioner of the Department of Education shall appoint a coordinator of deaf education.

L.1981, c. 351, s. 2, eff. Dec. 24, 1981.

18A:46-2.3. Duties

The duties of the coordinator of deaf education shall include evaluating, coordinating and developing local, county, regional and State-operated educational programs and services for hearing impaired children.

L.1981, c. 351, s. 3, eff. Dec. 24, 1981.

18A:46-3. County departments of child study; duty; membership; qualification; designating chairman

When the results of a survey of handicapped children in any county, in the opinion of the commissioner warrants it, he shall, with the approval of the state board, establish a department of child study which shall be charged with the duty of performing the services required to be performed at the county level under this chapter. He shall appoint for each county department of child study or, with the approval of the state board, for one or more county departments of child study, a supervisor, whose duties shall include the coordination of the special education services in the county, and he shall appoint, such additional personnel, constituting a child study team as he deems necessary to perform such services for handicapped children.

In addition to the supervisor of child study the members of each child study team shall include personnel qualified to administer, supervise or otherwise perform the special education services required under this chapter.

The county superintendent of the county or the county superintendents of the counties served by one child study team jointly shall, with the approval of the commissioner, designate a member of the child study team to serve as chairman and in event that they cannot agree the chairman shall be designated by the commissioner.

L.1967, c.271.

18A:46-3.1. Regional consultants for hearing impaired; appointment; duties

The Commissioner of the Department of Education shall appoint four regional consultants for the hearing impaired. The duties of these consultants shall include assisting the child study teams in the educational evaluation and placement of hearing handicapped children and the development of appropriate individual educational programs, for each handicapped child with significant hearing loss.

L.1981, c. 350, s. 1, eff. Dec. 24, 1981.

18A:46-4. Terms; salaries; supervisor's expense; state aid

The commissioner shall fix the terms of office and compensation of the supervisor and other members of the child study team. Their salaries shall be paid as other State salaries are paid by warrants drawn by the Director of the Division of Budget and Accounting on the State Treasurer, on orders issued by the commissioner. All claims for expenses of the supervisor, for each county in which he shall serve, shall be paid after being audited by the county superintendent on orders issued by the county superintendent and drawn on the county treasurer. Notwithstanding any other provision of the law, the State shall reimburse each county no more than \$750.00 for the expenses of the supervisor in any 1 year. All claims for expenses of the supervisor which exceed the sum of \$750.00 shall be paid by the county.

L.1967, c.271; amended by L.1975, c. 336, s. 1, eff. March 3, 1976.

18A:46-5. Functions of child study teams

Each county child study team shall function in consultation with the local boards of education in the county or the local boards of education in the counties served by it in the fields pertaining to:

- a. identification and diagnosis of children needing special educational services,
- b. development and approval of public school programs for handicapped pupils,
- c. supervision and coordination of public school programs for handicapped pupils,
- d. reporting and referral of children with handicaps, of such severity as to indicate the necessity of residential placement, medical or psychological treatment, or care, to the appropriate agency for such purpose,
- e. social case work and psychological evaluation,
- f. remedial instruction,
- g. cooperative action with other state and county departments and lay professional organizations, and
- h. additional responsibilities as determined by the commissioner with the approval of the state board.

L.1967, c.271.

18A:46-5.1. Basic child study team services; provision by boards of education and state operated programs

Each board of education and State operated program shall separately or jointly with one or more boards of education or State agencies provide for basic child study team services. The basic child study team shall consist of a school psychologist, a learning disability teacher consultant and a school social worker, and for the purposes of evaluation and classification shall include pertinent information from certified school personnel making the referral. This information shall be considered in the evaluation and classification process as defined in N.J.A.C. 6:28-1.1 et seq.

The referring certified school personnel and the school principal, or his designee, may attend the classification conference as defined in N.J.A.C. 6:28-1.1 et seq. and participate in the classification decision.

L.1982, c. 162, s. 1, eff. Oct. 28, 1982.

18A:46-5.2. Participation by parent or guardian

Any decision by the basic child study team concerning the evaluation, classification and placement of a student shall include the full participation of that student's parents or guardian as prescribed under N.J.A.C. 6:28-1.1 et seq.

L.1982, c. 162, s. 2, eff. Oct. 28, 1982.

18A:46-6. Handicapped children and children who require and are benefited by special education programs and services; identification

Each board of education, according to uniform rules prescribed by the commissioner with the approval of the State board, shall provide for the identification of any children between the ages of five and 21 residing in the district and enrolled in the public schools of the State or in a nonpublic school located in the district, who cannot be properly accommodated through the school facilities usually provided, because of handicaps.

For the purposes of this act, a child who boards at a school in a district in which his parents do not maintain a resident shall not be considered a resident of the district.

In addition, each board of education shall also identify and ascertain, according to rules promulgated by the commissioner with the approval of the State board, those children between the ages of three and five years who require and who would be benefited by special education programs and services, which may prevent their handicaps from becoming more debilitating.

Each board of education shall provide information to parents of handicapped children below the age of three regarding available services and programs provided by other State, county or local agencies, which may prevent their handicaps from becoming more debilitating.

L.1967, c.271; amended by L.1977, c. 193, s. 3, eff. Aug. 25, 1977; L.1981, c. 415, s. 1; L.1984, c. 123, s. 1, eff. Aug. 8, 1984.

18A:46-6.1. Providers of programs and services for 3 to 5 year olds

The programs and services required pursuant to N.J.S. 18A:46-1 et seq. for handicapped children between the ages of 3 and 5 shall be provided by one or more of the following:

- a. Parent training and counseling;
- b. Special programs and services in the district including programs in hospitals, homes or other institutions;
- c. Special programs and services offered by other districts as provided by agreement between one or more districts;
- d. A Jointure Commission;
- e. A county special services school district; and
- f. Such other methods as shall be approved by the commissioner with the approval of the State board.

L.1981, c. 415, s. 2.

18A:46-7. Reports of handicapped children

Each board of education shall report annually to the county superintendent of schools of the county in which the school district is situate, who shall report to the commissioner, the names of all children who are in special education instructional programs and the names and addresses of their parents or persons having control or custody of them, together with the category into which they have been classified. Included in this report shall be the names and addresses of any known handicapped

children who are not attending school. The commissioner shall make the information in the reports available to any state agency charged with the care and restoration of any particular category of handicapped children.

L.1967, c.271.

18A:46-7.1. Laws, rules and regulations; distribution to parents of children classified as handicapped

In every school district having children who have been classified as handicapped pursuant to the provisions of chapter 46 (Classes and Facilities for Handicapped Children) of Title 18A of the New Jersey Statutes, the board of education of the district shall, annually, cause copies of said chapter 46, as amended and supplemented, together with all current rules and regulations of the commissioner relating thereto, to be prepared for distribution to parents of children classified as handicapped or the persons having control or custody of such children who request copies thereof.

Persons requesting copies shall be required to pay a reasonable fee as fixed by the board, to cover the cost of preparing the copies.

L.1973, c. 3, s. 1.

18A:46-7.2 DOE to disseminate information on adult services to parents of special education recipients.

1. The Department of Education shall include in its "Parental Rights in Special Education" booklet that is available to parents of children who receive special education services, information describing services available through, and contact information for, State agencies serving persons with disabilities. The booklet shall include, but not be limited to, information regarding the following State agencies serving persons with disabilities: the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development; the Divisions of Developmental Disabilities, Mental Health Services, the Deaf and Hard of Hearing, and Disability Services in the Department of Human Services; and the Commission for the Blind and Visually Impaired in the Department of Human Services.

L.2006,c.62,s.1.

18A:46-7.3 Designation of disability services resource in high school for parents.

2. The Department of Education shall require that, beginning with the 2006-2007 school year, all school districts with grades nine through 12 designate at least one staff member to serve as a disability services resource for parents. The designated staff member shall be able to demonstrate competency in the various services available through State agencies that serve persons with disabilities, and shall provide information to parents about how to access the services and assistance to parents in contacting the appropriate State agency. The district shall conduct outreach activities to ensure that the parents of children who receive special education services in the district, and local community disability organizations and service providers, are made aware of the name and contact information of the designated staff member.

L.2006,c.62,s.2.

18A:46-8. Classification of handicapped children; report to parent or guardian

18A:46-8. Each board of education shall provide for the examination and classification of each child residing in the district and identified pursuant to N.J.S.18A:46-6, except that the board of education of a county vocational school district shall provide for the examination and classification of each child who is attending the county vocational school on a full-time basis and is identified pursuant to N.J.S.18A:46-6. Such examination and classification shall be accomplished according to procedures prescribed by the commissioner and approved by the State board, under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, autistic, multiply handicapped or pre-school handicapped. The examination and classification of such nonpublic school children shall be in a location determined by the local board of education of the district in which the nonpublic school is located and approved by the commissioner pursuant to rules and regulations promulgated by the State board.

The classification of communication handicapped shall be made by the basic child study team and an approved speech correctionist or speech pathologist, without child study consultation. Such children shall be reported to the basic child study team.

The proposed classification shall be reported to the parent or guardian of the child and an opportunity provided, prior to implementation of the classification, for consultation by such parent or guardian with the appropriate special educational services personnel of the district. Pursuant to rules of the State board, the parent or guardian shall also be provided an opportunity for further review of the classification in the Department of Education.

L.1967, c.271; amended 1977,c.193,s.4; 1977,c.415; 1978,c.46; 1981,c.415,s.8; 1984, c.123,s.2; 1990,c.52,s.57.

18A:46-9. Classification of mentally retarded children

Each child classified pursuant to section 18A:46-8 as mentally retarded shall be similarly further identified, examined and classified into one of the following subcategories:

a. Educable mentally retarded children, who are those who may be expected to succeed with a minimum of supervision in homes and schools and community life and are characterized particularly by reasonable expectation that at maturity they will be capable of vocational and social independence in competitive environment;

b. Trainable mentally retarded children, who are so retarded that they cannot be classified as educable but are, notwithstanding, potentially capable of self-help, of communicating satisfactorily, or participating in groups, of directing their behavior so as not to be dangerous to themselves or others and of achieving with training some degree of personal independence and social and economic usefulness within sheltered environments;

c. Children eligible for day training, who are those so severely mentally retarded as to be incapable of giving evidence of understanding and responding in a positive manner to simple directions expressed in the child's primary mode of communication and who cannot in some manner express basic wants and needs.

L.1967, c.271; amended by L.1975, c. 212, s. 39, eff. July 1, 1976.

18A:46-10. Classification according to ability; scope of educational service

Pupils identified as needing special education services to ameliorate or to prevent the development of learning handicaps shall be classified according to their ability to benefit from specified types of educational service, and such educational service shall be conducted according to rules and regulations prescribed by the commissioner, with the approval of the state board, and may include, but need not be limited to:

- a. case work with the pupil at home or school,
- b. counseling or guidance,
- c. remedial instruction,
- d. special scheduling of a school program including part-time attendance in special or regular groups,
- e. referral to other agencies or institutions for special services,
- f. special grouping in school for children whose prognosis is favorable for return to the regular program, and
- g. arrangement through the commissioner for direct services through the county department of child study.

L.1967, c.271.

18A:46-11. Psychological and other examinations

Each board of education shall separately or jointly with one or more boards of education employ a psychological examiner, who acting jointly with special education personnel approved by the commissioner, shall administer the procedures for diagnosis and classification required in this chapter, or, in lieu of employing a psychological examiner, it or they may contract to use, with or without financial reimbursement, the psychological or other services of any clinic or agency approved by the commissioner.

L.1967, c.271.

18A:46-12. Approval of clinics

The commissioner with the approval of the state board and of the state board of control of the department of institutions and agencies, shall prescribe suitable standards for the approval by him of any clinic or agency furnishing services, pursuant to this chapter.

L.1967, c.271.

18A:46-13 Types of facilities and programs.

18A:46-13. It shall be the duty of each board of education to provide suitable facilities and programs of education for all the children who are classified as handicapped under this chapter. The absence or unavailability of a special class facility in any district shall not be construed as relieving a board of education of the responsibility for providing education for any child who qualifies under this chapter.

The Department of Human Services, and the Department of Children and Families, as applicable, shall provide transportation for all children who attend day training centers operated by the department.

A board of education is not required to provide any further educational program for children who have been admitted to the Marie H. Katzenbach School for the Deaf but shall be required to furnish necessary daily transportation Monday through Friday to and from

the school for nonboarding pupils when such transportation is approved by the county superintendent of schools in accordance with such rules and regulations as the State board shall promulgate for such transportation. Any special education facility or program authorized and provided for a child attaining age 20 during a school year shall be continued for the remainder of that school year.

L.1967, c.271; amended 1969, c.79; 1973, c.62; 1975, c.212, s.40; 1992, c.129, s.1; 2006, c.47, s.96.

18A:46-13.1 Disabled students, certain, participation in interscholastic athletic programs.

1. Notwithstanding the provisions of any law, rule or regulation to the contrary, a pupil who is disabled and who is placed by the parents or guardians at their own expense in a nonpublic school for treatment of the disability shall be eligible to participate in the interscholastic athletic program of the student's resident school district, provided the student otherwise meets the eligibility requirements of the program and the student's participation has the written approval of the board of education of the school district where the program is located.

L.2005,c.260,s.1.

18A:46-14 Enumeration of facilities and programs.

18A:46-14. The facilities and programs of education required under this chapter shall be provided by one or more of the following:

a. A special class or classes in the district, including a class or classes in hospitals, convalescent homes, or other institutions;

b. A special class in the public schools of another district in this State or any other state in the United States;

c. Joint facilities including a class or classes in hospitals, convalescent homes or other institutions to be provided by agreement between one or more school districts;

d. A jointure commission program;

e. A State of New Jersey operated program;

f. Instruction at school supplementary to the other programs in the school, whenever, in the judgment of the board of education with the consent of the commissioner, the handicapped pupil will be best served thereby;

g. Sending children capable of benefiting from a day school instructional program to privately operated day classes, in New Jersey or, with the approval of the commissioner to meet particular circumstances, in any other state in the United States, the services of which are nonsectarian whenever in the judgment of the board of education with the consent of the commissioner it is impractical to provide services pursuant to subsection a., b., c., d., e. or f. otherwise;

h. Individual instruction at home or in school whenever in the judgment of the board of education with the consent of the commissioner it is impracticable to provide a suitable special education program for a child pursuant to subsection a., b., c., d., e., f. or g. otherwise.

Whenever a child study team determines that a suitable special education program for a child cannot be provided pursuant to subsection a., b., c., d., e., f., g. or h. of this section, and that the most appropriate placement for that child is in an academic program in an accredited nonpublic school within the State or, to meet particular circumstances, in any other state in the United States, the services of which are nonsectarian, and which is not specifically approved for the education of handicapped pupils, that child may be placed in that academic program by the board of education, with the consent of the commissioner, or by order of a court of competent jurisdiction. An academic program which meets the requirements of the child's Individual Education Plan as determined by the child study team and which provides the child with a thorough and efficient education, shall be considered an approved placement for the purposes of chapter 46 of this Title, and the board of education shall be entitled to receive State aid for that child as provided pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.), and all other pertinent statutes.

Whenever any child shall be confined to a hospital, convalescent home, or other institution in New Jersey or in any other state in the United States and is enrolled in an education program approved under this article, or shall be placed in any other State facility as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45), the board of education of the district in which the child resides shall pay the tuition of that child. The board of education may also furnish (a) the facilities or programs provided in this article to any person over the age of 20 who does not hold a diploma of a high school approved in this State or in any other state in the United States, (b) suitable approved facilities and programs for children under the age of five.

Amended 1968, c.430; 1970, c.256, s.1; 1971, c.270; 1973, c.4; 1975, c.222; 1979, c.207, s.2; 1989, c.152; 1990, c.52, s.58; 1996, c.138, s.74; 2007, c.260, s.71.

18A:46-15. Facilities and programs; approval by commissioner; special classes for handicapped children; review; improvement

a. The commissioner with the consent of the State board shall, according to the rules and regulations prescribed by him and approved by the State board, approve all special facilities and education programs which meet the requirements of this chapter. He shall from time to time, by the use of available members of his staff, by the publication of bulletins, and by any other means available to him assist boards of education in formulating programs required under this chapter.

b. The commissioner shall continually review the operation of the programs of special education required under this chapter and whenever in any area or region of this State, in his judgment, handicapped children of one or more disability groups, as classified under N.J.S. 18A:46-8, are not receiving satisfactory education programs, despite the operation of facilities and programs approved by him pursuant to subsection a of this section, he shall, with the consent of the State board, order the establishment of a special class or classes for such group or groups in such area or region, either using the facilities to be provided by one or more boards of education, pursuant to N.J.S. 18A:46-20b, or the facilities of one or more jointure commissions by directing one or more boards of education not members to become contracting districts of any thereof under N.J.S. 18A:46-28c.

c. The commissioner shall continually review the operation of such class or classes and in case the operation of any of such classes is not satisfactory to him he shall, with the consent of the State board, take such steps available under this chapter as may seem necessary to improve such operation including the use of different receiving districts and sending districts and the use of different jointure commissions or the addition or withdrawal of districts to or from existing jointure commissions.

L.1967, c.271; amended by L.1970, c. 256, s. 2, eff. Nov. 2, 1970.

18A:46-18.2. Definitions

For the purposes of this act:

a. "Multidisciplinary treatment team" means an evaluation team consisting of a psychologist, a learning disability teacher consultant, a social worker and any other professional who may be involved in the evaluation or treatment of a child in a State facility.

b. "State facility" means a State residential facility for the developmentally disabled, a day training center which is operated by or under contract with the State and in which all the children have been placed by the State, a State residential youth center, a State training school or correctional facility, and a State child treatment center or psychiatric hospital.

L. 1986, c. 32, s. 1, eff. June 23, 1986.

18A:46-18.3 Notice to parents.

2. a. The multidisciplinary treatment team at a State facility shall provide written notice to the parent or legal guardian of a child who is placed in the facility, when the child attains the age of 18, or, if the child is over the age of 18 when placed in the facility, at the time of placement, that the child is not entitled to receive tuition free educational services after the age of 21.

b. Written notice given pursuant to this section shall describe in detail the parent's or guardian's opportunity to consent to having the child's name or other relevant information forwarded in a report to the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, for the purposes of determining whether the child will likely need services after the age of 21 and, if so, recommending possible adult educational services. For the purposes of this subsection, "relevant information" means that information in the possession of and used by the multidisciplinary treatment team to ascertain the physical, mental, emotional and cultural-educational factors which contribute to the child's handicapping condition, including but not limited to: (1) results of physical and psychological examinations performed by private and school district physicians and psychologists; (2) relevant information presented by the parent or legal guardian and teacher; (3) school data which bear on the child's progress, including the child's most recent individualized educational program; (4) results of the most recent examinations and evaluations performed; and (5) results of other suitable evaluations and examinations possessed by the team. Nothing in this subsection shall be construed to require a multidisciplinary treatment team to perform any examination or evaluation not otherwise required by law.

c. Upon the written consent of the parent or legal guardian, the multidisciplinary treatment team shall forward the child's name and other relevant information in a report to the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, for the development of a recommendation for adult educational services. A copy of the report shall also be submitted to the Commissioner of Education at the same time that the report

is submitted to the Commissioner of Human Services, the Commissioner of Children and Families or the Commissioner of Corrections, as applicable.

L.1986, c.32, s.2; amended 2006, c.47, s.97.

18A:46-18.4 Recommendation for adult educational services.

3. a. The Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, or their designees, in consultation with the Commissioner of Education, or his designee, shall determine whether a child, whose report is submitted to the Department of Human Services, Department of Children and Families, or the Department of Corrections, as appropriate, pursuant to subsection c. of section 2 of this act, will likely need adult educational services and, if the need will likely exist, develop a recommendation of all appropriate educational programs operated or approved by the Department of Human Services, Department of Children and Families, Department of Corrections or Department of Education which may be available when the child attains the age of 21. If necessary and appropriate, the Commissioner of Human Services, the Commissioner of Children and Families, or the Commissioner of Corrections, as appropriate, may conduct an evaluation of the child to determine if adult educational services will be needed. The recommendation of all programs shall be made available to the parent or guardian of the child as soon as practicable but not later than six months before the child attains the age of 21.

b. If the Commissioner of Human Services, Commissioner of Children and Families, or Commissioner of Corrections, as appropriate, determines, pursuant to subsection a. of this section, that the child will not require adult educational services, the commissioner shall notify the child's parent or guardian in writing of the determination. The notice shall be given as soon as practicable but no later than six months before the child attains the age of 21.

L.1986, c.32, s.3; amended 2006, c.47, s.98.

18A:46-18.5 Annual report.

4. The multidisciplinary treatment team shall prepare and submit an annual report to the Departments of Education, Corrections, Children and Families, and Human Services on October 1, 1986 and thereafter on or before October 1 of each year. The annual report shall contain the number of cases submitted to the Commissioner of Human Services, the Commissioner of Children and Families, and the Commissioner of Corrections pursuant to subsection c. of section 2 of this act, the type and severity of the handicapping condition involved with each case, and other necessary information. The annual report shall not contain individually identifying information.

L.1986, c.32, s.4; amended 2006, c.47, s.99.

18A:46-18.6 Rules, regulations.

5. The Commissioner of Human Services, the Commissioner of Children and Families, and the Commissioner of Corrections shall adopt, within six months from the date that this act takes effect, rules and regulations in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) that are appropriate to implement this act.

L.1986, c.32, s.5; amended 2006, c.47, s.100.

18A:46-19. Additional reports

The commissioner may require at such time, and in the manner and on forms prescribed by him, such educational, financial and statistical reports as he may deem necessary to carry out the purpose of this chapter.

L.1967, c.271.

18A:46-19.1. Legislative findings and determination

The Legislature hereby finds and determines that the security and welfare of the State require that all school-age children be assured the fullest possible opportunity to develop their intellectual capacities. In order to achieve this objective it is the intent of this Legislature to require that the State and local communities identify and provide remedial services for handicapped children in both public and nonpublic schools.

L.1977, c. 193, s. 1, eff. Aug. 25, 1977.

18A:46-19.2. Definitions

As used in this act:

a. "Commissioner" means the State Commissioner of Education.

b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

L.1977, c. 193, s. 2, eff. Aug. 25, 1977.

18A:46-19.3. Provision of facilities and programs pursuant to chapter 46; application only to public school pupils; exception

The provision of facilities and programs pursuant to chapter 46 of Title 18A of the New Jersey Statutes shall apply only to children enrolled in the public schools of the State except as specifically provided by law.

L.1977, c. 193, s. 5, eff. Aug. 25, 1977.

18A:46-19.4. Provision for speech language specialist

Each board of education shall provide for the services of a certified speech-language specialist for each child attending a nonpublic school located in the school district and classified pursuant to N.J.S.18A:46-8 as requiring the services of a certified speech-language specialist.

L.1977,c.193,s.6; amended 1991,c.128,s.4.

18A:46-19.5 Services to students in nonpublic schools.

7. Services for children enrolled in nonpublic schools shall be provided only upon the consent of the parent or guardian and shall be provided in a location determined by the local board pursuant to rules and regulations of the State board.

L.1977,c.193,s.7; amended 1998, c.12, s.2.

18A:46-19.6. Transportation to location or maintenance of vehicular classrooms to obtain services; payment of cost

If the provision of services, pursuant to this act requires transportation or the maintenance of vehicular classrooms, the board of education of a district in which a nonpublic school is located shall provide for such transportation and maintenance and the cost shall be paid from State aid received by the district for the purpose of this act.

L.1977, c. 193, s. 8, eff. Aug. 25, 1977. Amended by L.1984, c. 120, s. 1, eff. Aug. 8, 1984.

18A:46-19.7 Contracting for examination, classification, speech correction services.

9. A board of education may contract with an educational improvement center, an educational services commission or other public or private agency approved by the commissioner other than a church or sectarian school, for the provision of examination, classification and speech correction services required by this act. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

L.1977,c.193,s.9; amended 1999, c.364, s.1.

18A:46-19.8. Estimated cost of services; inclusion in budget; State aid

14. On November 5 of each year, each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district who were identified as eligible to receive examination, classification, and speech correction services pursuant to this act during the previous school year. The number of these pupils requiring an initial evaluation or reevaluation for examination and classification shall be multiplied by \$990.73. The number of these pupils requiring an annual review for examination and classification shall be multiplied by \$297.06. The number requiring speech correction shall be multiplied by \$786.70. These products shall be added to determine the estimated cost for providing examination, classification, and speech corrections services to nonpublic school children during the next school year. Each board of education shall report the number of nonpublic school children who attended a nonpublic school located within the district, who were identified as eligible for supplementary instruction services during the preceding school year. The number of these pupils shall be multiplied by \$752.41. This product shall be added to the estimated cost for providing examination, classification and speech correction services.

In preparing its annual budget, each board of education shall include as an expenditure the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

In preparing its annual budget, each board of education shall include as a revenue State aid in an amount equal to the estimated cost of providing services to nonpublic school children pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.).

During each school year, each district shall receive an amount of State aid equal to 10% of the estimated cost on the first day in September and on the first day of each month during the remainder of the school year. If a board of education requires funds prior to September, the board shall file a written request with the Commissioner of Education stating the need for the funds. The commissioner shall review each request and forward those for which need has been demonstrated to the appropriate officials for payment. In the event the expenditures incurred by any district are less than the amount of State aid received, the district shall refund the unexpended State aid after completion of the school year. The refunds shall be paid no later than December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c.193

(C.18A:46-19.1 et al.). If the request is approved and funds are available from refunds of the prior year, payment shall be made in the current school year.

L.1977,c.193,s.14; amended 1984, c.120, s.2; 1991, c.128, s.5; 1996, c.138, s.75.

18A:46-19.9. Severability

If any provision of this act or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect; and, to this end, the provisions of this act are declared to be severable.

L.1977, c. 193, s. 16, eff. Aug. 25, 1977.

18A:46-19.10. Certain state funds excluded from minimum funding requirement calculation under IDEA

1. State funds appropriated pursuant to P.L.1977, c.193 (C.18A:46-19.1 et seq.) to provide special education and related services to students enrolled in nonpublic schools shall not be included by a school district in the calculation of the minimum funding requirement for nonpublic school students under the "Individuals with Disabilities Education Act," 20 U.S.C. s. 1400 et seq.

L.2001,c.230.

18A:46-20. Receiving pupils from outside district; establishment of facilities

The commissioner may, in his discretion, with the approval of the State board:

a. Require any board of education, having the necessary facilities to provide the services required to be provided by this chapter, to receive pupils requiring such services from other districts; or

b. Require any board of education not having the necessary facilities to provide the facilities and services required to be provided pursuant to N.J.S. 18A:46-15b and to receive pupils requiring such services from other districts.

L.1967, c.271; amended by L.1970, c. 256, s. 3, eff. Nov. 2, 1970.

18A:46-21. Tuition for handicapped

Any board of education, jointure commission, or private school for the handicapped which receives pupils from a sending district under this chapter shall determine a tuition rate to be paid by the sending board of education, but in no case shall the tuition rate exceed the actual cost per pupil as determined under rules prescribed by the commissioner and approved by the State Board of Education.

L.1967, c.271; amended by L. 1986, c. 50, s. 1, eff. July 16, 1986.

18A:46-22. Withdrawal of pupils by sending districts

Any board of education which has entered or hereafter shall enter its handicapped pupils in the schools of a receiving district may not withdraw such pupils for the purpose of entering them in the schools of another district unless good and sufficient reason exists for such a change and unless an application therefor is made and approved by the commissioner. Either the receiving or sending board of education, if dissatisfied with the determination of the commissioner on any such application, may appeal to the state board, and, in its discretion, that body may affirm, reverse, or modify his determination.

L.1967, c.271.

18A:46-23 Transportation of pupils; special classes; handicapped children; State aid.

18A:46-23. The board of education shall furnish transportation to all children found under this chapter to be handicapped who shall qualify therefor pursuant to law and it shall furnish the transportation for a lesser distance also to any handicapped child, if it finds upon the advice of the examiner, the handicap to be such as to make transportation necessary or advisable.

The board of education shall furnish transportation to all children being sent by local boards of education to an approved 12-month program pursuant to N.J.S.18A:46-14, or any other program approved pursuant to N.J.S.18A:46-14 and who qualify therefor pursuant to law, during the entire time the child is attending the program. The board shall furnish transportation for a lesser distance also to a handicapped child, if it finds upon the advice of the examiner, his handicap to be such as to make the transportation necessary or advisable.

The school district shall be entitled to State aid for the transportation pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) when the necessity for the transportation and the cost and method thereof have been approved by the executive county superintendent of the county in which the district paying the cost of the transportation is situated.

Amended 1975, c.212, s.34; 1978, c.158, s.2; 1979, c.429; 1990, c.52, s.59; 1996, c.138, s.76; 2007, c.260, s.72.

18A:46-24. Agreements for joint facilities, etc.; approval by commissioner

Any two or more districts may provide for facilities, examinations or transportation under this chapter under the terms of an agreement adopted by resolutions of each of the boards of education concerned setting forth the essential information concerning the facilities, examination or transportation to be provided, the method of apportioning the cost among the districts and of computing the proportion of the state aid to which each district shall be entitled, and any other matters deemed necessary to carry out the purpose of the agreement. No such agreements shall become effective until approved by the commissioner.

L.1967, c.271.

18A:46-29. County special services school district; finding of need; hearing; establishment; name

The board of chosen freeholders of any county may establish a county special services school district for the education and treatment of handicapped children, as such children are defined in N.J.S. 18A:46-1, upon its finding that the need for such county special services school district exists. Before making any finding as to the existence of such need, the board shall hold at least one public hearing thereon upon not less than 10 days notice of the time and place thereof published in a newspaper of general circulation in the county. If the board of freeholders, by resolution, authorizes the establishment of such a school district for the county, schools shall be forthwith established and maintained in the county and shall be known as the "schools for special services in the county of " (here insert the name of the county in which the schools are located).

L.1971, c. 271, s. 1, eff. July 27, 1971.

18A:46-30. Rules and regulations

The State Board of Education shall prescribe rules and regulations for the organization, management and control of such special service schools.

L.1971, c. 271, s. 2, eff. July 27, 1971.

18A:46-31 Powers, duties of special services school district board of education.

3. a. Any school established pursuant to P.L.1971, c.271 (C.18A:46-29 et al.) shall accept all eligible pupils within the county, so far as facilities permit. Pupils residing outside the county may be accepted should facilities be available only after provision has been made for all eligible pupils within the county. Any child accepted shall be classified pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

b. The board of education of any county special services school district may receive such funds as may be appropriated by the county pursuant to section 13 of P.L.1971, c.271 (C.18A:46-41) and shall be entitled to collect and receive from the sending districts in which the pupils attending the county special services school reside, for the tuition of those pupils, a sum not to exceed the actual cost per pupil as determined for each special education program or for the special services school district, according to rules prescribed by the commissioner and approved by the State board. Whenever funds have been appropriated by the county, the county special services school district may charge a fee in addition to tuition for any pupils who are not residents of the county. The fee shall not exceed the amount of the county's per pupil appropriation to the county special services school district. For each special education program or for the special services school district, the tuition shall be at the same rate per pupil for each sending district whether within or without the county. Ten percent of the tuition amount and the nonresident fee amount, if any, shall be paid on the first of each month from September to June to the receiving district by each sending district. The annual aggregate amount of all tuition may be anticipated by the board of education of the county special services school district with respect to the annual budget of the county special services school district. The amounts of all annual payments or tuition to be paid by any other school district shall be raised in each year in the annual budget of the other school district and paid to the county special services school district.

Tuition charged to the resident district shall be deducted from the resident district's State aid and transferred directly to the county special services district by the Department of Education according to procedures established by the commissioner. The transfers shall equal 1/20th of the tuition charged and shall occur on the same schedule of State aid payments for the resident districts. Beginning in May of the preceding year the county special services district shall report to the department and the resident districts the current enrollments and tuition rates by district. Enrollment changes reported at least 30 days in advance of a scheduled transfer shall be honored.

Unless specifically designated, county special services school districts shall not receive State aid under the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). The county special services general fund budget, exclusive of any county contribution, shall not exceed the general fund budget, exclusive of any county contribution, in the prebudget year adjusted by the CPI or three percent, whichever is greater, plus an enrollment factor.

An undesignated general fund balance of 10 percent of the general fund budget exclusive of tuition adjustments of prior years may be maintained. For the years 1997-98 through 2001-2002, State aid shall be provided to fund tuition losses when placements

drop by more than five percent between the budget year and prebudget year. State aid shall equal the difference between 95 percent of the prebudget year enrollment on May 1 preceding the prebudget year multiplied by the budget year tuition rate and actual enrollments on May 1 preceding the budget year multiplied by the budget year tuition rate.

c. The board of education of any county special services school district, with the approval of the board of chosen freeholders of the county, may provide for the establishment, maintenance and operation of dormitory and other boarding care facilities for pupils in conjunction with any one or more of its schools for special services, and the board shall provide for the establishment, maintenance and operation of such health care services and facilities for the pupils as the board shall deem necessary.

d. (Deleted by amendment, P.L.1991, c.62).

Amended 1990, c.52, s.60; 1991, c.62, s.23; 1996, c.138, s.77; 2007, c.260, s.73.

18A:46-32. Approval of program and courses of study

The program and courses of study to be pursued in such special services school and all changes therein shall be approved by the Commissioner of Education, with the advice and consent of the State Board of Education.

L.1971, c. 271, s. 4, eff. July 27, 1971.

18A:46-33. Priority of types of courses of study

Courses of study should be pursued to provide as a first priority, programs or courses of study not at that time available in any other school within the county especially for those with unusually severe disability or those with unusual multi-disability. Then courses of study should be pursued, as deemed necessary by the Commissioner of Education which may be available at that time but where there is not sufficient capacity available at that time to accommodate all the students identified and classified as requiring these courses of study.

L.1971, c. 271, s. 5, eff. July 27, 1971.

18A:46-34. School year

The school year for a county special services school district shall begin on July 1 and end June 30.

L.1971, c. 271, s. 6, eff. July 27, 1971.

18A:46-35. Board of education; composition; terms; vacancies

For each county special services school district established in accordance with this act there shall be a board of education consisting of the county superintendent of schools, ex officio, and six persons to be appointed by the director of the board of chosen freeholders with the advice and consent of the remaining members of such board. In any county having a county mental health board, the chairman thereof, or his designee, shall also serve as an ex-officio member of the board of education but shall not be entitled to vote on any matter before the board. The appointive members shall serve for terms of 3 years commencing as of July 1 of the calendar year in which they are appointed and to continue until their successors are appointed and qualify, except that of those first appointed two shall be appointed for terms of 1 year, two for 2 years, and two for 3 years.

Vacancies in the board caused by the death, resignation or removal of a member shall be reported forthwith by the secretary of the board to the director of the board of chosen freeholders, who, by the next regular meeting of the board of chosen freeholders and in the manner herein prescribed for making appointments for a full term, shall appoint a person to fill the vacancy for the unexpired term.

L.1971, c. 271, s. 7, eff. July 27, 1971. Amended by L.1979, c. 352, s. 1, eff. Jan. 29, 1980.

18A:46-36. Qualifications of board members

A member of the board of education created under the provisions hereof shall be a citizen and a resident of the county, shall have been such citizen and resident for at least 2 years immediately preceding his becoming a member of the board, and shall have shown an interest in children with an unusual disability to learn or in the field of mental health.

L.1971, c. 271, s. 8, eff. July 27, 1971.

18A:46-37. Organization

Each board of education for a county special services school district shall organize annually by the election of a president and vice-president on any day, except a Sunday, during the first two weeks of July.

L.1971,c.271,s.9; amended 1990,c.38,s.1.

18A:46-38. Designation and powers of board of education

10. The board of education provided for herein shall be a body corporate and shall be known as "The Board of Education of the Special Services School District of the county

of _____," (here insert the name of the county in which such school shall be located). The board shall organize and operate in the manner provided by law and shall have the power to appoint or employ such officers, agents and employees as may be required to carry out the provisions of P.L.1971, c.271 and to fix and determine their qualifications, duties, compensation, terms of office and all other conditions and terms of employment and retention. In addition, the board shall have all the powers as are now or may hereafter be provided by law and applicable for other school districts, subject to the additional restrictions provided by this act.

L.1971,c.271,s.10; amended 1991,c.293.

18A:46-39. Board of school estimate

The board of school estimate of such county special services school district shall consist of two members of the board of education of the school district appointed by the board, two members of the board of chosen freeholders of the county appointed by that board, and the director of the board of chosen freeholders. The appointments shall be made annually between January 1 and January 15. In case of a vacancy occurring in the board by reason of the resignation, death or removal of any appointed member, the vacancy shall be filled immediately by the board which originally appointed the member, by appointing another of its members to fill the vacancy. The secretary of the board of education of the county special services school district shall be the secretary of the board of school estimate, but shall receive no compensation as such.

L.1971, c. 271, s. 11, eff. July 27, 1971.

18A:46-40. Estimate of general fund expenses

12. On or before the fourth Tuesday in March in each year the board of education of a county special services school district shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the general fund expenses of the county special services school district for the ensuing school year.

L.1971,c.271,s.12; amended 1978,c.136,s.15; 1992,c.159,s.19; 1993,c.83,s.19.

18A:46-41. Appropriation for current expenses

13. a. Between the fourth Tuesday in March and April 8 in each year the board of school estimate shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the county special services school district for the ensuing school year.

b. The board of school estimate shall, on or before the last named date, make two certificates of the amount, signed by at least three of its members, one of which certificates shall be delivered to the board of education of the county special services school district and the other to the board of chosen freeholders of the county.

c. The board of chosen freeholders shall, upon receipt of the certificate, appropriate, in the same manner as other appropriations are made by it, the amount so certified, and the amount shall be assessed, levied, and collected in the same manner as moneys appropriated for other purposes in the county are assessed, levied, and collected, unless such amount is to be raised as otherwise hereinafter provided in this act.

L.1971,c.271,s.13; amended 1978,c.136,s.16; 1990,c.52,s.61; 1992,c.159,s.20.

18A:46-42. Bonds, appropriation for land or buildings

14. Whenever a board of education of a county special services school district shall decide that it is necessary to sell bonds to raise money for the purchase of lands or buildings for school purposes or for erecting, enlarging, improving, repairing, or furnishing a building or buildings for the use of the school district, it shall prepare and deliver to each member of the board of school estimate a statement of the amount of money estimated to be necessary for such purpose or purposes.

The board of school estimate shall fix and determine the necessary amount and shall make two certificates thereof, one of which certificates shall be delivered to the board of education and the other to the board of chosen freeholders of the county.

The board of chosen freeholders may appropriate and borrow such amount for the purpose or purposes aforesaid by issuance of bonds or notes of the county pursuant to the Local Bond Law, notwithstanding any debt or limitation or requirement for down payment therein provided for. The proceeds of the sale of such obligations shall be paid to the treasurer of the county special services school district and shall be paid out by him only on the warrants or orders of the board of education of the county special services school district. The treasurer shall in no event disburse such proceeds, except to pay the expense of issuing and selling such obligations and for the purpose or purposes for which such obligations were issued. If for any reason any part of such proceeds are not applied to or necessary for such purpose or purposes, the board of education of the county special services school district may transfer the balance remaining unapplied to the general fund of the school district.

L.1971,c.271,s.14; amended 1993,c.83,s.20.

18A:46-43. Rights and privileges of teachers, principals and employees

All teachers, principals, and other employees of the board of education of the county special services school district are hereby held to possess all rights and privileges of teachers, principals and other employees of boards of education of other school districts as provided in Title 18A of the New Jersey Statutes.

L.1971, c. 271, s. 15, eff. July 27, 1971.

18A:46-45. Advisory committee

The board of education of any county special services school district shall appoint an advisory committee of not less than 10 members consisting of representatives of recognized parent and professional organizations working exclusively for the children classified as having unusual disability, as well as at least one psychiatrist, one psychologist, one social worker, and, in any county in which the commissioner has established a department of child study, the county child study supervisor. The committee shall meet at least four times per year to consider matters referred to it by the board and to make recommendations to the board.

L.1971, c. 271, s. 17, eff. July 27, 1971.

18A:46-46. Treasurer of board of education

The board of education of any county special services school district may appoint a treasurer, who shall not be a member of the board of education, and fix his salary and term of office. The treasurer shall give bonds in such amounts and with such securities as the board shall determine.

L.1971, c. 271, s. 18, eff. July 27, 1971.

18A:46-47 Establishment of one board of education for county special services, vocational school district.

1. a. Notwithstanding any provisions of law to the contrary, a board of chosen freeholders may, by resolution, establish one board of education for the county special services school district established pursuant to section 1 of P.L.1971, c.271 (C.18A:46-29) and the county vocational school district established pursuant to chapter 54 of Title 18A of the New Jersey Statutes. This board of education shall be known as "The Board of Education of the Special Services School District and the Vocational School District of the county of...." This board shall have all the powers, functions and duties provided to a board of education of a county special services school district pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes and a board of education of a county vocational school district pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes.

b. The consolidated board of education established pursuant to subsection a. of this section shall consist of the county superintendent of schools, ex officio, and six persons to be appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of the remaining members of the board of chosen freeholders, as appropriate to the appointment procedures established by the form of government of the county. In any county having a county mental health board, the chairman thereof, or his designee, shall also serve as an ex-officio, nonvoting member of the board. At least three of the appointed members shall have an interest in children with an educational disability or in the field of mental health and at least three of the appointed members shall have an interest in the field of vocational education. The appointed members shall serve for terms of three years and shall continue to serve until their successors are appointed and qualify. A vacancy in the board shall be deemed to exist, and shall be filled, in the manner prescribed in P.L.1979, c.302 (C.40A:9-12.1).

Each appointed member shall be a citizen and resident of the county and shall have been a citizen and resident for at least two years immediately preceding becoming a member of the board. If an appointed member ceases to be a resident of the county, membership on the board shall cease.

c. Of the initial members appointed to the board of education established pursuant to subsection a. of this section, two shall serve a one-year term, two shall serve a two-year term, and two shall serve a three-year term. Thereafter when a term of one of the appointed members expires, the vacancy shall be filled as provided pursuant to this section and the member shall serve a three-year term from November 1 next succeeding the date of his appointment.

L.2007, c.222, s.1.

18A:46-48 Existing boards dissolved.

2. Whenever a board of education is established pursuant to subsection a. of section 1 of this act, the board of education of the county special services school district and the board of education of the county vocational school district shall be dissolved upon the first organization of the consolidated board.

L.2007, c.222, s.2.

18A:46-49 Annual organization.

3. Each board of education established pursuant to subsection a. of section 1 of this act shall organize annually on July 1 by the election of a president and vice-president, unless July 1 falls on Sunday, in which case the board shall organize on the following day.

If the organization meeting cannot take place on the day hereinabove provided for by reason of a lack of a quorum or for any other reason, the meeting shall be held within 3 days thereafter.

L.2007, c.222, s.3.

18A:46-50 Certain school districts remain independent.

4. Nothing in this act shall be deemed to authorize the consolidation of a county special services school district and a county vocational school district into one school district. If a consolidated board of education is established pursuant to subsection a. of section 1 of this act, the county special services school district and the county vocational school district shall continue to be funded, operated, and maintained as independent school districts.

L.2007, c.222, s.4.

18A:46-51 Employees transferred to consolidated school board.

5. All employees of a board of education dissolved pursuant to this act shall continue in their respective assignments in the county special services school district or the county vocational school district. A consolidated board of education established pursuant to this act shall recognize, preserve, and maintain all rights to tenure, seniority, pension, leaves of absence, and all other terms and conditions of employment, whether created by statute, regulation, contract, or past practice. Any periods of employment with a board of education dissolved pursuant to this act shall count toward the acquisition of tenure and any other rights, benefits, or emoluments to the same extent as if all employment had been with the consolidated board of education established pursuant to this act.

L.2007, c.222, s.5.

18A:46-52 Maintenance of collective bargaining unit, representatives.

6. All collective bargaining units and their respective majority representatives in existence in the county special services school district and the county vocational school district prior to the consolidation of the boards of education shall be maintained without change under a consolidated board of education established pursuant to this act, unless they are otherwise altered through an appropriate petition to the Public Employment Relations Commission for a change in representation or bargaining units.

L.2007, c.222, s.6.

18A:46-53 Reference to consolidated board.

7. If a board of chosen freeholders establishes a board of education pursuant to subsection a. of section 1 of this act, whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the board of education of the county special services school district, the same shall mean and refer to the consolidated board.

L.2007, c.222, s.7.

18A:46A-1. Legislative findings and determination

The Legislature hereby finds and determines that the welfare of the State requires that present and future generations of school age children be assured opportunity to develop to the fullest their intellectual capacities. It is the intent of this Legislature to insure that the State shall furnish on an equal basis auxiliary services to all pupils in the State in both public and nonpublic schools.

L.1977, c. 192, s. 1, eff. Aug. 25, 1977.

18A:46A-2. Definitions

As used in this act:

a. "Commissioner" means the State Commissioner of Education.

b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (P.L.88-352).

c. "Auxiliary services" means compensatory education services for the improvement of students' computation skills; compensatory education services for the improvement of students' communication skills; supportive services for acquiring communication proficiency in the English language for children of limited English-speaking ability; and home instruction services.

d. (Deleted by P.L.1990, c.52).

e. "Compensatory education services" means preventive and remedial programs offered during the normal school day, or in programs offered beyond the normal school day or during summer vacation, which are integrated and coordinated with programs operated during the regular school day and year. The programs shall be approved by the State Board of Education, supplemental to the regular programs and designed to assist pupils who have academic needs that prevent them from succeeding in regular school programs.

L.1977,c.192,s.2; amended 1990,c.52,s.62; 1991,c.128,s.2.

18A:46A-3. Nonpublic schools; receipt of auxiliary services by pupils in school in district

In the 1977-78 school year, and each school year thereafter each board of education of a district in which a nonpublic school is located shall provide for the receipt of auxiliary services by children between the ages of five and 20 residing in the State and enrolled full-time in a nonpublic school located within the district.

For the purposes of this act, a child who boards at a school in a district in which his parents do not maintain a residence shall not be considered a resident of the district.

L.1977, c. 192, s. 3, eff. Aug. 25, 1977. Amended by L.1984, c. 122, s. 1, eff. Aug. 8, 1984.

18A:46A-4. Eligibility for auxiliary services

Auxiliary services shall be provided only to those children who would be eligible for such services if they were enrolled in the public schools of the State.

L.1977,c.192,s.4; amended 1990,c.52,s.63.

18A:46A-5 Provision of auxiliary services.

5. Auxiliary services shall be provided only upon the consent of the parent or guardian and shall be provided in a location determined by the local board of education.

L.1977,c.192,s.5; amended 1998, c.12, s.1.

18A:46A-6. Transportation to location or maintenance of vehicular classrooms to obtain services; payment of cost

If the provision of services pursuant to this act requires transportation or the maintenance of vehicular classrooms, the board of education of the district in which a nonpublic school is located shall provide for such transportation and maintenance, and the cost shall be paid from additional State aid received by the district for the purpose of this act.

L.1977, c. 192, s. 6, eff. Aug. 25, 1977. Amended by L.1984. c. 122, s. 2, eff. Aug. 8, 1984.

18A:46A-7 Contract with certain agencies for provision of auxiliary services.

7. Any board of education may contract with an educational improvement center, an educational services commission or other public or private agency, other than a church or sectarian school, approved by the commissioner for the provision of auxiliary services. Prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with appropriate nonpublic school representatives, including parents.

L.1977,c.192,s.7; amended 1990, c.52, s.64; 1999, c.364, s.2.

18A:46A-8. Limitation on expenditures for administration of act and rental of facilities

No more than 6% of the aid received by any district pursuant to this act shall be used by such district for administration of the act, and no more than 18% of such aid shall be used to rent facilities needed to implement the provisions of this act.

L.1977, c. 192, s. 8, eff. Aug. 25, 1977.

18A:46A-9 Apportionment of State aid; calculation.

9. The apportionment of State aid among local school districts shall be calculated by the commissioner as follows:

a. The per pupil aid amount for providing the equivalent service to children of limited English-speaking ability enrolled in the public schools, shall be \$1274.03. The appropriate per pupil aid amount for compensatory education shall be \$628.71.

b. The appropriate per pupil aid amount shall then be multiplied by the number of auxiliary services received for each pupil enrolled in the nonpublic schools who were identified as eligible to receive each auxiliary service as of the last school day of June of the prebudget year, to obtain each district's State aid for the next school year.

c. The per pupil aid amount for home instruction shall be determined by multiplying the base per pupil amount by a cost factor of 0.0037 by the number of hours of home instruction actually provided in the prior school year.

Amended 1984, c.122, s.3; 1990, c.52, s.65; 1991, c.128, s.3; 1996, c.138, s.78; 2007, c.260, s.74.

18A:46A-10. Annual report; contents

Annually, on or before November 5, each board shall file a report on the number of such pupils who have been identified as eligible to receive each auxiliary service as of the last school day in October.

L.1977,c.192,s.13; amended 1984, c.122,s.4; 1990,c.52,s.66.

18A:46A-12. Notification to districts

By December 15 the commissioner shall notify each district of the amount of aid apportioned to it pursuant to this act for the next school year and each district shall include such amount in its budget for the next school year.

L.1977,c.192,s.15; amended 1990,c.52,s.67.

18A:46A-13. Payment of state aid

In the 1978-79 school year and each year thereafter, aid pursuant to this act shall be payable in equal amounts beginning on the first day of September and on the first day of each month during the remainder of the school year. If a local board of education requires funds prior to the first payment, the board shall file a written request with the commissioner stating the need for the funds. The commissioner shall review each request and forward the requests for which need has been demonstrated to the appropriate officials for payment.

L.1977, c. 192, s. 16, eff. Aug. 25, 1977. Amended by L.1984, c. 122, s. 5, eff. Aug. 8, 1984.

18A:46A-14. Expenditures less than state aid; refunds; additional aid; request

In the event the expenditure incurred by any district is less than the amount of State aid received, the district shall refund the unexpended State aid after the completion of the school year. These refunds shall be paid no later than by December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c. 192 (C.18A:46A-1 et seq.). If the request is approved and funds are available from refunds received from school districts from the prior year, payments for the additional aid shall be made immediately from those funds.

L.1977, c. 192, s. 17, eff. Aug. 25, 1977. Amended by L.1984, c. 122, s. 6, eff. Aug. 8, 1984.

18A:46A-15. Expenditures in excess of state aid

In any year, no district shall be required to make expenditures for the purposes of this act in excess of the amount of State aid received pursuant to this act for that year.

L.1977, c. 192, s. 18, eff. Aug. 25, 1977.

18A:46A-16. Insufficient appropriations; apportionment of appropriations

If in any year the amount of State aid appropriated is insufficient to carry out in full the provisions of this act, the commissioner shall apportion such appropriation among the districts in proportion to the State aid each district would have been apportioned had the full amount of State aid been appropriated.

L.1977, c. 192, s. 19, eff. Aug. 25, 1977.

18A:46A-17. Severability

If any provision of this act or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect other provisions of this act which may be given effect; and to this end, the provisions of this act are declared to be severable.

L.1977, c. 192, s. 20, eff. Aug. 25, 1977.

18A:47-1. Establishment; purposes

18A:47-1. The board of education of a school district may establish and maintain a special school of instruction for the purpose of restraining, instructing, and caring for dependent and delinquent children under 16 years of age, committed to the school by the Superior Court, Chancery Division, Family Part. Such special school shall be deemed to be

a part of the public school system of the school district in or by which it has been established.

L.1967, c.271; amended 1991,c.91,s.234.

18A:47-2. Location of school outside of district

If, in the judgment of the board of education, it will best serve the purposes of such special school, the board may purchase land and locate the school outside the school district.

L.1967, c.271.

18A:47-3. Approval by state board of establishment and location

Such special school of instruction shall not be established, nor its location determined without the approval of the state board.

L.1967, c.271.

18A:47-4. Pupils to be admitted; court order

18A:47-4. Such special school shall receive, restrain, and instruct dependent delinquent children, and children under the age of 16 years, committed to such school by the Superior Court, Chancery Division, Family Part pursuant to the "New Jersey Code of Juvenile Justice," P.L.1982, c. 77 (C.2A:4A-20 et seq.).

If in the judgment of the court the best interests of a child demand that the special school have the entire charge and control of the child, the court may take the custody of the child from its parents or guardian and give it, for an indeterminate period, to the board of education having control of the special school. When in the judgment of the board the conduct of the child has so improved that it should be permitted to attend the regular public schools, it may return the child to the custody of its parents or guardian.

Any child, under the age of 16 years, arrested for any cause except murder or manslaughter, and pupils habitually truant or incorrigible, may, by order of the Family Part be held in the school until final judgment.

L.1967, c.271; amended 1991,c.91,s.235.

18A:47-5. Commitment to school in another district

Children who are dependent and delinquent, or who are habitually truant or incorrigible, or who shall be found by the court to require special instruction, and who reside in a school district in which there is no such special school of instruction may be committed to such a special school of instruction maintained in another district. The board of education of the receiving district shall be entitled to collect and receive from the board of education of the sending district such sum for the tuition and maintenance of such children as the boards shall agree to, but not in excess of the actual cost per pupil as determined according to rules of the commissioner approved by the state board. The board of education of the sending district shall issue an order, payable from any funds available for current expenses, for such sum in favor of the custodian of school moneys of the school district maintaining the school to which the child shall have been committed.

L.1967, c.271.

18A:47-6. Character of training

Each such special school of instruction shall be conducted for the well-being and safe custody of children committed to it, and for their training and education for good citizenship and self-support. There shall be ample ground for farming and gardening, and shops and other means for industrial training shall be provided. The school shall, as far as possible, be conducted as a home. There shall be a superintendent and the teachers and other employees necessary for the proper conduct of the school. The superintendent shall reside in the school. Teachers in such school shall be required to hold such certificates to teach as are required of teachers in the public schools.

L.1967, c.271.

18A:47-7. Rules; courses of study

Rules for the government and management of each such special school of instruction, and the course or courses of study to be pursued therein shall be prescribed by the board of education of the school district in which the school is established. The rules and courses of study, and any change therein, shall be submitted to the state board for approval.

L.1967, c.271.

18A:47-8. Contribution by parents toward the support of delinquents

Whenever a person is committed to such a special school the judge making the adjudication shall inquire into the family conditions and circumstances surrounding the delinquent. If in his opinion the parents of the delinquent are of sufficient ability to maintain him, the judge may include in the order of commitment an order requiring them to pay to the board of education of the district such sum toward the support, maintenance,

and clothing of the delinquent, as in the discretion of the judge may be proper. The order for payment may be enforced by attachment as for a contempt of the court.

L.1967, c.271.

18A:47-9. Use of moneys available for general fund expenses

18A:47-9. Any money available for the general fund expenses of the public schools in a district in which such a special school of instruction has been established may be used for the general fund expenses of the school.

L.1967, c.271; amended 1993,c.83,s.21.

18A:47-10. Funds for building and equipment

Moneys for the purchase of land, the erection of buildings, the enlarging or repairing of buildings, and the purchase of furniture and other necessary equipment for such special schools of instruction, shall be appropriated in the same manner as moneys are appropriated for the erection and furnishing of schoolhouses.

L.1967, c.271.

18A:47-11. Annual report to state board

At the end of each school year a special report for each special school of instruction shall be made to the state board in the manner and form prescribed by it.

L.1967, c.271.

18A:47-12. Reports by superintendent

18A:47-12. The superintendent of a special school of instruction shall, when required, present to the Superior Court, Chancery Division, Family Part a report concerning the conduct and maintenance of the school and the number of pupils therein and such other information as the court shall require.

L.1967, c.271; amended 1991,c.91,s.236.

18A:47-13. Construction of chapter

18A:47-13. Nothing in this chapter shall be construed to alter or diminish any of the powers conferred on the Superior Court, Chancery Division, Family Part by any other legislation.

L.1967, c.271; amended 1991,c.91,s.237.

18A:48-1. Establishment; number and duration of sessions; state aid

The board of education of any school district may establish and maintain public evening schools for the instruction of persons over 16 years of age. Unless such evening schools are maintained for at least 64 evening sessions of at least 2 hours each in each year and at least 3 evening sessions each week, the amount of State school aid payable to such district for the ensuing year shall be determined without including therein any sum for evening school pupils. Each board of education may, to the extent its facilities will permit and subject to the regulations of the Department of Education, accept students who are residents of any other school district in the State. For the purposes of calculating State school aid for approved public evening schools, the number of students shall be the sum of the resident and nonresident students.

L.1967, c.271; amended by L.1970, c. 234, s. 13, eff. July 1, 1971; L.1982, c. 7, s. 1, eff. March 2, 1982.

18A:48-2. Expenses; how paid

18A:48-2. The expenses of the evening schools shall be paid out of money available for the general fund expenses of the schools, in the same manner and under the same restrictions as the expenses of day schools are paid.

L.1967, c.271; amended 1993,c.83,s.22.

18A:49-1. Establishment; courses of study

The board of education of any school district may establish and maintain a public evening school or evening schools for the instruction of foreign-born residents of the district over 14 years of age, in the English language and in the form of government and the laws of this state and of the United States. The course of study in each of such schools and any changes therein shall be submitted to and approved by the state board.

L.1967, c.271.

18A:49-2. Rules; teachers

The state board shall prescribe rules for the proper control and management of such schools, for the inspection thereof, for the issuance of certificates to teach therein, and for carrying into effect the purposes of this chapter. Every teacher employed in such a school shall hold a special teacher's certificate.

L.1967, c.271.

18A:49-3. State aid

When in any school district there shall have been raised for such purposes, by appropriation and taxation, or by subscription, or both, a sum which in the judgment of the state board shall be sufficient for the maintenance in the district of such an evening school or schools, wherein the course of study or any changes therein shall have been approved by the state board, there shall be paid to the custodian of school moneys of the district toward the maintenance of such evening school or schools, on the order of the commissioner, an amount equal to that so raised, but not exceeding the sum of \$5,000.00 in any one year. The amount shall be paid by the state treasurer on the warrant of the director of the division of budget and accounting.

L.1967, c.271.

18A:49-4. Apportionment of appropriations

Whenever the amount of money appropriated by the state for such evening schools in any year is less than the amount legally applied for by the school districts, there shall be paid to each district its proportionate share of the amount applied for, based on the ratio of the amount of the appropriation for that year to the total amount applied for.

L.1967, c.271.

18A:49-5. Custody of moneys

The treasurer of school moneys of the school district shall be the legal custodian of all funds appropriated, raised, or subscribed for the maintenance of such evening schools. He shall keep a separate and distinct account thereof, and shall disburse the moneys on orders signed by the president and secretary of the board of education.

L.1967, c.271; amended by L.1981, c. 174, s. 18, eff. June 19, 1981.

18A:49-6. Report to commissioner

The board of education of any school district receiving state aid for the purpose mentioned in this chapter shall annually, on or before August 1, make a special report to the commissioner in the manner and form prescribed by him.

L.1967, c.271.

18A:49-7. Appointment of persons to assist state board

The state board may, from time to time, appoint suitable persons to assist in carrying out the provisions of this chapter and to encourage the establishment of such evening schools. The persons so appointed shall receive no compensation for their services, but shall be paid the necessary expenses incurred by them under the provisions of this chapter.

L.1967, c.271.

18A:49-8. Payment of expenses

The expenses incurred in carrying out the provisions of this chapter shall be paid by the state treasurer on the warrant of the director of the division of budget and accounting. No expense shall be incurred nor payment made for any of the purposes named in this chapter until an appropriation therefor shall have been made.

L.1967, c.271.

18A:50-1. Maintenance of program

The board of education of any school district may maintain a program of adult education and utilize buildings, equipment, and other school facilities of the district for such purpose. The board shall determine the courses, which are to be offered, subject to the approval of the commissioner, with the consent of the state board.

L.1967, c.271.

18A:50-2. Tuition

The board of education of any district offering adult education courses shall be entitled to charge and collect from persons taking such courses, whether residing within or without the district, for tuition a sum not exceeding the actual cost per pupil as determined according to rules prescribed by the commissioner and approved by the state board.

L.1967, c.271.

18A:50-3. Apportionment of federal funds and state moneys for adult education

Moneys allotted to this state by the federal government which are to be devoted to the object set forth in this chapter, together with moneys and apportionments made available under this chapter, shall be apportioned by the commissioner under rules approved by the state board.

L.1967, c.271.

18A:50-4. Donation and tuition fees; disposition

All income derived from donations and from tuition fees charged for furnishing adult education courses shall be applied by the board of education receiving the same exclusively for carrying out a program of adult education.

L.1967, c.271.

18A:50-5. Custodian of moneys; accounting and disbursement

The treasurer of school moneys of each school district shall be the legal custodian of all funds allocated by the board of education and received from tuition fees or from any other source for the purpose of carrying out a program of adult education. He shall keep a separate account thereof and shall disburse the moneys on orders signed by the president and secretary of the board of education.

L.1967, c.271; amended by L.1981, c. 174, s. 19, eff. June 19, 1981.

18A:50-6. Surplus of moneys; disposition

18A:50-6. Any surplus arising from the excess of receipts from donations, tuition fees or from any source other than local taxation over the actual cost of the maintenance and operation of the adult education program in any school year shall not lapse into the unreserved general fund balance of the district, but shall remain in the separate account, reserved fund balance - adult education programs, to be utilized exclusively for carrying out a program of adult education during the next ensuing school year. In the event that the adult education program in any district shall be discontinued for two consecutive school years, any funds remaining in the separate account shall lapse into the unreserved general fund balance of the district.

L.1967, c.271; amended 1993,c.83,s.23.

18A:50-7. Districts employing supervisors of adult education; apportionment of funds for

There shall be apportioned and paid by the state annually to each school district employing a supervisor of adult education an amount equal to two thirds of the supervisor's annual salary; provided that in no case shall payment by the state exceed \$12,000.00. In the case of districts employing a part-time supervisor, the salary of such supervisor shall be proportionate to the ratio such part-time employment bears to full-time employment, such applicable ratio to be established in each instance by the commissioner.

L.1967, c.271.

18A:50-8. Joint adult education programs; agreement, etc.

The boards of education of two or more school districts may provide jointly by agreement for maintaining a program of adult education and utilizing buildings, equipment and other school facilities of the participating boards for such purposes. Such agreement shall be adopted by resolution of each of the participating boards of education and shall set forth the courses which are to be offered, subject to the approval of the department; the tuition, if any, to be charged to residents of the participating districts and to persons received from other districts; provided that such tuition shall not exceed the actual cost per pupil; the personnel to be employed to administer the program; and other matters deemed necessary to carry out the purposes of the agreement.

L.1967, c.271.

18A:50-9. Supervisors of adult education; designation of employer

Where two or more boards of education have provided jointly by agreement for the employment of a supervisor of adult education to serve the participating districts, the agreement shall designate the board of education of one of such districts as the employer and the one to receive the state aid herein provided. Such aid shall be calculated and paid in the manner provided in section 18A:50-7.

L.1967, c.271.

18A:50-10. Rules and regulations by state board

The state board shall prescribe rules and regulations for the proper control and management of the office and activities of the supervisor of adult education, for the certification of persons to hold such position, for saving from harm those supervisors and directors employed on July 1, 1964, and for encouraging a close working relationship between the office of the supervisor of adult education, the public adult education program and the adult education program sponsored by other community agencies, with particular attention to adult retraining programs and their related federal programs.

L.1967, c.271.

18A:50-11. Appropriations; estimating and budgeting

18A:50-11. On or before November 15 of each year, the commissioner shall estimate the amount necessary to be appropriated to carry out the provisions of this chapter for the succeeding school year, and shall determine for budget purposes the amounts estimated so to be payable to each of the districts for such succeeding school year.

On or before September 15 of the succeeding school year, the commissioner shall make his final determination of the payments to be made under this chapter for said school year. An amount equal to 25% of the sum payable to each district shall be paid to the district on October 1, December 1, March 1 and May 1.

If such payments to any district should exceed the amount to which such district is entitled under section 18A:50-7, such excess shall be deducted by the commissioner from succeeding State aid payments to said district.

L.1967, c.271; amended 1990,c.52,s.68.

18A:50-12. High school programs of education for adults; application for funds

School districts, county community colleges, county and State institutions may apply to the Commissioner of Education for funds to be used toward the establishment and operation of classes and programs of education for adults and out-of-school young adults designed to provide such persons with the equivalent of a high school education.

These programs for adults and out-of-school young adults shall include such curricular content appropriate to the high school curriculum as to give the adult an opportunity to attain a level of educational achievement comparable to high school graduation and prepare him to secure the high school equivalency certificate as can be obtained through the Office of Adult and Continuing Education and High School Equivalency, New Jersey State Department of Education.

L.1968, c. 383, s. 1, eff. July 1, 1968. Amended by L.1972, c. 131, s. 1, eff. Aug. 17, 1972.

18A:50-13. Rules and regulations

The State Board of Education shall prescribe such rules and regulations for the proper management of the programs under this act, including the control and management of all funds appropriated for its implementation.

L.1968, c. 383, s. 2, eff. July 1, 1968.

18A:50-14. Apportionment of funds; determination of amounts; deduction for excess payment

18A:50-14. The apportionment of funds available shall be designated according to a plan submitted by the local educational agency to the Office of Adult and Continuing Education and High School Equivalency, of the New Jersey State Department of Education. Such plan submitted by the local educational agency shall include the costs of instructors' salaries, guidance and counseling services, as well as such items as instructional materials and other equipment needed in the operation and promotion of a local program. Payment by the State, in the form of aid to each program, shall be in an amount equal to these annual costs.

On or before November 15 of each year, the commissioner shall estimate the amount necessary to be appropriated to carry out the provisions of this act for the succeeding fiscal year, including costs for adequate State supervisory and administrative control, and needed personnel training.

The commissioner shall determine the amounts to be payable to each of the agencies eligible under this act for the succeeding fiscal year based upon the per student cost per hour of instruction.

On or before September 15 of the succeeding fiscal year, the commissioner shall make this final determination of the payments to be made under this act for said school year. An amount equal to 25% of the sum payable to each eligible agency shall be paid to the eligible agency on October 1, December 1, March 1 and May 1.

If such payments to any agency should exceed the amount to which such agency is entitled under this act, such excess shall be deducted by the commissioner from succeeding State aid payments to said agencies.

L.1968, c.383, s.3; amended 1972, c.131,s.2; 1990,c.52,s.69.

18A:50A-1 Provision of State-issued high school diploma.

1. A State-issued high school diploma shall be provided by the New Jersey Department of Education to persons 16 years of age or older and no longer enrolled in school to document the attainment of academic skills and knowledge equivalent to a high school education. Demonstration of the appropriate level of academic competency for receipt of the State-issued high school diploma shall include, but need not be limited to, passage of the Tests of General Educational Development (GED) of the American Council on Education.

L.2008, c.25, s.1.

18A:50A-2 Rules, regulations relative to State-issued high school diploma.

2. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Education may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2008, c.25 (C.18A:50A-1 et seq.). The rules and regulations adopted by the commissioner shall be effective for a period not to exceed 12 months. Rules and regulations shall thereafter be amended, adopted, or re-adopted by the State Board of Education pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The rules and regulations shall include, but not be limited to:

a. the establishment of reasonable and appropriate fees for persons seeking a State-issued high school diploma by examination or re-examination of the Tests of General Educational Development (GED) of the American Council on Education; provided that the fees shall not exceed the actual cost of the tests and their administration; and

b. the establishment of the manner in which a not for profit third party may participate in the administration of examinations and re-examinations of the Tests of General Educational Development (GED) and in the collection of fees from person seeking a high school diploma by examinations and re-examinations of the tests. The rules and regulations regarding not for profit third parties shall be in conformance with the application and approval process overseen by the Department of Education and the General Educational Development Testing Service of the American Council on Education.

L.2008, c.25, s.2.

18A:51-1. County educational audiovisual aids centers authorized

The boards of education of two or more school districts in any county may by resolution adopted by a majority vote of all of the members of each such board, determine to establish a "county educational audiovisual aids center" .

L.1967, c.271.

18A:51-2. County educational audiovisual aids commission

The supervision, management and control of such center shall be vested in a county educational audiovisual aids commission which shall consist of seven members who shall serve without compensation. Three members of the commission, who shall be known as members of the first class, shall be chosen from the membership of the boards of education of the participating school districts, three members of the commission, who shall be known as members of the second class, shall be chosen from the membership of the professional staffs of said boards of education whose offices, positions or employments are such as to require them to hold appropriate certificates in full force and effect in this state, and one member of the commission, who shall be known as the librarian member, shall be the county librarian if there be a county library in the county, who shall hold office ex officio, and if there be no county library in the county, then such member shall be chosen from among the librarians of the libraries in the county supported in whole or in part by public funds.

L.1967, c.271.

18A:51-3. Appointed members of commission

The first members of the commission shall be appointed forthwith by the county superintendent of the county upon notification that it has been determined to establish such a center and they shall serve until June 30 next ensuing.

L.1967, c.271.

18A:51-4. Election of members of commission; terms; vacancies

On or before said June 30 and annually thereafter, the county superintendent shall call a meeting of all of the members of the boards of education of the participating school districts for the election of permanent members of the commission. At such first meeting one member of the first class and one member of the second class, shall be elected for terms of one year, two years and three years, each, beginning on July 1 next succeeding, and if there be no county library in the county, the librarian member shall be elected for a term of one year. At each subsequent meeting one member of each class shall be elected to serve for a term of three years and a librarian member to serve for one year shall be elected, also, if there be no county library in the county. In all cases the vote of the majority of the members of the boards of education of the participating school districts present and voting shall be necessary for election. Vacancies in the commission shall be filled by the remaining members of the commission according to the qualifications hereinbefore provided for original appointments and they shall serve for the unexpired terms only.

L.1967, c.271.

18A:51-5. Organization of commission; officers; rules and bonds

Each county educational audiovisual aids commission shall organize by the election of a chairman and a vice chairman from its own membership and shall adopt rules for the establishment and maintenance of said center. The county superintendent shall serve as secretary of the commission, and the county treasurer of the county shall serve as custodian of all moneys and funds of the commission from whatever source derived, without compensation. The county treasurer as such custodian shall keep said moneys and funds in a separate and distinct account and shall disburse the same on orders signed by the chairman and secretary of the commission. Before entering upon his duties as such custodian he shall be required to give additional bond or to renew his bond as county treasurer, in such manner as to cover and secure the faithful performance of his duties as such custodian and any additional premium shall be paid by the commission.

L.1967, c.271.

18A:51-6. Powers and duties of commission

The commission shall provide, maintain and furnish educational audiovisual aids to the public schools of the participating school districts and shall provide such facilities, and may incur such expenses as it may deem necessary for said purpose, but shall not make expenditures or commitments in any year in excess of the funds available for that year.

The commission may contract with nonprofit, private schools within the county to provide, maintain and furnish educational audiovisual aids to such private schools. Before contracting with any nonprofit, private school, the commission shall submit the terms of the contract to the member boards for review, which terms shall include a description of the educational audiovisual aid to be furnished, the amount of payment and the time for payment.

L.1967, c.271; amended by L.1969, c. 274, s. 1, eff. Jan. 12, 1970.

18A:51-7. Assessment for maintenance of audiovisual aids center

18A:51-7. The commission shall assess against the participating school districts a sum which, together with any anticipated State aid and private donations, shall be required for the establishment and maintenance of the county educational audiovisual aids center during the first year and for the maintenance and operation of the same, during each year thereafter, which total annual assessment shall be apportioned among the participating school districts in the proportion which the resident enrollment of the pupils for the prebudget year of each such district shall bear to the total resident enrollment of the pupils for the prebudget year of all of the participating school districts as determined by the commissioner.

L.1967, c.271; amended 1968, c.294; 1990, c.52, s.70; 1996, c.138, s.79.

18A:51-8. Budget procedure

On or before September 30 of each year the commission shall prepare a tentative budget of the sums required by said commission in carrying on its activities for the ensuing year so itemized as to make it readily understandable, together with a statement of the amount to be assessed against each participating school district for such year, and shall deliver the same to the board of education of each of the participating school districts before the date of the October meeting of such board. The board of education of each participating school district shall consider such tentative budget at its October meeting and shall return the same forthwith to the commission with its endorsement or suggestions for change, if any, and after all such boards of education shall have so returned the same, the commission shall adopt its budget for the ensuing year and notify the board of education of each participating school district, on or before the November meeting thereof if practicable and otherwise as soon thereafter as possible, of the total amount of the budget and the amount to be assessed against such school district for said year and each such board of education shall include the amount so assessed against it in the item "current expenses of schools" in the budget adopted or submitted for adoption by it for the ensuing year and the same shall be paid to the custodian of moneys of the commission as required and requisitioned by him. If during the first year of the establishment of any such commission it shall be impossible to carry out the budgetary provisions hereinbefore provided, the commission shall certify to the boards of education of the participating school districts the amounts of said assessments as soon as practicable after the establishment of the commission and said boards of education shall pay said assessments from available current expense funds.

L.1967, c.271.

18A:51-9. Statement to be forwarded to commissioner; state aid to audiovisual aid centers

Each county educational audiovisual aids commission shall forward to the commissioner, on or before September 1 of each year, a statement of its organization and its proposed program of operation for the next ensuing school year, together with an estimate of the amount of State aid, calculated as hereinafter provided, to which it will be entitled for that school year and it shall certify, on or before the next June 30, the amount raised by assessments and private donations for the purposes of such audiovisual center for the said school year and if the amount so raised by assessments or private donations or both for any one school year, for the establishment and maintenance or for the maintenance of such aids center shall be not less than the sum of \$500.00, and if the commissioner shall approve such organization and program he shall thereupon certify to the Director of Budget and Accounting in the Department of the Treasury that there shall be paid to the custodian of moneys of the commission an amount equal to the amount so raised by assessments and private donations out of any funds appropriated by law for said purposes, which amount shall be paid on the warrant of said director drawn on the State Treasurer in favor of the custodian of moneys of the commission except that the amount so to be paid by the State to any such commission shall not exceed the sum of \$5,000.00 in any 1 year nor shall it exceed the sum expended by the commission for educational audiovisual aids purchased by it in any year after the first 5 annual payments have been made. If the sum appropriated by the State for State aid to county educational audiovisual centers in any 1 year shall be less than the total amounts so certified by the commissioner, each commission shall be entitled to be paid its proportionate share of the total amount so appropriated.

L.1967, c.271; amended by L.1969, c. 224, s. 1, eff. Dec. 5, 1969.

18A:51-10. Unexpended funds; disposition

Any unexpended balance of the moneys or funds in the hands of the custodian of moneys of any such commission at the end of any school year shall be available for expenditure by the commission in the succeeding year or years but it shall not be included in any report of the amount raised as the basis for the calculation of state aid for any succeeding year.

L.1967, c.271.

18A:51-11. Single county educational audiovisual aids center in county

Not more than one county educational audiovisual aids center shall be established in any one county and if any board of education of any school district within the county shall, subsequent to the establishment of a county educational audiovisual aids center within the county, determine, by resolution adopted by a recorded roll call majority vote of its full membership to apply for membership therein and shall give notice thereof to the secretary of the commission, such board of education shall be admitted to membership therein beginning on the first day of the month next following and thereafter shall be subject to the provisions of this chapter in the same manner as though it had been one of the original participating school districts therein.

L.1967, c.271

18A:51-12. Withdrawal of districts from, and dissolution of, audiovisual aids center

Any board of education of any participating school district may withdraw as a participating district pursuant to resolution duly adopted by said board and notice of intention to withdraw given to the secretary of the commission on or before August 1 in any year and in event that all participating boards of education, or all of said participating boards of education except one, shall determine to withdraw from any such county educational audiovisual center, the same shall be dissolved and the property of such center shall be disposed of at a public or private sale and one half of the amount realized therefrom, together with one half of any unexpended balances remaining in the treasury of such center, shall be paid to the state treasurer to be devoted to the maintenance and support of the public schools and the remainder thereof shall be apportioned among the board of education participating in said center at the time of its dissolution on the basis of the total average daily enrollment of the pupils of said district ascertained as hereinbefore provided.

L.1967, c.271.

18A:51-13. Contracting for television educational services

Every board is hereby authorized to make use of television as an educational aid by contracting for the services of any noncommercial, nonprofit educational television station located within or without the state but such contract shall not require the board to incur expenses in any one year period in excess of an amount equal to \$2.00 per pupil in resident enrollment in the district.

L.1967, c.271.

18A:51-14. Participation in noncommercial educational television stations

Every board, in addition to the powers set forth in section 18A:51-13 and subject to the rules and regulations of the state board, may participate in the organization and operation of a noncommercial, nonprofit, educational television station in this state and utilize the services therefrom, and in order to effectuate such purpose, every board is authorized:

(1) To enter into any contractual arrangement agreeable to the board with any other public or private agencies or organizations, including membership in a noncommercial, nonprofit corporation or association duly organized under the laws of this state to operate such a station;

(2) To designate one or more representatives to the board of trustees of such corporation or association, and otherwise to participate in its affairs in compliance with the charter and bylaws of such organization;

(3) To procure for the public schools under the board's jurisdiction the services of such a station, by subscription or otherwise; and

(4) To incur such expenses as the board may deem advisable for such purposes, by way of dues, subscription charges, assessments, capital contributions and otherwise, but in amounts not exceeding in any one year \$2.00 per pupil in resident enrollment in the district.

L.1967, c.271.

18A:51-15. Calculation of resident enrollment

The resident enrollment shall be calculated and determined upon the basis of the current school year in the same manner as the same was calculated and determined by the commissioner for the apportionment of current expenses state aid for schools among the participating school districts.

L.1967, c.271.

18A:51-16. Approval of program or contract by commissioner requisite

Anything herein to the contrary notwithstanding, no board of education shall participate in any educational television program or enter into any contract which may be disapproved by the commissioner as being incompatible with the policies, rules or regulations established by the state board governing public instruction in this state.

L.1967, c.271.

18A:51-17. Termination of participation

Any board which has become a participant in any educational television organization may terminate its participation therein at the end of any school year by giving to such organization not less than 30 days' written notice of the board's withdrawal therefrom.

L.1967, c.271.

18A:52-1. Furnishing by boards of education

The boards of education in municipalities containing a population of over 10,000 may provide for the employment of lecturers on the natural sciences and kindred subjects in the public schools in any such municipality, in the evenings, for the benefit of workingmen and workingwomen.

L.1967, c.271.

18A:52-2. Books and other equipment provided

Such boards may purchase the books, stationery, charts, and other things necessary and expedient to conduct the lectures successfully, which they may direct.

L.1967, c.271.

18A:52-3. Admission free; number and frequency of lectures

No admission fee shall be charged. At least one school in each ward or subdivision of each municipality, where practicable, shall be designated by the board of education for the purpose of carrying out the provisions of this chapter. At least one lecture shall be delivered during each of the months of October, November, December, January, February and March in each year, which shall be advertised in a newspaper published in the municipality, or, if no newspaper is published in the municipality, then in a newspaper published in the county and circulating in the district, at least 10 days in advance of the delivery of the lecture.

L.1967, c.271.

18A:53-1. Maintenance of museum facilities by boards of education

The board of education of any school district may provide by contract and appropriate funds for the support and maintenance of existing museum facilities and services for the educational or recreational use and benefit of pupils in the public schools. Appropriations for such facilities and services shall be made in the same manner as for other school purposes.

L.1967, c.271

18A:53-2. Facilities maintained

Such museum facilities and services may include exhibition in a museum building or elsewhere of subjects of natural, historical, educational, scientific, industrial or cultural nature; operation of arts, crafts and other hobby workshops; conduct of field trips and other projects of an educational or recreational nature and provision for the personal services required in connection with any of the foregoing.

L.1967, c.271.

18A:54-1. Definitions

As used in this chapter, "vocational education" means any education the controlling purpose of which is: (a) to fit for profitable employment; (b) to provide training which is supplemental to the daily employment; or (c) to fit for homemaking, according to the state plan for vocational education adopted by the state board.

L.1967, c.271

18A:54-2. Investigation and approval of establishment by commissioner

The commissioner shall investigate the necessity for the introduction of vocational education and report thereon, from time to time, to the state board. Subject to the approval of the state board and to such rules as it may make, the commissioner shall superintend the establishment and maintenance of schools for this form of education and supervise and approve such schools as provided in this chapter.

L.1967, c.271.

18A:54-3. Day, part-time and evening classes

In order that instruction in the principles and practice may go on together, vocational education schools may offer instruction in day, part-time and evening classes.

L.1967, c.271.

18A:54-4. Discontinuance of vocational schools

When in the judgment of the state board the management and control, equipment, methods of instruction, attendance of pupils, or per capita cost of maintenance based upon the average daily attendance is so unsatisfactory as to make the continuance of any school established under the provisions of this chapter unwise, the commissioner shall give the board of education having the control and management of the school written notice that the approval of the school has been withdrawn. Any unexpended balance of moneys received from the state for the support of the school at the end of the school year following the withdrawal of the approval shall be returned to the state treasury.

L.1967, c.271

18A:54-5. Establishment by district or regional boards of education

The board of education of any school district or regional school district may establish and maintain vocational schools.

L.1967, c.271.

18A:54-6. Approval of location, management and course of study

Before any such school shall be established, the location and rules for the management of the school, the course or courses of study to be pursued therein, and all changes in such courses shall be approved by the commissioner, subject to the advice and consent of the state board.

L.1967, c.271.

18A:54-7. Receiving pupils from other districts

All such boards of education shall receive pupils from other districts so far as their facilities will permit and shall be entitled to collect and receive from any sending district for the tuition of such pupils a sum not exceeding the actual cost per pupil, as determined according to rules prescribed by the commissioner and approved by the state board.

L.1967, c.271.

18A:54-8. Raising of moneys by district for buildings and maintenance

Moneys for the purchase of land, the erection, repair, or improvement of buildings, and the purchase of furniture and equipment for the use of any such school, and for the maintenance and support thereof, shall be appropriated and raised in the same manner as the district maintaining the school is authorized to appropriate and raise money for similar purposes for the schools in its public school system.

L.1967, c.271.

18A:54-9. State aid for schools other than day schools

When any such school other than a full-time day school shall have been established, there shall be paid to the custodian of school moneys of the district maintaining the school on the order of the commissioner, an amount equal to that raised in the district for the establishment of the school, exclusive of the amount appropriated for the purchase of land or the erection of a building, which amount shall be paid by the state treasurer on the warrant of the director of the division of budget and accounting in the department of the treasury. Annually thereafter there shall be paid in like manner an amount equal to the amount appropriated by the district for the current expenses of such schools; but the money contributed by the state for the support and maintenance of any such school shall not exceed in any one year the sum of \$10,000.00.

L.1967, c.271.

18A:54-10. Apportionment of sums appropriated

Whenever the money appropriated for vocational schools by the legislature, together with the amount certified by the commissioner to the director of the division of budget and accounting in the department of the treasury for apportionment to such schools, shall be less than the amount legally applied for by the several schools, then there shall be paid to each school such proportionate share of the amount applied for as the total amount applied for shall bear to the total amount of the appropriation and apportionment for that year. Such proportionate payment shall not relieve the state of its obligation toward the districts respecting vocational school funds. Nothing in this section shall apply to a county vocational school.

L.1967, c.271.

18A:54-10.1. Private vocational schools; contracts to provide vocational education courses; qualifications

For the purpose of providing vocational education courses on an individual or group basis, boards of education may, according to rules prescribed by the commissioner and approved by the State board, enter into contracts with private vocational schools when such courses cannot be provided by the county or regional vocational schools or other school districts or a private vocational school can provide substantially equivalent training at a lesser cost. Each private vocational school shall hold a current license or certificate of approval issued by the State Board of Education or other appropriate State board or agency and shall be approved for the purposes of this act by the

Commissioner of Education. Such license or certificate of approval must have been held by the private vocational school for at least 2 consecutive years immediately preceding execution of the contract.

L.1977, c. 290, s. 1, eff. Dec. 6, 1977.

18A:54-10.2. Rules for qualifications for eligibility to enter contracts

The rules prescribed pursuant to section 1 of this act shall include, but shall not be limited to, teacher qualifications, maximum class size, facilities and safety.

L.1977, c. 290, s. 2, eff. Dec. 6, 1977.

18A:54-10.3. Inspection of records

Each private vocational school entering into a contract pursuant to section 1 of this act shall make its records available for inspection by the commissioner or his designated representative.

L.1977, c. 290, s. 3, eff. Dec. 6, 1977.

18A:54-10.4. Contracts; terms; approval

Any contract entered into shall be in accordance with applicable Federal and State laws and regulations. The commissioner shall approve in writing all such contracts prior to their execution.

L.1977, c. 290, s. 4, eff. Dec. 6, 1977.

18A:54-11. County vocational school not to include certain cities

County vocational schools organized after July 1, 1931, shall not, except as otherwise in this chapter provided, include the territory within the school district boundaries of any city having a resident public school enrollment of 15,000 or more, if such city is maintaining a system of vocational education approved for the purposes of federal or state allotment of vocational funds by the commissioner under the regulations of the state board.

L.1967, c.271.

18A:54-11.1. County vocational school districts, when to include cities

Any county vocational school district created or organized subsequent to July 1, 1962 in a county of the second class having a population of not less than 375,000 nor more than 425,000 inhabitants, shall include the territory within the boundaries of any city referred to in section 18A:54-11 after the date of filing in the office of the commissioner of a certified copy of a resolution adopted by the board of chosen freeholders of such county subsequent to the organization of such county vocational school district and of a resolution adopted by the board of education of such city (with the concurrence expressed by resolution of the board of school estimate of such city and of the board or body having charge of the finances of such city), setting forth the finding and determination that it is in the best interests of such county vocational school district and of such city and its school district, that such county vocational school district shall include the territory within the school district boundaries of such city.

L.1967, c.271.

18A:54-11.2. County vocational school districts, assumption, etc., of city vocational education system

The board of education of each county vocational school district and the board of education of each city referred to above in section 18A:54-11.1, are each hereby authorized and empowered to undertake and to enter into agreements of any nature whatsoever necessary, desirable, useful or convenient for and with respect to the assumption, operation, or administration by the county vocational school district of any system of vocational education then being maintained in such city, including, but not limited to, the transfer of principals, teachers, employees, pupils or classes, the purchase, grant, transfer or lease to the county vocational school district of any lands, schools, buildings, furnishings, equipment, apparatus or supplies constituting part of or used in connection with such city system, and the making of or provision for payments, costs or expenses in connection with any of the aforesaid, and copy of any such agreement shall be filed in the office of the commissioner.

L.1967, c.271.

18A:54-11.3. Transfer of teaching staff members and employees to new district

All principals, teachers and employees of the school district in any city referred to above in section 18A:54-11.1 and who are employed in or assigned to the system of vocational education in any such city shall be transferred to and continue their respective employments in the employ of the county vocational school district from and after the date of transfer provided for in any agreement entered into pursuant to section 18A:54-11.2, and their rights to tenure, pension and accumulated leave of absence accorded under the laws of the state shall not be affected by the transfer to the county vocational school district.

L.1967, c.271.

18A:54-12. Establishment by board of chosen freeholders on recommendation of state board

When it has been determined by resolution of the state board that a need exists in any county for county vocational schools, the state board shall transmit a copy of the resolution to the board of chosen freeholders of the county. Upon receiving the copy, the board of chosen freeholders shall vote on the question whether such schools shall be established in the county in accordance with the recommendation. If the board of chosen freeholders by a majority vote favors the establishment of such schools in the county, such schools shall be forthwith established and maintained in the county and shall be known as the "vocational schools in the county of " (here insert the name of the county in which the schools are located).

L.1967, c.271.

18A:54-12.1 Establishment of one board of education.

8. Notwithstanding any provision of this chapter to the contrary, a board of chosen freeholders may, by resolution, establish one board of education for the county special services school district established pursuant to section 1 of P.L.1971, c.271 (C.18A:46-29) and the county vocational school district established pursuant to chapter 54 of Title 18A of the New Jersey Statutes, according to the provisions of sections 1 through 6 of P.L.2007, c.222 (C.18A:46-47 through C.18A:46-52).

L.2007, c.222, s.8.

18A:54-12.2 Reference to consolidated board.

9. If a board of chosen freeholders establishes a board of education pursuant to subsection a. of section 1 of P.L.2007, c.222 (C.18A:46-47), whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the board of education of the county vocational school district, the same shall mean and refer to the consolidated board.

L.2007, c.222, s.9.

18A:54-13. Establishment by election on request of voters

In any county having a population not exceeding 100,000 inhabitants, there may be established and maintained a vocational school to be known as the "vocational school in the county of " (here insert the name of the county in which the schools are located).

At the request in writing of not less than 15% of the registered voters of any such county the county clerk shall submit at the next ensuing general election, and shall cause to be printed upon the ballot to be voted at such election the following question:

"Shall vocational schools be established in the county of (here insert the name of the county), pursuant to the provisions of article 3 of chapter 54 of Title 18A, Education, of the New Jersey Statutes."

In squares at the right shall be placed the words "Yes" and "No." Any person desiring the establishment of such schools in the county shall mark a cross (x), plus (+) or check (X) mark in the square opposite the word "Yes," and any person opposed thereto shall make a cross (x), plus (+) or check (X) mark opposite the word "No."

If a majority of all the ballots so voted shall favor the establishment of the schools, then the same shall be forthwith established and maintained as provided in this chapter. The results from such election shall be returned and canvassed in the same manner and at the same time as other election returns are canvassed.

L.1967, c.271.

18A:54-14. Establishment in second-class counties by board of chosen freeholders

In any second-class county of this state in which there does not presently exist a vocational school established under the laws of the state, the board of chosen freeholders of such county may, by a majority vote, establish a vocational school to be known as the "vocational school in the county of " (here insert the name of the county in which the school is to be located).

L.1967, c.271.

18A:54-16 Boards of education of county vocational schools.

18A:54-16. For each county system of vocational schools established in accordance with this chapter, there shall be a board of education consisting of the county superintendent of schools and four persons to be appointed; provided, however, that a county of the first class which has adopted a form of government pursuant to the provisions of the "Optional County Charter Law" (P.L.1972, c.154; C.40:41A-1 et seq.) may, by ordinance, establish a board of education consisting of six, seven, or nine persons to be appointed and any other county may, by ordinance, establish a board of education consisting of six persons to be appointed.

In counties of the first class which, by ordinance, have established a board consisting of six, seven, or nine persons to be appointed, the appointive members shall

be appointed by the chief elected executive officer of the county with the advice and consent of the board of chosen freeholders. In all other counties, the appointive members of the board shall be appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of that board, as appropriate to the appointment procedures established by the form of government of the county. On a board with four appointive members, not more than two members, or in the case of a board with six appointive members, not more than three members, appointed in any such county of the second, third, fifth or sixth class shall be members of the same political party, but no changes for adjustment of party representation shall be made in a board except as vacancies occur.

In making the first appointments to a board with four appointive members, one person shall be appointed to serve for one year, one for two years, one for three years and one for four years from November 1 next succeeding the date of their respective appointments. In a county of the first class which, by ordinance, has established a board with seven appointive members, the chief elected executive officer shall make the first appointments to the board in the following manner: two shall be appointed to serve for one year, two for two years, two for three years, and one for four years from November 1 next succeeding the date of their respective appointments. The persons so appointed shall also serve from the date of their respective appointments until November 1 next ensuing.

In the case of a board of education with four appointive members on the effective date of P.L.2005, c.299 (C.18A:54-16.14 et al.) in a county of the first class or any other county which determines by ordinance to appoint a board with six appointive members, in making the initial appointment of the two additional members, one person shall be appointed to serve for two years and one person shall be appointed to serve for four years from November 1 next succeeding the date of their respective appointments.

In the case of a board of education with four appointive members on the effective date of P.L.2005, c.299 (C.18A:54-16.14 et al.) in a county of the first class which determines by ordinance to appoint a board with seven appointive members, in making the initial appointment of the three additional members, one person shall be appointed to serve for two years, one person shall be appointed to serve for three years, and one person shall be appointed to serve for four years from November 1 next succeeding the date of their respective appointments.

In the case of a board of education with four appointive members on the effective date of P.L.2005, c.299 (C.18A:54-16.14 et al.) in a county of the first class which determines by ordinance to appoint a board with nine appointive members, in making the initial appointment of the five additional members, one person shall be appointed to serve for one year, one person shall be appointed to serve for two years, one person shall be appointed to serve for three years, and two persons shall be appointed to serve for four years from November 1 next succeeding the date of their respective appointments.

In the case of a board of education with seven appointive members on the effective date of P.L.2005, c.299 (C.18A:54-16.14 et al.) in a county of the first class which determines by ordinance to appoint a board with nine appointive members, in making the initial appointment of the two additional members, one person shall be appointed to serve for two years and one person shall be appointed to serve for four years from November 1 next succeeding the date of their respective appointments.

Annually during the month of October a member or members, as the case may be, of the board shall be appointed to serve for a term of four years, and thereafter until the appointment and qualification of his respective successor, to take the place of the member or members, as the case may be, whose term or terms shall expire on November 1 then next ensuing.

A vacancy in the board shall be deemed to exist, and shall be filled, in the manner prescribed in P.L.1979, c.302 (C.40A:9-12.1).

L.1967, c.271; amended 1975, c.357; 1980, c.168; 1981, c.462, s.18; 1987, c.163; 2005, c.299, s.1.

18A:54-16.8. Counties of third class of 110,000 to 125,000; board of education; members; appointment

Notwithstanding any contrary provisions of chapter 54 of Title 18A of the New Jersey Statutes, in all counties of the third class with a population greater than 110,000 but less than 125,000 as of the latest federal decennial census the board of education of the county vocational-technical school shall consist of five members to be appointed by the appointing authority of the county.

L.1983, c. 396, s. 1, eff. Dec. 21, 1983. Amended by L.1984, c. 8, s. 1, eff. Feb. 22, 1984.

18A:54-16.9. Third class counties of 70,000 to 105,000; board members; term of office
The board members elected pursuant to section 1 of P.L.1977, c. 30 (C. 18A:54-16.1), for the school year preceding the year in which this act takes effect shall remain in office until their successors are appointed and qualified which shall occur no later than December 31, 1983. In making the first appointments to a board one person shall be appointed to serve for one year, one person for two years, one for three years and two for four years; thereafter, members shall serve for terms of four years. Vacancies in

the membership of the board shall be filled in the same manner as the original appointments were made.

L.1983, c. 396, s. 2, eff. Dec. 21, 1983. Amended by L.1984, c. 8, s. 2, eff. Feb. 22, 1984.

18A:54-16.11. Third class counties of 80,000 to 105,000; board members

Notwithstanding any provision of chapter 54 of Title 18A of the New Jersey Statutes to the contrary, in all counties of the third class with a population greater than 80,000 but less than 105,000 as of the latest federal decennial census the board of education of the county vocational-technical school shall consist of at least five members to be appointed by the appointing authority of the county.

L.1984, c. 165, s. 1, eff. Oct. 10, 1984.

18A:54-16.12. Third class counties of 70,000 to 105,000; board members; successors; terms; vacancies

The board members elected pursuant to section 1 of P.L.1977, c. 30 (C. 18A:54-16.1), for the school year preceding the year in which this act takes effect shall remain in office until their successors are appointed and qualified which shall occur no later than November 1, 1984. In making the first five appointments to a board one person shall be appointed to serve for one year, one person for two years, one for three years and two for four years and the terms of any additional members of the board shall also be staggered to ensure that an approximately equal number of terms expire every year. Thereafter, members shall serve for terms of four years. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

L.1984, c. 165, s. 2, eff. Oct. 10, 1984.

18A:54-16.14 Appointment of additional board members, county vocational schools, certain.

2. Notwithstanding the provisions of P.L.2005, c.299 (C.18A:54-16.14 et al.) to the contrary, if a county of the first class which has a county vocational school board of education with seven members on the effective date of this act determines by ordinance within six months of the effective date of this act to appoint a board with nine members, one person shall be appointed to serve for two years and one person shall be appointed to serve for four years, which terms shall begin immediately upon appointment and shall expire on November 1 next succeeding the completion of the terms.

L.2005,c.299,s.2.

18A:54-17. Qualifications of board members

Each member of a board of education for county vocational schools shall be a citizen and resident of the county and shall have been such citizen and resident for at least three years immediately preceding his becoming a member of the board, and if he shall cease to be a resident of such county, his membership in said board shall cease.

L.1967, c.271.

18A:54-18. Organization of boards of education

Each board of education for county vocational schools shall organize annually on November 1 by the election of a president and vice-president, unless November 1 shall fall on Sunday, in which case the board shall organize on the following day.

If the organization meeting cannot take place on the day hereinabove provided for by reason of a lack of a quorum or for any other reason, said meeting shall be held within 3 days thereafter.

L.1967, c.271; amended by L.1970, c. 276, s. 1, eff. Dec. 3, 1970.

18A:54-19. Board body corporate; name

Each such board of education shall be a body corporate and shall be known as and called "the board of education of the vocational school in the county of " (here insert the name of the county in which such school shall be located).

L.1967, c.271.

18A:54-20. Powers of board

18A:54-20. The board of education of a county vocational school district may:

a. Purchase, sell, and improve school grounds, erect, purchase, lease, enlarge, improve, and repair school buildings, including any building or buildings for school purposes owned by any municipality or school district in such county, with or without furnishings and equipment, and purchase school furniture and other necessary equipment;

b. Take and condemn land and other property for school purposes in the manner provided by law regulating the ascertainment and payment of compensation for property condemned and taken for public uses. If either party shall feel aggrieved by any proceedings and award thereunder, he may appeal in the manner provided by law for appeals from such proceedings and award;

c. Insure school buildings, furniture, and other school property, and receive, lease, and hold in trust any and all real and personal property for the benefit of the school district;

d. Employ and dismiss principals, teachers, janitors, mechanics, and laborers; fix, alter, and order paid their salaries and compensation, and prescribe the course of study to be pursued;

e. Appoint a treasurer, who shall not be a member of the board of education and fix his salary and term of office. The treasurer shall give bond in such amounts and with such security as the board shall determine;

f. Make, amend, and repeal rules, not inconsistent with this title, or with the rules of the State board, for its own government, for the transaction of business, and for the government and management of the school and school property under its control;

g. Suspend and expel pupils from school;

h. Provide textbooks and other necessary supplies and apparatus;

i. Adopt an official seal by which all its official acts may be authenticated;

j. Make an annual report to the commissioner on or before August 1 in the manner and form prescribed by him;

k. Appoint a secretary and fix his salary and term of office; and

l. Borrow by temporary loan such sum as may be necessary to meet the current expenses of such school district, not exceeding 80% of the anticipated tuition payments to be received from sending districts. Such temporary obligation, if any, shall be paid first out of the moneys received under this chapter.

L.1967, c.271; amended 1990,c.52,s.72.

18A:54-20.1. Enrollment of pupils in county vocational schools, funding

a. The board of education of each school district or regional school district in any county in which there is a county vocational school district shall send to any of the schools of the county vocational school district each pupil who resides in the school district or regional school district and who has applied for admission to and has been accepted for attendance at any of the schools of the county vocational school district. The board of education shall pay tuition for each of these pupils to the county vocational school district pursuant to subsection c. of this section. The provisions of this section shall not apply to the board of education of a school district or regional school district maintaining a vocational school or schools pursuant to article 2 of chapter 54 of Title 18A of the New Jersey Statutes.

b. The board of education of a county vocational school district shall receive pupils from districts without the county so far as their facilities may permit.

c. The board of education of a county vocational school district shall receive such funds as may be appropriated by the county pursuant to N.J.S.18A:54-29.2 and shall be entitled to collect and receive from the sending districts in which each pupil attending the vocational school resides, for the tuition of that pupil, except for a post-secondary vocational education pupil, a sum not to exceed the actual cost per pupil as determined for each vocational program classification, according to rules prescribed by the commissioner and approved by the State board. Whenever funds have been appropriated by the county, the county vocational school district may charge a fee in addition to tuition for any pupils who are not residents of the county. The fee shall not exceed the amount of the county's per pupil appropriation to the county vocational school district.

d. The tuition and nonresident fee, if any, shall be established not later than January 15 in advance of the school year by the board of education. The tuition for each program category shall be at the same rate per pupil for each sending district whether within or without the county, and 10% of the tuition amount and nonresident fee, if any, shall be paid on the first of each month from September to June by or on behalf of the board of education of each sending district.

e. (Deleted by amendment, P.L.1991, c.62).

L.1990,c.52,s.71; amended 1991,c.62,s.24.

18A:54-21. Rules for organization and management of county vocational schools

The state board shall prescribe rules for the organization, management and control of such schools.

L.1967, c.271.

18A:54-22. Teachers, principals, superintendents, assistant superintendents; directors and assistant directors; rights and privileges

All teachers, principals, directors and assistant directors of boards of education of county vocational schools shall have all rights and privileges of teachers, principals, superintendents and assistant superintendents of schools, respectively, in school districts.

L.1967, c.271.

18A:54-23.1. Receiving pupils from other counties; county vocational school districts with post secondary vocational-technical education

Every county vocational school district board of education providing post secondary vocational-technical education shall, to the extent its facilities permit and subject to rules prescribed by the commissioner and approved by the State board, accept for post secondary vocational-technical education students who are residents of any other county in the State.

L.1973, c. 333, s. 1, eff. July 1, 1974.

18A:54-23.2. Application for issuance of certificate of residence; grant or denial; appeal; hearing; determination

Any person desiring to enroll in a post secondary vocational-technical program in a county vocational school district as a nonresident student shall apply to the chief fiscal officer of his county of residence for a certificate of residence showing that said person is a resident of said county. The chief fiscal officer shall, upon application and submission to him of satisfactory evidence of such residence, issue said certificate provided that (a) the county does not maintain a vocational school providing such a program, or (b) the county vocational school district board of education certifies to the chief fiscal officer that it does not offer the particular course or curriculum desired by the applicant, or (c) the county vocational school cannot admit the applicant into a particular course or curriculum desired by the applicant pursuant to rules approved by the State Board of Education. If the chief fiscal officer refuses to issue such a certificate, the applicant may appeal to the board of chosen freeholders within 10 days of the receipt of notice of such refusal. The board of chosen freeholders shall hold a hearing on such appeal within a reasonable time, but not less than 10 days after notice is given to the chief fiscal officer and the applicant. The board of chosen freeholders shall notify the applicant of its decision within 10 days after such hearing.

L.1973, c. 333, s. 2, eff. July 1, 1974.

18A:54-23.3. Certificate of residence; filing; duration

Upon his registration for each school year, the nonresident student shall file with the county vocational school district board of education such a certificate of residence issued not more than 2 months prior thereto and such a certificate of residence shall be valid for the current year or the academic year next succeeding the date of issuance.

L.1973, c. 333, s. 3, eff. July 1, 1974.

18A:54-23.4. Payments by county of residence for each student

Any county vocational school district board of education admitting nonresident students shall annually charge to, and collect from, each county of residence for each such student (a) \$200.00 to be applied to the county's share of the vocational school district's capital expenses and (b) the average county share of budgeted operating cost per full-time student as certified by the commissioner; provided however, that the said board of education may, with the approval of the commissioner, charge and collect a higher annual amount or amounts when high-cost or high-priority programs are provided.

L.1973, c. 333, s. 4, eff. July 1, 1974.

18A:54-23.5. List of nonresident students, courses and programs; notice to department of education

Each county vocational school district board of education shall notify the department of education of the names and addresses of all nonresident students and the courses and programs in which they are enrolled as of the second week of each term. Such notification shall be made in writing no later than the end of the fourth week of each term.

L.1973, c. 333, s. 5, eff. July 1, 1974.

18A:54-24. Approval of courses of study

The courses of study to be pursued in every county vocational school, and all changes therein shall be approved by the commissioner, with the advice and consent of the state board.

L.1967, c.271.

18A:54-25. School year

The school year for a county vocational school shall begin on July 1 and end June 30.

L.1967, c.271.

18A:54-26. Contracts; payment of bills

No contract shall be entered into by the board of education of a county vocational school, nor shall any bill or demand for money be paid until the same shall have been presented and passed on at a regularly called meeting of the board. Every such bill or demand, except for salaries, exceeding \$25.00 shall be verified by affidavit or contain or have annexed thereto a signed declaration in writing to the effect that such bill or demand is correct in all its particulars, that the articles have been furnished or services rendered as stated therein and that no bonus has been given or received on account thereof.

L.1967, c.271.

18A:54-27. Boards of school estimate

There shall be for each county system of vocational schools a board of school estimate, which shall consist of two members of the board of education of the school, appointed by that board, two members of the board of chosen freeholders of the county in which the school is situate, appointed by that board, and the county supervisor of the county, in counties of the first class, and the director of the board of chosen freeholders, in other counties.

The appointments shall be made annually between January 1 and January 15. In case of a vacancy occurring in the board by reason of the resignation, death, or removal of any appointed member, the vacancy shall be filled immediately by the body which originally appointed the member, by appointing another of its members to fill the vacancy. The secretary of the board of education of the school shall be the secretary of the board of school estimate, but shall receive no compensation as such.

L.1967, c.271.

18A:54-28. Estimate by board of education of general fund expenses

18A:54-28. On or before the fourth Tuesday in March in each year the board of education of a county vocational school district shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the general fund expenses of the county vocational school district for the ensuing school year. The board of education shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5).

L.1967, c.271; amended 1978, c.136, s.18; 1992, c.159, s.21; 1993, c.83, s.24; 1996, c.138, s.80.

18A:54-29. Fixing, determining amounts necessary to be raised

18A:54-29. Between the fourth Tuesday in March and April 8 in each year the board of school estimate shall fix and determine by action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the county vocational school district for the ensuing school year exclusive of the amount to be received from the State as provided in section 18A:54-32. The board of education of the county vocational school district and the board of school estimate shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5).

L.1967, c.271; amended 1978, c.136, s.19; 1992, c.159, s.22; 1996, c.138, s.81.

18A:54-29.1. Certification of amounts to be raised

The board of school estimate shall, on or before the last named date, make two certificates of the amount, signed by at least three of its members, one of which certificates shall be delivered to the board of education of the county vocational school district and the other to the board of chosen freeholders of the county in which the school is situated.

L.1967, c.271.

18A:54-29.2. Appropriation and raising of amounts required

The board of chosen freeholders shall, upon receipt of the certificate, appropriate, in the same manner as other appropriations are made by it, the amount so certified, and the amount shall be assessed, levied, and collected in the same manner as moneys appropriated for other purposes in the county are assessed, levied, and collected, unless such amount is to be raised as otherwise hereinafter provided in this chapter.

L.1967, c.271.

18A:54-29.3. County vocational school districts including cities, annual or special appropriations, apportionment

The board of chosen freeholders of any county of the second class having a population of not less than 375,000 nor more than 425,000 inhabitants and which has created a county vocational school district subsequent to July 1, 1962, may provide that the amounts (other than amounts to be raised for interest and redemption of bonds or notes issued by the county for purposes of such county vocational school district) to be raised for annual or special appropriations for such county vocational school district are to be apportioned on the basis of (1) the apportionment valuations, as defined in section 54:4-49 of the Revised Statutes, of the municipalities in such county, or (2) the average daily enrollment of pupils from municipalities within such county during the preceding school year, or (3) any combination or percentage of either of the aforesaid,

as shall be determined by said board of chosen freeholders prior to October 1 for and with respect to the school year commencing on July 1 next succeeding said date. Determination as to any basis as aforesaid shall be made by resolution of such board of chosen freeholders, if such board, after consideration of the vocational school needs of such county and of the municipalities therein and of the costs and expenses of such county vocational school district and of the financial resources and abilities of such county and of the municipalities therein, shall find that such basis is in the best interests of the county and of such county vocational school district and the municipalities therein. Any basis so established shall continue without change for a period of five school years, unless prior to the end of such period the commissioner, upon the request of the board of chosen freeholders or of the board of education of the county vocational school district, shall determine that some other or different basis, as herein permitted or provided for, shall be in the best interest of such county, such county vocational school district and the municipalities therein, and is a basis which could have been established by the board of chosen freeholders of such county. Until any other basis shall have been established, the basis referred to as above shall be applicable to such county vocational school district. Where average daily enrollment of the preceding school year is to be used as the whole or any part of a basis for apportionment of amounts to be raised for annual or special appropriations, the commissioner shall certify to the county vocational school district and to the county board of taxation, from the latest official statistics then available or estimates thereof, the average daily enrollment to be used until such time as actual average daily enrollment statistics shall be available and certified by the commissioner as aforesaid. No amount to be raised for annual or special appropriations for the county vocational school district shall be so appropriated except with the concurrence and consent of the board of chosen freeholders if the basis for raising such annual or special appropriations of the county vocational school district shall require that more than 50% of such basis shall be such apportionment valuations.

L.1967, c.271.

18A:54-29.4. County tax levy adjusted for establishment of county vocational school

1. Any county which received approval from the State Board of Education, after July 1, 1990, for the establishment of a county vocational school shall, consistent with the practice for existing county vocational schools, be entitled to an exception to the limitation imposed upon increases in the county tax levy pursuant to section 4 of P.L.1976, c.68 (C.40A:4-45.4) in an amount equal to that expended for the county vocational school board of education.

L.1992,c.55,s.1.

18A:54-30. Contracts for supplies, and construction, alteration and repair of buildings; municipal permits

All provisions of law relating to the entering into contract for the furnishing of supplies and to the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education of a county vocational school and the approval and filing thereof and of any such contract and to the advertisement for bids and the awarding of contracts as a result thereof, which are applicable to a board of education of a school district, shall likewise be applicable to a board of education of a county vocational school and no municipal permit shall be required in connection with the making or performance of any such contract.

L.1967, c.271.

18A:54-31. Raising of moneys for lands or buildings; bond issues

Whenever a board of education of a county vocational school district shall decide that it is necessary to sell bonds to raise money for any capital project, as defined in section 18A:21-1 of this Title, it shall prepare and deliver to each member of the board of school estimate a statement of the amount of money estimated to be necessary for such purpose or purposes.

The board of school estimate shall fix and determine the necessary amount and shall make two certificates thereof, one of which certificates shall be delivered to the board of education and the other to the board of chosen freeholders of the county in which the school district is situate.

The board of chosen freeholders may appropriate such amount and borrow such amount for the purpose or purposes aforesaid, and secure the repayment of the sum so borrowed, together with interest thereon, by the issuance of bonds or notes of the county pursuant to the local bond law, notwithstanding any debt limitation or requirement for down payment therein provided for. The proceeds of the sale of such obligations shall be paid to the treasurer of the county vocational school district and shall be paid out by him only on the warrants or orders of the board of education of the school district. The treasurer shall in no event disburse such proceeds, except to pay the expenses of issuing and selling such obligations and for the purpose or purposes for which such obligations were issued. If for any reason any part of such proceeds are not applied to or necessary for such purpose or purposes, the board of education of the county vocational school district may transfer the balance remaining unapplied to the general fund of the school district.

L.1967, c.271; amended 1968, c.295, s.15; 1993, c.83, s.25.

18A:54-33. Establishment of emergency vocational schools; commissions; cost per pupil
In any county of the second class in which there does not presently exist a vocational school established under the laws of this state, the board of chosen freeholders of such county may, by a majority vote of the board, establish a vocational school to be known as the "emergency vocational school in the county of (here insert the name of the county in which the school is to be located)." In the event of the establishment of any emergency vocational school as in this act provided, the board of chosen freeholders of the county shall have power to name a commission to supervise said school, to prescribe courses in the emergency vocational schools, and power to fix rates of tuition. The cost per pupil shall be established from time to time by the board of chosen freeholders and shall be paid in accordance with rules and regulations to be adopted by the board. The commission, selected for the supervision of such emergency vocational school, shall have power to expend appropriations authorized and to obtain from the federal government or any agency thereof grants in aid of such emergency vocational school.

L.1967, c.271.

18A:54-34. Commissioners; terms; reports; vacancies; residence
The commission charged with the supervision of such school shall be three in number and shall hold their said offices for terms of three years and until their successors are appointed by the board of chosen freeholders. The commission shall annually report to the board of chosen freeholders. Vacancies occurring for any cause shall be filled by the board of chosen freeholders for the unexpired term.

Any person a resident of the county for a period of at least five years prior to the passage of this act may be selected to membership in such commission.

L.1967, c.271.

18A:54-35. Duty of commission
The commission shall be charged with the duty of formulating courses in emergency vocational training in aid of national or state defense and to prescribe the length of such courses.

L.1967, c.271

18A:54-36. Appropriations for schools
The board of chosen freeholders of any such county is authorized and empowered to provide by appropriation from time to time for the maintenance of emergency vocational schools authorized to be established.

L.1967, c.271.

18A:54-37. Municipalities in counties of first class under 700,000; exemption from tax for county vocational school district
Notwithstanding any of the provisions of chapter 54 of Title 18A of the New Jersey Statutes, in any county of the first class having a population of not more than 700,000 according to the latest federal decennial census, each municipality included within a school district which has maintained for a minimum of 20 years a vocational education program approved for the purposes of federal or State allotment of vocational funds by the Commissioner of Education under the regulation of the State Board of Education shall be exempt from assessment, levy or collection of taxes based on any apportionment of amounts appropriated for the use of a county vocational school district.

L.1973, c. 305, s. 1, eff. Dec. 14, 1973. Amended by L.1981, c. 462, s. 20.

18A:54-38. Establishment of New Jersey Council of County Vocational Schools
1. There is established a body corporate and politic, with corporate succession, to be known as the New Jersey Council of County Vocational Schools. A county vocational school established pursuant to chapter 54 of Title 18A of the New Jersey Statutes may, upon the approval of its board of education, be a member of the council.

L.1993,c.302,s.1.

18A:54-39. Membership of the council
2. The council shall consist of the president of the board of education and the superintendent of each county vocational school which is a member of the council. A board of education president may designate another member of the board as an alternate to attend and to vote at council meetings in the president's absence. A member of the council shall serve without compensation but may be reimbursed for all reasonable and necessary expenses.

L.1993,c.302,s.2.

18A:54-40. Responsibilities of council
3. The council shall select such officers and make such rules and regulations as may be necessary for the transaction of business. The council may, if it deems necessary, impose and collect dues from council members to defray expenses. The council may also employ such staff as it determines is necessary within the limit of funds available for this purpose.

L.1993,c.302,s.3.

18A:54-41. Powers, duties of council

4. The council shall have perpetual succession and shall have the following powers and duties:

- a. To make, amend and repeal rules, regulations and bylaws for its own government and guidance, not inconsistent with the purposes of the council;
- 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 acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act. All this property shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes; and
- f. To aid all initiatives for the improvement of vocational, technical, and occupational education and to make recommendations to the State Board of Education concerning the county vocational schools.

L.1993,c.302,s.4.

18A:54A-1. Short title

This act shall be known as, and may be cited as, the "Neighborhood Education Center Act of 1968."

L.1968, c. 182, s. 1, eff. July 19, 1968.

18A:54A-2. Liberal construction

This act shall be liberally construed to effectuate the purposes and intent thereof.

L.1968, c. 182, s. 2, eff. July 19, 1968.

18A:54A-3. Legislature's findings

3. The Legislature hereby finds and declares that there is a need for new programs and institutions capable of reaching and motivating the high-school dropout; that the experience gained by the creation of neighborhood education centers in other States indicates that those centers may be a partial answer to the problem of the high-school dropout; that the Commissioners of Education and Community Affairs should be authorized to establish such neighborhood education centers; and that the expenditure of public funds for those purposes is in the public interest.

L.1968,c.182, s.3; amended 1994,c.48,s.68.

18A:54A-4. Definitions

The following terms shall have the following meanings for the purposes of this act, unless a different meaning clearly appears from the context:

- (a) The term "act" shall mean this act, and any amendments and supplements thereto, and any rules and regulations promulgated thereunder.
- (b) The term "commissioner" shall mean the Commissioner of Community Affairs.
- (c) The term "council" shall mean the Governor's Council on Neighborhood Education Centers created by section 5 of this act.
- (d) The term "neighborhood education center" shall mean a facility which has been or will be developed, organized or operated, subject to the approval and with the assistance of the Governor's Council on Neighborhood Education Centers created by section 5 of this act, for the purpose of providing to public high school students and to public high-school dropouts educational, cultural and social programs and services supplementary to or in lieu of similar programs and services made available as part of the course of instruction at a public high school.
- (e) The term "sponsor" shall mean any corporation or association organized not for profit pursuant to the provisions of Title 15 of the Revised Statutes which has been determined by the council as capable of developing, organizing or operating a neighborhood education center.

L.1968, c. 182, s. 4, eff. July 19, 1968.

18A:54A-5. Governor's Council on Neighborhood Education Centers created; membership; officers

5. There is hereby created in but not of the Department of Community Affairs the Governor's Council on Neighborhood Education Centers, which shall consist of the Commissioner of Community Affairs and the Commissioner of Education who shall be members of the council for such times as they shall hold their respective offices. The commissioner shall serve as the administrator and chief executive officer of the council, and shall have primary responsibility for the activities of the council. The Commissioner of Education shall serve as the chairman of the council, which shall meet at the call of said chairman.

L.1968,c.182, s.5; amended 1994,c.48,s.69.

18A:54A-6. Authority of council

(a) The council, acting by and through the commissioner, is hereby authorized to develop, organize or operate, or to provide for the development, organization and operation, of not more than 8 neighborhood education centers.

(b) For the purpose of carrying out the provisions of this act, the commissioner, on behalf of and with the approval of the council, is hereby authorized to enter into contracts and agreements with, and to make payments of money based thereon to, sponsors of neighborhood education centers.

L.1968, c. 182, s. 6, eff. July 19, 1968.

18A:54A-7. Commissioner's additional powers

7. In order to carry out the purposes and provisions of this act, the commissioner, in addition to any powers granted to him elsewhere in this act, shall have the following powers:

(a) To make and enter into all contracts and agreements necessary or incidental to the discharge of his duties and the execution of his powers under this act;

(b) To appoint or employ, subject to the provisions of Title 11 of the Revised Statutes, such personnel and employees as may be necessary in his judgment;

(c) To receive and accept aid or contributions from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to any conditions upon which such grants and contributions may be made;

(d) To call upon and avail himself of, so far as may be practicable and within the limits of appropriations available therefor, the services of employees of the Departments of Community Affairs and Education;

(e) To acquire by purchase, gift or lease, sell, lease and otherwise deal with property, whether real or personal or mixed;

(f) To adopt such rules and regulations as may be necessary or convenient to carry out the provisions of this act; and

(g) To do all acts and things necessary or convenient to carry out the provisions of this act.

L.1968,c.182, s.7; amended 1994,c.48,s.70.

18A:54B-1. Enrichment program defined

For the purposes of this act "Enrichment Program" means any summer school program offered by a public school for which a student does not receive credit for graduation and is unrelated to the curriculum content of the regular school program.

L.1979, c. 104, s. 1, eff. May 31, 1979.

18A:54B-2. Tuition; rules and regulations

For the purpose of providing enrichment programs in public schools boards of education may charge tuition for students to attend such noncredit courses subject to rules and regulations promulgated by the State board.

L.1979, c. 104, s. 2, eff. May 31, 1979.

18A:54C-1. Counties of fifth class; marine academy of science and technology; establishment; purposes

Upon the request by a board of education of a regional school district that includes two constituent municipalities with a student population in excess of 3,500 pupils in any county of the fifth class having a population of not less than 450,000 according to the 1980 federal census, the State Board of Education is authorized to establish a Marine Academy of Science and Technology under the local area vocational-technical school for the purpose of providing education to students throughout the State of New Jersey in the fields of marine sciences, marine trades, marine technologies and related courses, as well as academic courses.

L.1982, c. 146, s. 1, eff. Sept. 28, 1982.

18A:54C-2. Powers of board of education of school district

The board of education of a school district that has been given the approval to establish a Marine Academy of Science and Technology shall be permitted to:

a. Acquire, obtain and provide physical facilities, equipment, and all other resources necessary to accommodate the needs of the institution;

b. Enter into contracts and agreements with accredited institutions, governmental bodies, authorities and agencies at the local, county, State, and federal levels to carry out the purposes of this act; and

c. Discharge such financial transactions as are necessary to carry out the purposes of this act.

L.1982, c. 146, s. 2, eff. Sept. 28, 1982.

18A:54C-2.1. Contractual relationship between Marine Academy of Science and Technology and New Jersey Marine Sciences Consortium

The Marine Academy of Science and Technology created pursuant to P.L.1982, c. 146, is authorized to enter into a contractual relationship with the New Jersey Marine Sciences Consortium. The funds transmitted by the Academy to the Consortium may be considered to serve as the State match for federal funds that may be obtained by the Consortium through the Sea Grant Program or other programs.

L.1982, c. 165, s. 1, eff. Nov. 1, 1982.

18A:54C-4. Marine Academy of Science and Technology, transfer of assets, payment of costs

The assets of the Marine Academy of Science and Technology operating under the auspices of an area vocational technical school in a county of the fifth class having a population of not less than 450,000 shall be transferred to the county vocational technical school board and shall continue to operate as a full-time program as provided under P.L.1982, c.146 (C.18A:54C-1 et seq.) and the costs shall be paid in the same manner as the costs are paid for other county vocational school programs pursuant to the provisions of chapter 54 of Title 18A of the New Jersey Statutes.

L.1983,c.341,s.1; amended 1990,c.52,s.74.

18A:54C-6. Admission policies of Marine Academy of Science and Technology

The board of education of the county vocational technical school shall determine the admission policies of the Marine Academy of Science and Technology, except that the places available shall be allocated in a fair and equitable manner. Pupils from other counties may be admitted so far as the facilities permit.

L.1983,c.341,s.5; amended 1990,c.52,s.75.

18A:54C-7. Transportation for pupils

Transportation for pupils attending the Marine Academy of Science and Technology shall be provided by the district in which the pupil resides.

L.1983, c. 341, s. 6, eff. Sept. 8, 1983.

18A:54D-1. Short title

This act shall be known and may be cited as the "Technical Training for Minorities and Women Act."

L. 1985, c. 427, s. 1, eff. Jan. 13, 1985.

18A:54D-2. Findings, declarations

The Legislature finds and declares that:

a. It is the policy of the State of New Jersey that no person shall be denied access to a profession or job on the basis of race, creed, color, national origin, ancestry, marital status or gender.

b. The Division on Civil Rights was created to prevent and eliminate discrimination and the "Division on Women Act of 1974," P.L. 1974, c. 87 (C. 52:27D-43.8 et seq.) calls for "efforts to promote the expansion of rights and opportunities available to the women of this State."

c. Minorities and women are underrepresented in most technical trades and fewer than 3% of the apprentices in New Jersey are female.

d. Action should be taken to increase the access of minorities and women to apprenticeships and other training programs for technical trades.

L. 1985, c. 427, s. 2, eff. Jan. 13, 1986.

18A:54D-3. Duties of commissioners

The Commissioners of Education and Labor each shall:

- a. Identify the regulations, policies, programs and procedures of their respective departments which relate to apprenticeship programs and other forms of preparation for technical trades;
- b. In consultation with the Division on Civil Rights in the Department of Law and Public Safety and the Division on Women in the Department of Community Affairs, identify the factors which have produced low rates of minority and female participation in apprenticeship and other technical training programs;
- c. Take appropriate action to encourage a higher rate of minority and female participation in these programs;
- d. Advise the Legislature of any additional legislative action which would advance the purposes of this act.

L. 1985, c. 427, s. 3, eff. Jan. 13, 1986.

18A:54D-4. Annual reports

Within one year after the effective date of this act, and annually thereafter, the Commissioners of Education and Labor each shall report to the Legislature on the actions taken by their respective departments pursuant to this act and provide to the Legislature the most recent available data on the participation of minorities and women in training programs for technical trades in New Jersey.

L. 1985, c. 427, s. 4, eff. Jan. 13, 1986.

18A:54E-1. Short title

1. This act shall be known and may be cited as the "Adopt a School Program."

L.1993,c.314,s.1.

18A:54E-2. Business advisory board; creation, membership

2. Each county superintendent shall create a business advisory board or shall designate a Workforce Investment Board created by the State Employment and Training Commission in the Department of Labor or a Private Industry Council established pursuant to the Job Training and Partnership Act to perform the functions of the business advisory board under this act.

Membership on the business advisory board shall be open to interested local businesses which wish to assist students enrolled in a program involving vocational or technical training in a public secondary school or community college jointly engaged in such a program with a public secondary school. The county superintendent shall be chairman of the business advisory board, and the board shall meet monthly. The county superintendent shall appoint a program coordinator who shall be charged with administering the program at local board levels. All members of the board shall serve without compensation and for a three year term.

L.1993,c.314,s.2.

18A:54E-3. "Adopt a School Programs"

3. The board or council shall encourage and coordinate local business partnership "Adopt a School Programs" which may be instituted at public secondary schools, other than schools established under the provisions of chapter 54 of Title 18A of the New Jersey Statutes. The business partnership programs may include, but are not limited to, supplying materials, funding, offering work based learning opportunities including apprenticeships to students and providing volunteers for the classroom. Businesses entering into the "Adopt a School Program" pursuant to this act shall not seek reimbursement for any donation of time, money, materials or personnel from the State, a local school district or a community college.

L.1993,c.314,s.3.

18A:54E-4. Effectiveness rating, provision; curriculum changes, recommendations

4. The board or council shall provide upon the request of the county superintendent a rating of the effectiveness of any program designed to prepare students for employment, based on the preparedness of students who are in their employment. The board shall also make recommendations to the local school board through the county superintendent regarding suggested curriculum changes or other methods to improve those programs designed to prepare students for employment in a vocation or technical field.

L.1993,c.314,s.4.

18A:54E-5. Contributions, effect on State aid

5. Contributions provided under this act by local businesses shall in no way affect the amount of State aid entitlement of a local school district or community college.

L.1993,c.314,s.5.

18A:54F-1. Findings, declarations

1. The Legislature finds and declares that educational experts agree that at-risk youths face unique social and economic problems which work to inhibit their academic achievement and eventually their successful integration into the workplace; that the New

Jersey Supreme Court in its June, 1990 Abbott v. Burke decision ordered that provision be made and programs developed to address the special disadvantages of at-risk students; and, that in its July, 1994 Abbott v. Burke decision, the Supreme Court suggested the need for the State itself to specifically identify and implement the supplemental programs necessary to meet the needs of at-risk youth.

The Legislature further finds that the development of an At-Risk Youth Employment Internship Program within the Department of Education would assist in addressing the needs and conditions which place students at risk of not acquiring the knowledge, skills, behaviors, and attitudes necessary for school success and future successful functioning as adults in society and also would assist in meeting the State's obligation to identify and implement specific programs for at-risk youths.

L.1995,c.256,s.1.

18A:54F-2. At-Risk Youth Employment Internship Program, established

2. There is established in the Department of Education an At-Risk Youth Employment Internship Program to be administered by the Commissioner of Education pursuant to the provisions of this act. The program shall provide for the placement of at-risk public school students in employment internships with public or private profit or nonprofit employers and the payment of a training stipend to those students. The purpose of the program shall be to enable at-risk students to acquire a thorough knowledge of the business operations of the employer with which the student is placed and an understanding of the linkage between the skills, behaviors, and attitudes necessary for school success and future successful functioning as an adult in the workplace.

L.1995,c.256,s.2.

18A:54F-3. Selection of school districts for pilot program

3. a. The Commissioner of Education shall develop and administer the program on a pilot basis. The commissioner shall select local school districts to participate in the program based upon the number of at-risk students within the district, the interest of public and private profit or nonprofit employers located within the district in participating in the program, and the commissioner's evaluation of the district's ability to successfully implement the program. In selecting school districts to participate, the commissioner shall include urban and suburban districts from the north, central and southern regions of the State with at least one school district per county.

b. A school district which wants to participate in the program shall provide to the commissioner an outline of its proposed program which shall include, but not be limited to: information on the number and grade level of the at-risk students who will participate in the program; the process of student referral to the program; the selection criteria for student participants which, in addition to eligibility for at-risk funding under section 80 of P.L.1990, c.52 (C.18A:7D-20), shall include the identification of students who are not meeting district standards of behavior and academic achievement; a listing of employers within the district who have agreed to participate in the program and the process which will be utilized for matching students to employment internship opportunities; and, an analysis of the manner in which student employment experiences will enhance the self-esteem and assimilation of life skills necessary for productive functioning in the school setting and society.

L.1995,c.256,s.3.

18A:54F-4. Student, employer remuneration; work study funds

4. a. Each student's employment internship under the program shall be for a period of two hours, three days per week unless the district determines that some other employment schedule would be of greater benefit to the student. For participation in the employment internship, the student shall receive a stipend in the amount of \$25 per week.

b. A public or private profit or nonprofit employer which participates in the program shall receive a stipend in the amount of \$150 per month to cover any administrative or other costs which the employer may incur as a result of participation.

c. The commissioner shall approve a plan for the utilization of work study funds allocated under N.J.S.18A:58-34 and other State or federal funds available for services to at-risk students to finance the student and administrative stipends and any other costs associated with the program. The commissioner may, if he determines that a school district's participation in the program is in the best interests of its at-risk students, review a school district's budget and direct the district to reallocate funds to the program. The commissioner may also direct the participation of any school district in the program if the commissioner determines that the implementation of the program would constitute a demonstrably effective improvement strategy for the district's at-risk students.

L.1995,c.256,s.4.

18A:54F-5. Plan to track effectiveness of program; recommendation

5. a. The commissioner shall implement a plan to collect data on the effectiveness of the program in meeting the needs and conditions of students which place them at-risk of academic and social failure. The plan shall include a system to track student participants to determine if those students successfully completed the school year.

b. Two years following the effective date of this act, the commissioner shall submit to the Governor and the Legislature an evaluation of the At-Risk Youth Employment Internship Program and a recommendation on the advisability of its continuation and expansion to other school districts within the State.

L.1995,c.256,s.5.

18A:54F-6. Rules, regulations

6. The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.1995,c.256,s.6.

18A:54G-1. Short title

1. This act shall be known and may be cited as the "Arts Create Excellent Schools (ACES) Pilot Program Act."

L.1996,c.117,s.1.

18A:54G-2. Findings, declarations relative to arts based curriculum pilot program

2. The Legislature finds and declares that:

a. Although there currently exists support for the arts in education within the public schools of this State, there is a vast difference in how local school districts implement arts education and a significant number of students graduate from New Jersey schools without any exposure to the arts;

b. The Literacy in the Arts Task Force, created in 1987 by the Legislature to examine the state of arts education in New Jersey, recommended that schools include both intensive arts experiences and integration of the arts across an interdisciplinary curriculum and urged districts to adopt a curriculum framework using the arts as a means of providing all students the tools for an effective and more enriched learning experience;

c. Since the Literacy in the Arts Task Force completed its work, there have been a number of other developments at the State and national level which have affirmed the value of incorporating the arts into the school curriculum as a strategy to engage and challenge students and thus advance their motivation and level of academic achievement;

d. The value of infusing the arts into the public school curricular core has been supported and advanced through the revision of New Jersey's State Goals for Education in 1992, the Department of Education's draft of Core Curriculum Standards, the Department of Education's Strategic Plan for Systemic Change, and the national education reform effort embodied in the Goals 2000: Educate America Act, all of which have pointed to the arts as a mechanism to improve the ability of students to think critically and to solve problems; and

e. In an era in which states and the federal government are searching for ways in which to advance the educational achievement of at-risk students, research has indicated that an arts-based curriculum offers a powerful tool to effectuate student academic achievement by increasing the motivation of students who may be disaffected from the learning process. There is empirical evidence that academic disciplines such as reading, writing, languages, social studies, science and math are reinforced through an arts-infused curriculum.

The Legislature further finds, therefore, that a program which provides for the development of arts-infused model schools can serve an important public policy function by determining if the strategies utilized by the model schools are effective and can be successfully replicated in districts throughout the State to enhance overall student performance.

L.1996,c.117,s.2.

18A:54G-3. "Arts Create Excellent Schools (ACES) Pilot Program"

3. There is established in the Department of Education the "Arts Create Excellent Schools (ACES) Pilot Program" to be administered by the Commissioner of Education pursuant to the provisions of this act. The department shall consult with the New Jersey State Council on the Arts in the Department of State in the operation and administration of the program. The program shall provide for the development of three model schools which incorporate an innovative arts-infused curriculum into the student learning process. The model schools, which shall be developed through organizational partnerships including State and local government agencies and the private sector, shall have the following goals:

a. to prepare students for educational achievement by developing imagination, reasoning, judgment and the critical thinking skills necessary for problem solving and decision making;

b. to develop an arts-infused curriculum based on interdisciplinary and thematic units;

c. to broaden the role of the teacher through staff development to include such diverse roles as instructor, coach, mentor and exemplar;

d. to improve student performance as determined by standard measures and alternative assessment strategies;

e. to enhance student self-concept as determined by measures of self-esteem;

f. to encourage understanding of traditional, local and diverse cultures;

g. to integrate school activities with professional and community based arts organizations; and

h. to further evaluate and research arts education.

L.1996,c.117,s.3.

18A:54G-4. Request for proposals for development of ACES schools

4. The Commissioner of Education shall forward a request for proposals for the development of ACES schools to local school districts. Each school district shall disseminate the request for proposals to all schools within the district. A school which wants to participate in the pilot program shall, upon securing the approval of the board of education, submit a proposal to the commissioner. The proposal shall outline the school's plan to infuse the arts into all aspects of the curriculum to enhance academic excellence, student motivation and self-esteem. The proposal shall include, but not be limited to, the following information:

a. the specific mechanisms which will be used to integrate the arts within all academic disciplines offered in the school's curriculum;

b. the utilization of technology within the school to advance student levels of organizational ability, critical thinking, problem solving and creative skills; and

c. the manner in which professional development experiences in the arts will be factored into the school design to assist the teaching and administrative staff to define and implement the teaching strategies necessary to achieve the educational goals of an arts-infused curriculum.

L.1996,c.117,s.4.

18A:54G-5. Selection of schools to participate in program

5. The commissioner shall select three schools to participate in the program based upon the commissioner's evaluation of the school's ability to successfully implement a model arts-based curriculum. In selecting the schools to participate, the commissioner shall seek a cross section of schools from urban, suburban, rural and State-operated school districts with equal consideration given to schools located in the north, central and southern geographical regions of the State. The selection process shall include visits to potential model schools to ascertain the administration and faculty commitment and ability to adopt an arts-based curriculum.

L.1996,c.117,s.5.

18A:54G-6. Evaluation component included within ACES program

6. a. The commissioner shall provide for the inclusion of an evaluation component within the ACES program which shall be both formative and summative in nature. The assessment methods designed to evaluate the model schools shall be appropriate for assessing student educational outcomes and teacher development and shall place emphasis on student progress in problem solving, comprehension, critical thinking and reasoning.

b. During the initial four years of the ACES program each model school shall undergo an annual evaluation conducted by the Department of Education pursuant to subsection a. of this section. After the program's fourth year, the commissioner shall submit to the Governor and Legislature an evaluation of the ACES program and a recommendation on the advisability of its continuation and expansion to other schools within the State.

L.1996,c.117,s.6.

18A:54G-7. Rules, regulations

7. The State Board of Education shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the rules and regulations necessary to carry out the provisions of this act.

L.1996,c.117,s.7.

18A:55-1. Appropriations as prerequisite to payments from treasury

No money shall be paid from the state treasury for any purpose named in this title unless an appropriation therefor shall have been made by the legislature.

L.1967, c.271.

18A:55-2. Withholding of funds from district

18A:55-2. The commissioner shall direct the State treasurer to withhold funds payable by the State from any district which fails to obey the law or the rules or directions of the State board or the commissioner.

The county superintendent with the approval of the commissioner may direct the treasurer of the school moneys of a school district to withhold all moneys received by him from the State treasurer and then remaining in his hands to the credit to the district, whenever the board of education of the district, or any officer thereof, or the legal voters of any school district, or any board or officer of the municipality in which any such school district is situate, shall neglect or refuse to perform any duty imposed upon such board, officer, or legal voters by this title or by the rules of the State board. The treasurer shall withhold such moneys until he shall receive notice from the county superintendent that the board, officer, or legal voters have performed such duty.

L.1967, c.271; amended 1996, c.138, s.82.

18A:55-3 School districts, conditions for receipt of State aid; efficiency standards.

1. As a condition of receiving State aid, a school district shall:

a. examine all available group options for every insurance policy held by the district, including any self-insurance plan administered by the New Jersey School Boards Association Insurance Group on behalf of districts, and shall participate in the most cost effective plans;

b. take steps to maximize the district's participation in the federal Universal Service Program (E-rate) and the ACT telecommunications program offered through the New Jersey Association of School Business Officials;

c. participate in the Alliance for Competitive Energy Services (ACES) Program offered through the New Jersey School Boards Association, unless the district is able to demonstrate to the commissioner that it receives goods or services at a cost less than or equal to the cost achieved by participants in the program;

d. take appropriate steps to maximize the district's participation in the Special Education Medicaid Initiative (SEMI) Program, with maximum participation defined by the commissioner; and

e. refinance all outstanding debt for which a 3% net present value savings threshold is achievable.

L.2007, c.53, s.1.

18A:56-1. "Trustees for support of public schools" ; how constituted

The governor, the attorney general, the secretary of state, the state comptroller, the state treasurer and the commissioner of education, shall constitute a board of trustees of the fund for the support of public schools arising from appropriations made by law, or which may arise from gift, grant, bequest, or devise, in the division of investment of the department of the treasury.

The board shall be known as "the trustees for the support of public schools." No compensation shall be paid to the trustees for any services under this chapter.

L.1967, c.271

18A:56-2. Secretary of board; records

The secretary of state shall be the secretary of the board of trustees. He shall record in a book to be kept for that purpose the proceedings of the board and the accounts to be furnished by the state treasurer as directed in this chapter.

L.1967, c.271.

18A:56-3. Statement of fund by state treasurer to board

The state treasurer shall make annually to the board of trustees on the first day of the annual meeting of the legislature, and at such other times as the board shall require, a statement of the school fund, containing an account of the securities belonging thereto with the dates of investment, their values, and the interest arising from each class of securities, together with an account of the moneys in the treasury belonging to the fund.

L.1967, c.271

18A:56-4. Account to legislature of management of fund

An account of the management of the fund shall be laid before the legislature with the annual statements of the state treasurer's accounts.

No compensation shall be paid to the treasurer for any services under this chapter.

L.1967, c.271.

18A:56-5. State lands under water and revenue from sales thereof; restriction on revenue

All lands belonging to this State now or formerly lying under water are dedicated to the support of public schools. All moneys hereafter received from the sales of such lands shall be paid to the board of trustees, and shall constitute a part of the permanent school fund of the State. To the extent that moneys received from the sales of these lands may, by law, be made payable to any purposes other than the school fund, these moneys shall not be paid to other purposes so long as there is a deficiency in the school bond reserve.

L.1967, c.271; amended by L.1980, c. 72, s. 3, eff. July 16, 1980.

18A:56-6. Leases of lands under water; principal or income

All leases of lands so dedicated to the support of public schools shall be held by the board of trustees as a part of the principal of the school fund, and the income arising from such leases shall be a part of the income of the school fund.

L.1967, c.271.

18A:56-7. Deducting expenses of administering lands under water

The sum appropriated for the expenses incurred in the administration of the lands so dedicated to the support of public schools shall be first deducted by the director of the division of budget and accounting in the department of the treasury from moneys derived from the sales, grants, leases, and rentals of such lands.

L.1967, c.271

18A:56-8. Investments

Moneys belonging to the school fund shall be invested by the division of investment in the department of the treasury in the bonds of the several school districts of this state, or in the bonds of the United States, this state, or any county or municipality of this state. No investment shall be made in the bonds of any municipality the total indebtedness of which, including the school debt, shall exceed 30% of the assessed valuation of all the real and personal property therein; but in ascertaining the total indebtedness credit shall be allowed only for such moneys or property as shall be in the sinking fund. No investment shall be made in the bonds of any county the total indebtedness of which shall exceed in the aggregate 15% of the total assessable valuation of all taxable property therein.

Interest on such bonds shall be a part of the income of the school fund.

L.1967, c.271.

18A:56-9. Changing municipal bonds owned by trustees from coupon to registered

The trustees for the support of public schools may arrange with any municipality to change any bonds owned by said trustees from coupon to registered bonds, and the municipality which issued the bonds may detach from the bonds the coupons thereon and cancel the same, and stamp upon the bonds the registration thereof, and make the necessary agreement for the payment of the interest thereon.

L.1967, c.271.

18A:56-10. Stamp of ownership on coupon bonds

Every coupon bond acquired by the board of trustees shall have stamped thereon and upon each coupon, immediately upon the receipt thereof, the following words: "This is the property of the trustees for the support of public schools."

L.1967, c.271.

18A:56-11. Investment in bonds secured by mortgages

No part of the principal or interest of the fund shall be invested in bonds secured by mortgage on lands except as hereinafter provided in the case of purchase money mortgages.

L.1967, c.271

18A:56-12. Mortgage foreclosure proceedings

The board of trustees shall cause actions to foreclose to be commenced without delay whenever the interest on bonds secured by mortgage held by the board as part of the school fund shall remain unpaid for six months. The board may discontinue the actions upon the payment of accrued interest and the costs of such actions.

L.1967, c.271.

18A:56-13. Purchase of lands by board on foreclosure

The board of trustees may bid for and purchase any lands and premises exposed to sale under the order and judgment of any court for the payment and satisfaction of any mortgage thereon held by the board, and may take and hold title to the lands and premises so purchased in and by its official name as a part of the principal of the school fund; but the board shall not bid a higher price for such lands and premises than shall be sufficient to produce the amount due upon the mortgage and costs.

The taxed costs of the foreclosure action and sale, if any, shall be paid by the state treasurer on the warrant of the director of the division of budget and accounting.

L.1967, c.271.

18A:56-14. Sale of real estate held or acquired

All real estate held by the trustees for the support of public schools and all real estate that may be acquired by them under foreclosure proceedings shall be sold, either at private or public sale, at such times and at such prices as will, in the judgment of the board of trustees, be for the best interest of the state. The board may advertise such properties, either at private or public sale, in such manner as it shall determine. The proceeds of the sale shall be paid into the school fund, and shall be invested as other moneys of the fund are invested. The board may lend to the purchaser of any such real estate, one half of the amount of purchase money, the loan to be secured by bond and mortgage on the premises so purchased.

L.1967, c.271.

18A:56-15. Income of funds; use of; payment of premiums on bonds

The income of the school fund shall be paid into the general fund of the state treasury, and shall be used for the support of public schools, the payment of salaries of county superintendents and the payment of accrued interest on bonds purchased for the fund, the payment of interest on, and the purchase of, bonds issued locally for school purposes to the extent and within the limits provided by law, and for no other use or purpose whatsoever. The payment of premiums on bonds purchased shall be made out of the investment account.

L.1967, c.271.

18A:56-16 Certification of anticipated default; purchase of bonds, payment of interest by trustees; State aid treatment.

18A:56-16. In the event that a school district or a county or municipality anticipates that it will be unable to meet the payment of principal or interest on any of its bonds issued for school purposes after December 4, 1958, it shall certify such liability to the commissioner and the Director of the Division of Local Finance at least 10 days prior to the date any such payment is due. If the commissioner and director shall approve said certification, they shall immediately certify the same to the trustees of the fund for the support of public schools. Upon the receipt thereof, or in the event any such district, county or municipality fails to certify its anticipated inability to meet any such payments, upon notice and verification of such inability, the trustees shall, within the limits of the school bond guaranty reserve established within the fund purchase any such bonds at a price equivalent to the face amount thereof or pay to the holder of any such bond the interest due or to become due thereon, as the case may be, and such purchases and payments of interest may continue so long as the district, county or municipality remains unable to make such payments. Upon making any such payment of interest, the trustees of the fund shall be subrogated to all rights of the bondholder against the issuer in respect to the collection of such interest and if such interest is represented by a coupon such coupon shall be delivered to the trustees of the fund.

The State Treasurer shall act as agent of the trustees of the fund in making any such payments or purchases, and he shall prescribe, in consultation with the commissioner, such rules and regulations as may be necessary and proper to effectuate the purposes of this section.

The amount of any payment of interest or purchase price pursuant to this section shall be deducted from the appropriation or apportionment of State aid, other than any State aid which may be otherwise restricted pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), payable to the district, county or municipality and shall not obligate the State to make, nor entitle the district, county or municipality to receive, any additional appropriation or apportionment. Any amount so deducted shall be applied by the State Treasurer to satisfy the obligation of the district, county or municipality arising as a result of the payment of interest or purchase price pursuant to this section.

Amended 1980, c.72, s.4; 2003, c.118, s.1; 2007, c.260, s.75.

18A:56-17. Short title

This act shall be known and may be cited as the "New Jersey School Bond Reserve Act."

L.1980, c. 72, s. 1, eff. July 16, 1980.

18A:56-18. Legislative finding and declaration

The Legislature finds and declares that:

a. It has the authority pursuant to Article VIII, Section IV, paragraph 2 of the State Constitution to secure the payment of principal of and interest on bonds issued for school purposes by counties, municipalities or school districts by means of a pledge of a portion of the assets of the fund for the support of free public schools created by that paragraph of the Constitution;

b. It wishes to exercise its authority under that paragraph in the manner specified in this act to provide a source of funds to act as a reserve for the prompt payment of principal of and interest on bonds issued for school purposes, in the event of the inability of the issuer to make payment, out of that portion of the resources of the fund for the support of free public schools hereinafter pledged for that purpose.

L.1980, c. 72, s. 2, eff. July 16, 1980.

18A:56-19 School bond reserve accounts; establishment; composition; funding of accounts.

5. a. There is established within the fund for the support of free public schools a school bond reserve. The school bond reserve shall consist of two accounts, the old school bond reserve account and the new school bond reserve account. The old school bond reserve account shall be funded in an amount equal to at least 1 1/2 % of the aggregate issued and outstanding bonded indebtedness of counties, municipalities or school districts for school purposes for all such indebtedness issued prior to the effective date of P.L.2003, c.118, exclusive of bonds the debt service for which is provided by State appropriations but not to exceed the moneys available in the account. The new school bond reserve account shall be funded in an amount equal to at least 1% of the aggregate issued and outstanding bonded indebtedness of counties, municipalities or school districts for school purposes for all such indebtedness issued on and after the effective date of P.L.2003, c.118, exclusive of bonds the debt service for which is provided by State appropriations. The school bond reserve shall be composed entirely of direct obligations of the United States Government or obligations guaranteed by the full faith and credit of the United States Government.

b. Securities representing at least one-third of the minimum market value to be held in the school bond reserve shall be due to mature within one year of the date of issuance or purchase. It shall be the duty of the trustees of the fund to determine that the school bond reserve is established at the proper level, based on the market value of the obligations on the effective date of this act, to ascertain annually on or before September 15 the aggregate amount of bonds issued and outstanding and to maintain the old school bond reserve account and the new school bond reserve account at the appropriate levels for the ensuing year based on annual market valuations of the obligations. The trustees are authorized to retain so much of the income earned by the fund in the preceding year as they may determine to be required to maintain each account in the reserve at the levels herein specified. The amount of the reserve held in the old school bond reserve account so established is pledged as security for prompt payment, in accordance with the provisions of N.J.S.18A:56-16, to holders of bonds issued prior to the effective date of P.L.2003, c.118, for school purposes by counties, municipalities or school districts of principal of and interest on the bonds in the event of the inability of the issuer to make payment. The amount of the reserve held in the new school bond reserve account so established is pledged as security for prompt payment, in accordance with the provisions of N.J.S.18A:56-16, to holders of bonds issued on and after the effective date of P.L.2003, c.118, for school purposes by counties, municipalities or school districts of principal of and interest on the bonds in the event of the inability of the issuer to make payment. In the event the amount held in the old school bond reserve account exceeds the amount required to be held pursuant to subsection a. of this section, the excess may be transferred by the State Treasurer to the new school bond reserve account. In the event the amounts in either the old school bond reserve account or the new school bond reserve account fall below the amount required to make payments on bonds, the amounts in both the old school and new school bond reserve accounts shall be available to make payments for bonds secured by the reserve.

c. Beginning with the fiscal year ending on June 30, 2003 and continuing on each June 30 thereafter, the State Treasurer shall calculate the amount necessary to fully fund the old school bond reserve account and the new school bond reserve account as required pursuant to subsection a. of this section. To the extent moneys available under P.L.1967, c.271 (C.18A:56-1 et seq.) are insufficient to maintain each account in the reserve at the required levels, the State hereby agrees that the State Treasurer shall, no later than September 15 of the fiscal year following the June 30 calculation date, pay to the trustees for deposit in the school bond reserve such amounts as may be necessary to maintain the old school bond reserve account and the new school bond reserve account at the levels set forth in subsection a. of this section. No moneys may be borrowed from the fund to provide liquidity to the State unless the 1 1/2% and 1% accounts are at the levels certified as full funding on the most recent June 30 calculation date.

L.1980,c.72,s.5; amended 2003, c.118, s.2.

18A:56-20 School bond legend.

6. a. Bonds issued for school purposes by counties, municipalities or school districts subsequent to the effective date of P.L.1980, c.72 (C.18A:56-17 et seq.) and prior to the effective date of P.L.2003, c.118, shall bear the following legend: "Payment of this obligation is secured under the provisions of the 'New Jersey School Bond Reserve

Act' in accordance with which an amount equal to 1 1/2 % of the aggregate outstanding bonded indebtedness (but not to exceed the moneys available in the fund), of New Jersey counties, municipalities and school districts for school purposes as of September 15 of each year, is held within the State Fund for the Support of Free Public Schools as a school bond reserve pledged by law to secure payments of principal and interest due on such bonds in the event of the inability of the issuer to make payment."

b. Bonds issued for school purposes by counties, municipalities or school districts on and after the effective date of P.L.2003, c.118, shall bear the following legend: "Payment of this obligation is secured under the provisions of the 'New Jersey School Bond Reserve Act' in accordance with which an amount equal to 1% of the aggregate outstanding bonded indebtedness (but not to exceed the moneys available in the fund), of New Jersey counties, municipalities and school districts for school purposes as of September 15 of each year, is held within the State Fund for the Support of Free Public Schools as a school bond reserve pledged by law to secure payments of principal and interest due on such bonds in the event of the inability of the issuer to make payment."

L.1980,c.72,s.6; amended 2003, c.118, s.3.

18A:56-21. Schools facilities financing reserve

6. a. There is hereby established within the fund for the support of free public schools a school facilities financing reserve, to which shall be credited an amount necessary to secure the principal of and interest on school bonds issued to represent the loans that secure the bonds issued by the New Jersey Economic Development Authority pursuant to section 7 of this 1993 amendatory and supplementary act. The amount of the reserve so established shall not exceed the moneys available in the fund or include those amounts in the fund that are obligated for the purposes of the school bond reserve fund established pursuant to section 5 of P.L.1980, c.72 (C.18A:56-19). The reserve shall be pledged as security for prompt payment to the authority by the school districts of the principal and interest on the school bonds issued to represent the loans made under section 7 of this 1993 amendatory and supplementary act in the event of the inability of the school districts to make timely payment. These amounts shall be used by the authority for payment to holders of bonds issued pursuant to section 7 of this 1993 amendatory and supplementary act. The school facilities financing reserve shall be composed entirely of direct obligations of the United States Government or obligations guaranteed by the full faith and credit of the United States Government. Securities representing at least one-third of the minimum market value to be held in the school facilities financing bond reserve shall be due to mature within one year of the date of issuance or purchase.

b. It shall be the duty of the trustees of the fund to determine that the school facilities financing bond reserve is established at the proper level, based on the market value of the obligations to be held therein on the effective date of this 1993 amendatory and supplementary act, to ascertain annually on or before September 15 of each year the aggregate amount of bonds issued by the New Jersey Economic Development Authority pursuant to section 7 of this 1993 amendatory and supplementary act and the amount outstanding, and to maintain the school facilities financing bond reserve at an appropriate level for the ensuing year based on annual market valuations of the obligations. The State Treasurer, acting as agent of the trustees, is authorized to retain as much of the income earned by the fund in the preceding year as he may determine to be required to maintain the school facilities financing bond reserve at the level herein specified.

c. Bonds issued by the New Jersey Economic Development Authority pursuant to section 7 of this 1993 amendatory and supplementary act shall contain, in addition to any other language required to issue the bonds, a statement, in bold print, that the loans that secure the bonds are secured by monies reserved in the fund for the support of free public schools pursuant to the provision of the "Public School Capital Finance Assistance Act."

L.1993,c.102,s.6.

18A:57-1. Payment of income for support of schools

Every county shall pay into the state treasury the interest on the principal of the surplus revenue which shall not have been repaid or redeposited in the state treasury, and the same, and the income on the surplus revenue repaid or redeposited by the county in the state treasury, shall be used for the support of the public schools.

L.1967, c.271.

18A:58-7.1. School lunch program

Each school district or nonprofit nonpublic school participating in the National School Lunch Program shall be reimbursed for each Type A lunch as defined within an approved contract with the Department of Education at a rate not to exceed the maximum amount permissible under Federal regulations for the general-cash-for-food assistance phase of the program. Whenever the Federal funds available to the Department of Education are less than the maximum amount permissible under Federal regulation, the State may provide, within the limitations of available State funds, an amount which, when added to the Federal funds, will equal the maximum amount permissible under Federal regulations for the general-cash-for-food assistance phase of the program.

L.1968, c.176, s.1; amended by L.1971, c. 249, s. 1, eff. July 1, 1971; L.1977, c. 55, s. 2, eff. July 1, 1977.

18A:58-7.1a. Nonprofit nonpublic school defined

As used in this act "nonprofit nonpublic school" means an elementary or secondary school in this State, other than a public school, organized and operated not for profit, offering education for grades kindergarten through 12, or any combination thereof, wherein a child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Federal Civil Rights Act (P.L. 88-352).

L.1977, c. 55, s. 1, eff. July 1, 1977.

18A:58-7.2. School lunch program; additional state aid

Each school district or nonprofit nonpublic school participating in the special assistance phase of the National School Lunch Program as defined within an approved contract with the Department of Education shall be paid an additional State reimbursement for each Type A lunch served free or at a reduced price. Such rate of additional State reimbursement per lunch shall not exceed 50% of the total rate of reimbursement per each such Type A lunch served free or at a reduced price payable from Federal funds.

L.1970, c. 309, s. 1, eff. Dec. 16, 1970. Amended by L.1977, c. 55, s. 3, eff. July 1, 1977.

18A:58-11. Emergency aid

There shall be appropriated annually the sum of \$500,000.00 to be distributed by the commissioner, upon the approval of the State board, to meet unforeseeable conditions, including substantial increases in enrollments, in any school district. The amount of such emergency aid shall be payable by the State Treasurer upon the certificate of the commissioner and the warrant of the Director of the Division of Budget and Accounting.

L.1967, c.271; amended by L.1975, c. 212, s. 45, eff. July 1, 1976.

18A:58-11.1. Loss of tuition to district due to establishment of regional district; state aid for one year

Special State aid may be paid by the Commissioner of Education to any district which experiences a loss of tuition caused by the termination of a sending-receiving relationship due to the establishment of a regional district for 1 year following such loss. The amount of such aid in conjunction with other available resources shall be sufficient to meet the financial need of said district caused by the loss of such tuition.

L.1977, c. 72, s. 1, eff. April 21, 1977.

18A:58-11.2. Rules and regulations

The commissioner shall make such rules and regulations as are necessary for the implementation of this act.

L.1977, c. 72, s. 2, eff. April 21, 1977.

18A:58-19. Certain repealers saved

Section 18 of "An act concerning state aid for schools, making an appropriation therefor, and repealing P.L.1946, c. 63, P.L.1948, c. 66, P.L.1951, c. 227, sections 18:10-49, 18:12-4 through 18:12-9, and 18:15-6 through 18:15-16 of the Revised Statutes and amendments and supplements thereto," approved June 30, 1954 (P.L.1954, c. 85), is saved from repeal.

L.1967, c.271.

18A:58-33.2. Application for additional state building aid; investigation

Whenever a local board of education determines by resolution that it is unable to comply with the provisions of section 18A:33-1 of the New Jersey Statutes, it may file an application for additional State building aid with the Commissioner of Education and the State Board of Education. Upon the receipt of any such application, the Commissioner of Education and the State Board of Education shall cause an investigation of the conditions to be made in the district, taking into consideration the unhoused pupils, rate of pupil population increase, total tax rate of the municipality or municipalities of the district, school tax rate of the district, the net debt of the municipality or municipalities and the school debt, the density of population, the apportionment valuation in support of each child, the number of children on welfare rolls, and such other factors as the commissioner and State board may deem necessary.

L.1968, c. 177, s. 1, eff. July 19, 1968.

18A:58-33.3. Additional state school building aid; maximum amount

(a) If the findings of said investigation show, to the satisfaction of the State Board of Education, that such school district is not able to provide the necessary facilities to comply with the provisions of said section 18A:33-1, the State Board of Education may by its resolution make its determination (1) that such school district is entitled to additional State school building aid in an amount (hereinafter sometimes referred to as the "allocation") not to exceed \$25.00 per student in resident enrollment on September 30, 1968, and (2) that the school district projects or

educational facilities authorized to be undertaken or provided pursuant to ordinance or proposal submitted with said application will assist the school district in providing necessary facilities as aforesaid and the bonds authorized in said ordinance or proposal for financing such projects or educational facilities shall constitute and shall be bonds entitled to the benefits or provisions of this act. The Commissioner of Education shall be and is hereby authorized to endorse upon any copy of such ordinance or proposal a certification thereof as being the ordinance or proposal as to which a determination of the State Board of Education has been made as aforesaid, and such endorsement shall be made in such form or manner as the commissioner shall determine.

(b) Any resolution of the State Board of Education adopted prior to April 1, 1970, setting forth a declaration or determination as to the amount of additional State school building aid to which any school district shall be entitled under this act by reference to the average daily enrollment of such school district shall be held and construed to be a reference to the resident enrollment of students of such school district on September 30, 1968, and the amount of such additional State school building aid shall constitute the allocation with respect to such school district for any and all purposes provided in this act and the amount to be received annually by or with respect to such school district pursuant to the provisions of this act.

(c) The Commissioner of Education, the State Board of Education, the State Treasurer and the local finance board are each hereby authorized and empowered to consider any application of any school district with respect to additional State school building aid in connection with any school district projects or educational facilities authorized to be undertaken or provided pursuant to an ordinance or proposal submitted with such application, notwithstanding that such ordinance or proposal was adopted, approved or became effective prior to April 1, 1970 and provided that such ordinance or proposal had not been adopted, approved or become effective prior to January 1, 1968, and to make or provide any and all investigations, determinations, endorsements, certifications, considerations, approvals, restrictions, limitations, consents, resolutions, estimates or approvals, which may be required or provided for by this act with respect to any such ordinance or proposal, school district or school district projects or educational facilities, as if such ordinance or proposal had not been adopted, approved or become effective, and any bonds authorized by such ordinance or proposal shall be entitled to all the benefits of the provisions of this act.

L.1968, c. 177, s. 2, eff. July 19, 1968. Amended by L.1969, c. 136, s. 1, eff. July 3, 1969; L.1970, c. 125, s. 1, eff. June 30, 1970.

18A:58-33.4. Approval of additional aid and proposal authorizing bonds by state treasurer and local finance board; bonds entitled to benefits of this act

(a) A copy of said resolution of the State Board of Education determining a school district to be entitled to additional State school building aid, together with a copy of said ordinance or proposal bearing the endorsement of the Commissioner of Education, shall be submitted to the State Treasurer for his consideration. If the State Treasurer is satisfied after investigation either, (a) that the payment of the debt service (interest and principal) on the bonds proposed to be authorized by such ordinance or proposal will not cause the amount of additional State school building aid to be paid pursuant to this act to exceed the sum herein provided (with respect to such school district), or (b) that the payment of the debt service (interest and principal) in each year on the bonds authorized by such ordinance or proposal will not exceed the allocation with respect to such school district, he shall endorse his approval to that effect upon the copy of such ordinance or proposal.

(b) A copy of any such ordinance or proposal authorizing bonds for school purposes and bearing said endorsements of the Commissioner of Education and State Treasurer, shall be submitted to the local finance board for its consideration, and the local finance board in considering such copy of any ordinance or proposal submitted to it and before endorsing its consent thereon may require the governing body of any municipality or board of education of any school district submitting any such ordinance or proposal to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the local finance board to affect any estimate made or to be made by it in accordance with subsection (c) hereof, and every such resolution so adopted shall constitute a valid and binding obligation of such municipality or school district, as the case may be, running to and enforceable by, and releasable by, the local finance board.

(c) Within 60 days after such submission to it, the local finance board shall cause its consent to be endorsed upon such copy of any ordinance or proposal authorizing such bonds, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the school district projects or educational facilities to be financed pursuant to such ordinance or proposal are not unreasonable or exorbitant; and that issuance of the bonds, proposed to be authorized by such ordinance or proposal, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the local finance board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

(d) Any bonds entitled to the benefits of the provisions of this act, shall be deductible in determining the net school debt of any school district for any purpose or computation under section 18A:24-19 of the New Jersey Statutes, and the amount of all

such bonds shall be deducted from the gross debt of any municipality constituting the whole or any part of such school district for any of the purposes of section 40A:2-44 of the New Jersey Statutes and shall be a deduction within the meaning and for the purpose of clause (g) of said section to any extent that such bonds are not deductible under clause (a) or clause (b) of said section, and shall at all times constitute a deduction from gross debt on any annual or supplemental debt statement of such municipality.

(e) All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A, Education, of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Any bonds entitled to the benefits of the provisions of this act shall be authorized and issued in the manner provided for in Title 18A, Education, of the New Jersey Statutes, and notwithstanding the provisions of section 18A:24-19 of the New Jersey Statutes. Compliance with the provisions of this act by or on behalf of any school district or municipality shall make it unnecessary to comply with any of the provisions of sections 18A:24-20 through 18A:24-27 of the New Jersey Statutes, and such sections shall not be applicable with respect to authorization or issuance of any bonds entitled to the benefits of the provisions of this act. Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date and without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in Title 18A, Education, of the New Jersey Statutes.

(f) The Commissioner of Education is hereby authorized and directed to establish and maintain records pertaining to each issue of bonds entitled to the benefits of this act and setting forth as to such bonds the amount to be payable in each year on account of debt service (interest and principal) on such bonds, and such records as aforesaid shall be conclusive as to the amount so payable on account of such debt service, and the Commissioner of Education is hereby authorized and empowered to certify for any purpose such amounts as so payable on account of debt service with respect to such bonds. A school district or municipality authorized to issue such bonds may make application to the Commissioner of Education and the local finance board setting forth request for adjustment as to amount payable in any year on account of debt service with respect to such bonds, and the Commissioner of Education and the local finance board are each hereby authorized and empowered to grant such request if it shall be found that such request is reasonable and in the financial interest of such school district or municipality, and that the requested adjustment as to the amount payable in any year for debt service (principal and interest) on such bonds does not exceed the amount of the allocation then applicable as to such year with respect to such school district or municipality. The Commissioner of Education shall cause such records to be adjusted and shall certify by reference to such records the adjusted debt service with respect to such bonds after giving effect to such request, and such bonds shall thereafter be eligible with respect to payments hereunder for debt service (principal and interest) in accordance with such certification. Upon issuance of any bonds benefiting under this act the chief financial officer of the school district or municipality issuing such bonds shall, within 30 days after issuance of such bonds, certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds in each year and the name and address of the paying agent or paying agents for such bonds or notes, and upon receipt of such certification, the Commissioner of Education shall thereupon cause such records to be adjusted with respect to such bonds giving effect to any increase or decrease resulting in any year as to payments on account of interest on or principal of such bonds as shown by said certification of said chief financial officer. Any certification by the Commissioner of Education with respect to bonds to the effect that such bonds are entitled to the benefits of the provisions of this act or as to amount payable in any year for debt service (principal and interest) on such bonds shall be fully conclusive as to such bonds from and after the time of issuance of such bonds, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds, provided that such bonds contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds are entitled to the benefits of the provisions of this act.

(g) Any school district or municipality which has authorized bonds and which are entitled to the benefits of this act, may issue temporary notes or loan bonds (hereinafter called "obligations") in anticipation of the issuance of permanent bonds to the extent permitted or provided for by or pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes and any other laws applicable, in principal amount not in excess of the principal amount of the permanent bonds and subject to such additional terms or conditions with respect to such obligations as may be fixed or required by the Commissioner of Education or the local finance board under authority of this act. The amount and details of any such obligations issued and the interest payable thereon and the name and address of the paying agent or paying agents for such bonds or notes shall be certified by the chief financial officer of such school district or municipality to the Commissioner of Education. The whole or any part of the allocation then applicable to any school district pursuant to this act is hereby authorized to be paid in any year in which such obligations are outstanding and notwithstanding that permanent bonds have not been issued, pursuant to such terms and conditions as may be determined by the Commissioner of Education, for use and application of the amount so paid to the payment of interest on such obligations and so much of the principal thereof in any such year as shall be determined by said commissioner. The determination of the commissioner hereunder provided for shall be conclusive as to such matters, and receipt of the amount of such allocation so paid

shall be used and applied only for the payment of the interest on the principal of such obligations in accordance with such determination by said commissioner.

(h) No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State. All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf of the school district or municipality issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

(i) Pending application to the purposes for which bonds or notes entitled to the benefits of this act are issued, the proceeds of such bonds or notes shall be invested or deposited subject to regulations prescribed by the State Treasurer. On January 10 in each year the custodian of school moneys of a Type II school district or the chief financial officer of the municipality of a Type I school district, as the case may be, shall certify and pay to the State Treasurer the amount of earnings received during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, which amounts shall be held by him and applied only to the payment of principal and interest on such bonds or notes.

L.1968, c. 177, s. 3, eff. July 19, 1968. Amended by L.1969, c. 136, s. 3, eff. July 3, 1969; L.1970, c. 125, s. 2, eff. June 30, 1970; L.1971, c. 46, s. 1, eff. March 12, 1971.

18A:58-33.5. Inclusion in annual budget; payment of debt service on bonds

As provided in this act, every school district shall be entitled to receive annually the amount of the additional State school building aid (the allocation) determined in the resolutions of the State Board of Education and the State Board of Education shall include such amount in its annual budget for building aid for the school district. Amounts of such building aid paid under this act shall be used only for the payment of debt service (interest and principal) on bonds entitled to the benefits of the provisions of this act, in accordance with said resolution, except to the extent otherwise provided in this act with respect to obligations issued in anticipation of such bonds; provided, (a) that no proposal authorizing such bonds was approved prior to January 1, 1968 either by the voters or the board of school estimate, and no permanent bonds were issued thereunder prior to January 13, 1970, and (b) that the total principal amount of bonds entitled to the benefits of the provisions of this act in accordance with resolutions adopted by the State Board of Education pursuant to the provisions of this act, and for the payment of the debt service (interest and principal) as to which bonds additional school building aid may be paid pursuant to this act, shall not exceed \$90,000,000.00.

L.1968, c. 177, s. 4, eff. July 19, 1968. Amended by L.1969, c. 136, s. 3, eff. July 3, 1969; L.1969, c. 278, s. 1, eff. Jan. 13, 1970; L.1970, c. 125, s. 4, eff. June 30, 1970.

18A:58-33.6. Short title

This act may be cited as the "Additional State School Building Aid Act of 1970."

L.1971, c. 10, s. 1, eff. Jan. 21, 1971.

18A:58-33.7. Additional aid for payment of debt service on bonds and notes; limitations

Additional State school building aid shall be made available to school districts in accordance with the provisions of this act for the payment of debt service (interest and principal) on bonds and notes (as hereinafter defined) entitled to the benefits of this act, provided that the amount of aid payable in any year to any school district shall not exceed an amount equal to \$25.00 per pupil in resident enrollment in such school district on September 30, 1969, and provided further that the total principal amount of bonds entitled to the benefits of this act shall not exceed \$90,000,000.00.

L.1971, c. 10, s. 2, eff. Jan. 21, 1971.

18A:58-33.8. Resolution of need; application by board of education; investigation; report

Whenever the board of education of a school district shall determine by resolution that it is unable to provide suitable educational facilities to comply with the provisions of section 18A:33-1 of the New Jersey Statutes, it may file an application with the Commissioner of Education for additional State school building aid under this act. Upon the receipt of such application, the Commissioner of Education shall cause an investigation to be made of the conditions in the district, taking into consideration the number of unhoused pupils, the rate of pupil population increase, the total tax rate of the municipalities in the district, the school tax rate of the district, the net debt of such municipalities and the school debt, the density of population, the apportionment valuations allocable with respect to each child in the school district,

the number of children on welfare rolls, existing and proposed educational facilities and all such other factors as said commissioner or the State Board of Education may deem necessary for the purpose of this act. The Commissioner of Education shall report the results of such investigation to the State Board of Education and may include therein an evaluation of the ability of such school district to provide suitable educational facilities to comply with the provisions of said section 18A:33-1, and of the need of such school district for additional State school building aid under this act, advice as to the resident enrollment in such school district as of September 30, 1969 as shown by records with respect thereto on file in his office, recommendation as to the amount (if any) of entitlement (as hereinafter defined) proposed with respect to said school district, and such further information with respect to such school district as requested or required by said board.

L.1971, c. 10, s. 3, eff. Jan. 21, 1971.

18A:58-33.9. Resolution by state board of education; submission of ordinance or proposal authorizing issuance of bonds; endorsement

(a) If the State Board of Education shall find that such school district is not able to provide the suitable educational facilities to comply with the provisions of said section 18A:33-1 the State Board of Education shall by resolution determine: (1) that such school district is entitled to receive additional State school building aid pursuant to this act, (2) the number of pupils in resident enrollment in such school district on September 30, 1969 for purposes of computation under this act, (3) the principal amount of bonds (which amount is hereinafter sometimes referred to as the "entitlement") which are to be entitled to the benefits of the provisions of this act, and (4) the maturity schedule for such principal amount of bonds approved by said board.

(b) At any time within 1 year after the adoption by the State Board of Education of the resolution referred to in subparagraph (a) with respect to a particular school district, said school district may submit to the Commissioner of Education a copy of a proposal or ordinance authorizing the issuance of bonds entitled to the benefits of this act in accordance with said resolution. If no such proposal or ordinance is submitted within 1 year the said resolution shall be of no further force and effect and the commissioner shall so notify said school district. The Commissioner of Education shall be and is hereby authorized to endorse upon any copy of such proposal or ordinance a certification thereof as being the proposal or ordinance as to which a determination of the State Board of Education has been made as aforesaid, and such endorsement shall be made in such form or manner as said commissioner shall determine.

L.1971, c. 10, s. 4, eff. Jan. 21, 1971.

18A:58-33.10. Approval by local finance board; endorsement

(a) A copy of the resolution of the State Board of Education referred to in section 4(a) and a copy of the proposal or ordinance referred to in section 4(b), bearing the endorsement of the Commissioner of Education as aforesaid, shall be submitted to the Local Finance Board in the Division of Local Finance for its consideration, and the Local Finance Board in considering such copy of proposal or ordinance submitted to it and before endorsing its consent thereon may require the board of education of any school district or the governing body of any municipality in such school district to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the Local Finance Board to affect any estimate made or to be made by it in accordance with subsection (b) hereof, and every such resolution so adopted shall constitute a valid and binding obligation of such school district or municipality, as the case may be, running to and enforceable by, and releasable by, the Local Finance Board.

(b) Within 60 days after such submission to it, the Local Finance Board shall cause its consent to be endorsed upon such copy of any proposal or ordinance authorizing such bonds, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the education facilities to be financed pursuant to such proposal or ordinance are not unreasonable or exorbitant, and that issuance of the bonds, to be authorized by such proposal or ordinance, will not materially impair the credit of any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1971, c. 10, s. 5, eff. Jan. 21, 1971.

18A:58-33.11. Change in maturity schedule for bonds; resolution; approval; endorsement

(a) If the board of education of a school district shall determine by resolution that the maturity schedule for bonds entitled to the benefits of this act, other than the maturity schedule approved by the State Board of Education by resolution pursuant to section 4(a) of this act, is in the best interest of said school district, it may make application to the State Board of Education setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such bonds set forth in the application. If the State Board of Education, by resolution, shall find that the schedule of maturities set forth in the application is in the best interest of the school district and the State, it shall cause its approval to be endorsed thereon and shall forward said application to the Local Finance Board.

(b) Within 60 days after submission to the Local Finance Board of an application in accordance with section 6(a) of this act, it shall cause its approval to be endorsed thereon if it shall be satisfied and shall record by resolution its findings that the belief set forth in such application is well founded and that issuance of the bonds mentioned and described in such application would not materially impair the credit of any municipality comprised within the school district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied, it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1971, c. 10, s. 6, eff. Jan. 21, 1971.

18A:58-33.12. Deduction of bonds from school debt and gross debt of municipality

Any bonds entitled to the benefits of the provisions of this act, shall be deducted from the school debt in determining the net school debt of any school district for any purpose or computation under section 18A:24-19 of the New Jersey Statutes, and the amount of all such bonds shall be deducted from the gross debt of any municipality constituting the whole or any part of such school district pursuant to section 40A:2-44(g) of the New Jersey Statutes.

L.1971, c. 10, s. 7, eff. Jan. 21, 1971.

18A:58-33.13. Issuance of bonds; contents; limitation on maturity

All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A, Education, of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Except as otherwise provided in this act, any bonds entitled to the benefits of the provisions of this act shall be authorized and issued in the manner provided for in said Title 18A. Compliance with the provisions of this act by or on behalf of any school district or municipality shall make it unnecessary to comply with any of the provisions of sections 18A:24-20 through 18A:24-27 of the New Jersey Statutes, and such sections shall not be applicable with respect to authorization or issuance of any bonds entitled to the benefits of the provisions of this act. Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date, without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in said Title 18A.

L.1971, c. 10, s. 8, eff. Jan. 21, 1971.

18A:58-33.14. Temporary notes or loan bonds; issuance

Any school district or municipality which has authorized bonds which are entitled to the benefits of this act, may issue temporary notes or loan bonds (hereinafter called "notes") in anticipation of the issuance of permanent bonds to the extent permitted or provided by or pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes or any other laws applicable, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the Commissioner of Education to insure that funds are borrowed only as needed to meet required payments for construction or acquisition of the educational facilities to be financed by the issuance of permanent bonds.

L.1971, c. 10, s. 9, eff. Jan. 21, 1971.

18A:58-33.15. Certification of annual debt service; conclusiveness of entitlement to benefits of act

Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the chief financial officer of the school district or municipality issuing such bonds or notes shall certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds or notes in each year and the name and address of the paying agent or paying agents for such bonds or notes. The Commissioner of Education shall thereupon verify said amounts and certify the same to the State Treasurer together with the name and address of the paying agent or paying agents for such bonds or notes. The certification by the Commissioner of Education as to amount payable in any year for debt service (principal and interest) on such bonds or notes shall be fully conclusive as to such bonds or notes from and after the time of issuance of such bonds or notes, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds or notes, provided that such bonds or notes contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds or notes are entitled to the benefits of the provisions of this act.

L.1971, c. 10, s. 10, eff. Jan. 21, 1971. Amended by L.1971, c. 46, s. 2, eff. March 12, 1971.

18A:58-33.16. Entitlement of school district to aid under act; additional aid

Any school district shall be eligible for an entitlement hereunder, and any entitlement may be made hereunder with respect to any school district, notwithstanding that such school district may then be eligible for or shall have heretofore received or shall hereafter receive additional State school building aid or any entitlement with respect thereto under any other act, it being the legislative intent that additional State school building aid hereunder provided shall be independent of, or may be in addition to, any such aid received or to be received as aforesaid. Any school district,

with respect to which any determination as to additional State school building aid or any entitlement has been theretofore made pursuant to this act, may make application for further additional State school building aid and for further entitlement, or increase or revision in any such entitlement theretofore made, provided that the aggregate amount of State aid for any school district in any year pursuant to this act shall not exceed the amount specified in section 2 of this act.

L.1971, c. 10, s. 11, eff. Jan. 21, 1971.

18A:58-33.17. Authorization for commissioner of education, state board of education and local finance board to consider application for aid; annual review

The Commissioner of Education, the State Board of Education and the Local Finance Board are each hereby authorized and empowered to consider any application of any school district with respect to additional State school building aid under this act in connection with any educational facilities authorized to be undertaken pursuant to Title 18A of the New Jersey Statutes notwithstanding that such facilities were authorized or approved prior to the taking effect of this act. The State board shall, within 1 year from the date on which this act shall become effective and during each succeeding year, review the status of educational facilities of each school district, which is entitled to receive additional state building aid pursuant to this act. Said reviews shall continue annually until such facilities are completed.

L.1971, c. 10, s. 12, eff. Jan. 21, 1971.

18A:58-33.18. Payment of moneys on behalf of school districts to paying agent

All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf of the school district or municipality issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

L.1971, c. 10, s. 13, eff. Jan. 21, 1971. Amended by L.1971, c. 46, s. 3, eff. March 12, 1971.

18A:58-33.19. Annual payments to school districts and municipalities; use

As provided in this act, every school district and municipality which shall be entitled thereto, shall receive annually the amount of its additional State school building aid and the State Board of Education shall include such amount thereof in its annual budget for building aid for such school district. Amounts of such building aid paid under this act shall be used for the payment of debt service (interest and principal) on bonds or notes entitled to the benefits of the provisions of this act.

L.1971, c. 10, s. 14, eff. Jan. 21, 1971.

18A:58-33.20. Investment or deposit of proceeds; disposition of income

Pending application to the purposes for which bonds or notes entitled to the benefits of this act are issued, the proceeds of such bonds or notes shall be invested or deposited subject to regulations prescribed by the State Treasurer. On January 10 in each year the custodian of school moneys of a Type II school district or the chief financial officer of the municipality of a Type I school district, as the case may be, shall certify and pay to the State Treasurer the amount of earnings received during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, which amounts shall be held by him and applied only to the payment of principal and interest on such bonds or notes.

L.1971, c. 46, s. 4, eff. March 12, 1971.

18A:58-33.21. Designation of paying agent

No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State.

L.1971, c. 46, s. 5, eff. March 12, 1971.

18A:58-33.22. Short title

This act may be cited as the "Additional State School Building Aid Act."

L.1978, c. 74, s. 1, eff. July 13, 1978.

18A:58-33.23. Legislative findings

The Legislature finds:

a. That there are many school districts in the State which should immediately renovate or replace aged and deteriorated school buildings and construct new facilities in order to provide suitable educational facilities pursuant to the provisions of N.J.S. 18A:33-1.

b. That there is a serious shortage of vocational facilities at the secondary level for handicapped pupils between the ages of 13 and 21 who would benefit from vocational education.

c. Additional State building aid is needed to provide financial assistance which would permit local school districts, county special services school districts and county vocational school districts to immediately begin capital projects to meet such needs.

d. The New Jersey Commission on Capital Budgeting and Planning has recommended that an Additional State Aid Program be authorized to finance such capital projects.

L.1978, c. 74, s. 2, eff. July 13, 1978.

18A:58-33.24. Renovation, replacement or new construction of facilities and capital projects for secondary level vocational facilities for handicapped; additional aid for payment of debt service on bonds and notes; limitations

Additional State school building aid shall be made available to school districts, county special services school districts and county vocational school districts in accordance with the provisions of this act for the payment of debt service (interest and principal) on bonds and notes (as hereinafter defined) entitled to the benefits of this act, provided that the amount of bonds entitled to the benefits of this act shall not exceed \$100,000,000.00, and provided further that of the total principal amount of the bonds, no more than \$80,000,000.00 shall be allocated to the renovation or replacement of aged and deteriorated school buildings and construction of new facilities in districts with financial need and no more than \$40,000,000.00 shall be allocated to the expansion and establishment of secondary vocational educational facilities to serve handicapped students between the ages of 13 and 21 who would benefit from vocational education in local school districts, county special services school districts and county vocational school districts with financial need. The amount of aid payable to any local school district for the renovation or replacement of aged and deteriorated school buildings and construction of new facilities shall not exceed an amount equal to 20% of the total aid allocated to this program and in any year such aid shall not exceed an amount equal to \$25.00 per pupil in resident enrollment in such school district on September 30, 1976. The amount of aid payable in any year to any local school district, county special services school districts or county vocational school district for the expansion and construction of secondary vocational education facilities to serve handicapped students between the ages of 13 and 21 shall be no more than 75% of the total debt service of bonds and notes for secondary vocational education projects constructed under the provisions of this act and shall not exceed an amount equal to the number of handicapped pupils between the ages of 13 and 21 enrolled in such school district whose vocational education needs were not met due to the lack of suitable facilities prior to any application date for funds under this act, multiplied by a standard per student construction cost, established pursuant to guidelines promulgated by the Commissioner of Education.

L.1978, c. 74, s. 3, eff. July 13, 1978.

18A:58-33.25. Resolution of need; application by board of education; investigation; report

a. Whenever the board of education of a local school district shall determine by resolution that it is unable to provide suitable general purpose educational facilities to comply with the provisions of N.J.S. 18A:33-1, it may file an application with the Commissioner of Education for additional State school building aid under this act. Upon the receipt of such application, the Commissioner of Education shall cause an investigation to be made of the conditions in the district, taking into consideration the number of unhoused pupils, number of years on split or curtailed sessions, the rate of pupil population increase, the total tax rate of the municipalities in the district, the school tax rate of the district, the net debt of such municipalities and the school debt, the density of population, the equalized valuations allocable with respect to each child in the school district, the number of children on welfare rolls, effects of judicial determinations prior to the enactment hereof concerning constitutional requirements of equal educational opportunity, existing and proposed educational facilities and all such other factors as said commissioner or the State Board of Education may deem necessary for the purpose of this act. The Commissioner of Education shall report the results of such investigation to the State Board of Education and may include therein an evaluation of the ability of such school district to provide suitable educational facilities to comply with the provisions of N.J.S. 18A:33-1, and of the need of such school district for additional State school building aid under this act, advice as to the resident enrollment in such school district as of September 30, 1976 as shown by records with respect thereto on file in his office, recommendation as to the amount (if any) of entitlement (as hereinafter defined) proposed with respect to said school district, and such further information with respect to such school district as requested or required by said board.

b. Whenever the board of education of a local school district, county special services school district or county vocational school district shall determine by resolution that there are handicapped students between the ages of 13 and 21 who would benefit from vocational education but are not enrolled in such a program and that it is unable to provide suitable facilities for such pupils, it may file an application with the Commissioner of Education for additional State school building aid under this act and forward its plan to provide secondary vocational facilities for handicapped pupils to the County Career Education Coordinating Council. Upon the receipt of such

application the County Career Education Coordinating Council shall review the facilities plan as soon as possible and forward its recommendations to the Commissioner of Education forthwith. Upon the receipt of such application from a local school district, the Commissioner of Education shall cause an investigation to be made of the conditions of the district, taking into consideration the number of handicapped pupils between the ages of 13 and 21 who would benefit from such a program and are not presently enrolled in vocational programs due to the lack of facilities, the projected increase or decrease of such pupils in future years, the total tax rate of the municipalities in the district, the school tax rate of the district, the net debt of such municipalities and the school debt, the equalized valuations allocable with respect to each child in the school district, effects of judicial determinations prior to the enactment hereof concerning constitutional requirements of equal educational opportunity, existing and proposed education facilities, the recommendations of the County Career Education Coordinating Council and all such other factors as said commissioner or State Board of Education may deem necessary for the purpose of this act. Upon the receipt of such application from a county special services school district or a county vocational school district, the Commissioner of Education shall cause an investigation to be made of the conditions of the district, taking into consideration the number of handicapped pupils between the ages of 13 and 21 who would benefit from such a program and are not presently enrolled in vocational programs due to the lack of facilities, the projected increase of such pupils in future years, the county vocational school debt, the county debt, the total tax rate of the county, the county average equalized valuations per pupil, existing and proposed educational facilities, the recommendations of the County Career Education Coordinating Council and all such factors as said commissioner or State Board of Education may deem necessary for the purpose of this act. The Commissioner of Education shall report the results of such investigations to the State Board of Education and may include therein an evaluation of the ability of such school district to provide suitable secondary vocational educational facilities for handicapped pupils, and of the need of such school district for additional State school building aid under this act, advice as to the enrollment of handicapped pupils in such school as of the effective date of this act as shown by records with respect thereto on file in his office, recommendation as to the amount (if any) of entitlement (as hereinafter defined) proposed with respect to said school district, and such further information with respect to such school district as requested or required by said board.

L.1978, c. 74, s. 4, eff. July 13, 1978.

18A:58-33.26. Resolution by state board of education; submission of ordinance or proposal authorizing issuance of bonds by local board; endorsement

a. If the State Board of Education shall find that any such school district is not able to provide the suitable educational facilities described hereinabove the State Board of Education shall by resolution determine (1) that such school district is entitled to receive additional State school building aid pursuant to this act, (2) the number of pupils in resident enrollment in such school district on September 30, 1976 for purposes of computation under this act or the number of handicapped pupils between the ages of 13 and 21 whose vocational education needs were not met prior to the enactment of this act, (3) the principal amount of bonds (which amount is hereinafter sometimes referred to as the "entitlement") which are to be entitled to the benefits of the provisions of this act, and (4) the maturity schedule for such principal amount of bonds approved by said board.

b. At any time within 2 years after the adoption by the State Board of Education of the resolution referred to in subsection a. with respect to a particular school district, said school district may submit to the Commissioner of Education a copy of a proposal or ordinance authorizing the issuance of bonds entitled to the benefits of this act in accordance with said resolution, provided that such ordinance or proposal had not been adopted, approved or become effective prior to January 1, 1978, and to make or provide any and all investigations, determinations, endorsements, certifications, considerations, approvals, restrictions, limitations, consents, resolutions, estimates or approvals, which may be required or provided by this act with respect to any such ordinance or proposal, school district or school district projects or educational facilities, as if such ordinance or proposal had not been adopted, approved or become effective, and any bonds authorized by such ordinance or proposal shall be entitled to all the benefit of this act. If no such proposal or ordinance is submitted within 2 years the said resolution shall be of no further force and effect and the commissioner shall so notify said school district. The Commissioner of Education shall be and is hereby authorized to endorse upon any copy of such proposal or ordinance a certification thereof as being the proposal or ordinance as to which a determination of the State Board of Education has been made as aforesaid, and such indorsement shall be made in such form or manner as said commissioner shall determine.

L.1978, c. 74, s. 5, eff. July 13, 1978. Amended by L.1980, c. 33, s. 1, eff. June 3, 1980: L.1980, c. 162, s. 1, eff. Dec. 1, 1980.

18A:58-33.27. Additional aid if proration or approval of less than full entitlement

If the State Board of Education shall determine that it is necessary and appropriate to prorate or approve less than the full entitlement for all the qualifying school districts, the board, after receiving the recommendation of the commissioner, may provide additional aid up to 10% of the district's full entitlement for districts which submit plans for facilities that provide general community or social services.

L.1978, c. 74, s. 6, eff. July 13, 1978.

18A:58-33.28. Submission to local finance board; endorsement of consent or disapproval

a. A copy of the resolution of the State Board of Education referred to in subsection a. of section 5 and a copy of the proposal or ordinance referred to in subsection b. of section 5, bearing the endorsement of the Commissioner of Education as aforesaid, shall be submitted to the Local Finance Board in the Department of Community Affairs for its consideration, and the Local Finance Board in considering such copy of proposal or ordinance submitted to it and before endorsing its consent thereon may require the county, the board of education of any school district or the governing body of any municipality in such school district to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the Local Finance Board to affect any estimate made or to be made by it in accordance with subsection b. hereof, and every such resolution so adopted shall constitute a valid and binding obligation of such school district, municipality or county, as the case may be, running to and enforceable by, and releasable by, the Local Finance Board.

b. Within 60 days after such submission to it, the Local Finance Board shall cause its consent to be endorsed upon such copy of any proposal or ordinance authorizing such bonds, if it shall be satisfied, and shall record by resolution, its estimates that the amounts to be expended for the education facilities to be financed pursuant to such proposal or ordinance are not unreasonable or exorbitant, and that issuance of the bonds, to be authorized by such proposal ordinance, will not materially impair the credit of the county, any municipality comprised within the district or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1978, c. 74, s. 7, eff. July 13, 1978.

18A:58-33.29. Change in maturity schedule for bonds; resolution; approval; endorsement

a. If the board of education of a school district shall determine by resolution that the maturity schedule for bonds entitled to the benefits of this act, other than the maturity schedule approved by the State Board of Education by resolution pursuant to subsection a. of section 5 of this act, is in the best interest of said school district, it may make application to the State Board of Education setting forth such belief and the grounds therefor and requesting approval of a schedule of maturities for such bonds set forth in the application. If the State Board of Education, by resolution, shall find that the schedule of maturities set forth in the application is in the best interest of the school district and the State, it shall cause its approval to be endorsed thereon and shall forward said application to the Local Finance Board.

b. Within 60 days after submission to the Local Finance Board of an application in accordance with subsection a. of section 8 of this act, it shall cause its approval to be endorsed thereon if it shall be satisfied and shall record by resolution its findings that the belief set forth in such application is well founded and that issuance of the bonds mentioned and described in such application would not materially impair the credit of the county or any municipality comprised within the school district or substantially reduce their ability, during the ensuing 10 years, to pay punctually the principal and interest of its debts and supply essential public improvements and services, but if the Local Finance Board is not so satisfied, it shall cause its disapproval to be endorsed on such copy within said period of 60 days.

L.1978, c. 74, s. 8, eff. July 13, 1978.

18A:58-33.30. Deduction of bonds from school debt and gross debt of county or municipality

Any bonds entitled to the benefits of the provisions of this act, shall be deducted from the school debt in determining the net school debt of any school district for any purpose or computation under N.J.S. 18A:24-19, and the amount of all such bonds shall be deducted from the gross debt of any county or municipality constituting the whole or any part of such school district pursuant to N.J.S. 40A:2-44g.

L.1978, c. 74, s. 9, eff. July 13, 1978.

18A:58-33.31. Issuance of bonds; contents; limitation on maturity

All of such bonds when issued shall contain a recital to the effect that they are issued pursuant to Title 18A, Education, of the New Jersey Statutes and are entitled to the benefits of the provisions of this act. Except as otherwise provided in this act, any bonds entitled to the benefits of the provisions of this act shall be authorized and issued in the manner provided for in said Title 18A. Compliance with the provisions of this act by or on behalf of any school district or municipality shall make it unnecessary to comply with any of the provisions of N.J.S. 18A:24-20 through N.J.S. 18A:24-27, and such sections shall not be applicable with respect to authorization or issuance of any bonds entitled to the benefits of the provisions of this act. Bonds entitled to the benefits of the provisions of this act shall mature not later than 30 years from their date, without regard to any limitations as to maturities or amounts of annual installments for such bonds as provided in said Title 18A.

L.1978, c. 74, s. 10, eff. July 13, 1978.

18A:58-33.32. Temporary notes or loan bonds; issuance

Any school district, municipality or county which has authorized bonds which are entitled to the benefits of this act, may issue temporary notes or loan bonds (hereinafter called "notes") in anticipation of the issuance of permanent bonds to the extent permitted or provided by or pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes or any other laws applicable, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the Commissioner of Education to insure that funds are borrowed only as needed to meet required payments for construction or acquisition of the educational facilities to be financed by the issuance of permanent bonds.

L.1978, c. 74, s. 11, eff. July 13, 1978.

18A:58-33.33. Certification of annual debt service; conclusiveness of entitlement to benefits of act

Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the chief financial officer of the school district, municipality or county issuing such bonds or notes shall certify to the Commissioner of Education the exact amount payable on account of debt service (interest and principal) on such bonds or notes in each year and the name and address of the paying agent or paying agents for such bonds or notes. The Commissioner of Education shall thereupon verify said amounts and certify the same to the State Treasurer together with the name and address of the paying agent or paying agents for such bonds or notes. The certification by the Commissioner of Education as to amount payable in any year for debt service (principal and interest) on such bonds or notes shall be fully conclusive as to such bonds or notes from and after the time of issuance of such bonds or notes, notwithstanding any irregularity, omission or failure as to compliance with any of the provisions of this act with respect to such bonds or notes, provided that such bonds or notes contain a recital to the effect that they are entitled to the benefits of the provisions of this act, and all persons shall be forever estopped from denying that such bonds or notes are entitled to the benefits of the provisions of this act.

L.1978, c. 74, s. 12, eff. July 13, 1978.

18A:58-33.34. Entitlement of school district to aid under act; additional aid

Any school district shall be eligible for an entitlement hereunder, and any entitlement may be made hereunder with respect to any school district, notwithstanding that such school district may then be eligible for or shall have heretofore received or shall hereafter receive additional State school building aid or any entitlement with respect thereto under any other act, it being the legislative intent that additional State school building aid hereunder provided shall be independent of, or may be in addition to, any such aid received or to be received as aforesaid. Any school district, with respect to which any determination as to additional State school building aid or any entitlement has been theretofore made pursuant to this act, may make application for further additional State school building aid and for further entitlement, or increase or revision in any such entitlement theretofore made, provided that the aggregate amount of State aid for any school district in any year pursuant to this act shall not exceed the amount specified in section 3 of this act.

L.1978, c. 74, s. 13, eff. July 13, 1978.

18A:58-33.35. Authorization for commissioner of education, state board of education and local finance board to consider application for additional aid; annual review

The Commissioner of Education, the State Board of Education and the Local Finance Board are each hereby authorized and empowered to consider any application of any school district with respect to additional State school building aid under this act in connection with any educational facilities authorized to be undertaken pursuant to Title 18A of the New Jersey Statutes notwithstanding that such facilities were authorized or approved prior to the taking effect of this act. The State board shall, within 1 year from the effective date of this act and during each succeeding year, review the status of educational facilities of each school district, which is entitled to receive additional State building aid pursuant to this act. Said reviews shall continue annually until such facilities are completed.

L.1978, c. 74, s. 14, eff. July 13, 1978.

18A:58-33.36. Payment on behalf of school districts to paying agent; use

All amounts of additional State school building aid to be paid under the provisions of this act with respect to any school district for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date of such payment of interest and principal, be paid on behalf of the school district, municipality or county issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such additional State school building aid hereunder payable with respect to such school district. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

L.1978, c. 74, s. 15, eff. July 13, 1978.

18A:58-33.37. Annual payments to school districts and municipalities; use

As provided in this act, every school district and municipality which shall be entitled thereto, shall receive annually the amount of its additional State school building aid and the State Board of Education shall include such amount thereof in its annual budget for building aid for such school district. Amounts of such building aid paid under this act shall be used for the payment of debt service (interest and principal) on bonds or notes entitled to the benefits of the provisions of this act.

L.1978, c. 74, s. 16, eff. July 13, 1978.

18A:58-33.38. Investment or deposit of proceeds; disposition of income

Pending application to the purposes for which bonds or notes entitled to the benefits of this act are issued, the proceeds of such bonds or notes shall be invested or deposited subject to regulations prescribed by the State Treasurer. On January 10 in each year the custodian of school moneys of a Type II school district, the chief financial officer of the municipality of a Type I school district or chief financial officer of the county, as the case may be, shall certify and pay to the State Treasurer the amount of earnings received during the preceding year from the investment or deposit of the proceeds from the sale of such bonds or notes, which amounts shall be held by him and applied only to the payment of principal and interest on such bonds or notes.

L.1978, c. 74, s. 17, eff. July 13, 1978.

18A:58-33.39. Regulations; determination of compliance by district

The commissioner, after consultation with the State Treasurer and approval by the State Board of Education, shall promulgate regulations relating to use of the proceeds of bonds and notes entitled to the benefits of this act, establishing standards for construction progress and practices, fiscal controls, accounting procedures and auditing of funds, and such other matters as he shall deem necessary.

The commissioner shall determine each district's compliance with the regulations promulgated pursuant to this section. When he determines that a district is not in compliance with such regulations, the commissioner is authorized to take appropriate action to insure the proper use of the funds and completion of the project.

L.1978, c. 74, s. 18, eff. July 13, 1978.

18A:58-33.40. Designation of paying agent

No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State.

L.1978, c. 74, s. 19, eff. July 13, 1978.

18A:58-33.41. Entitlement of \$25,000.00 or less; plan for expenditure

The provisions of "The Additional State School Building Aid Act," (P.L.1978, c. 74; C. 18A:58-33.22 et seq.) notwithstanding, any school district awarded an entitlement of \$25,000.00 or less may receive such an entitlement in its entirety within 1 year following said award.

Districts which choose to receive their entitlement in this manner shall submit to the Commissioner of Education for approval a plan for the expenditure of the entitlement as part of the established final application process.

L.1979, c. 349, s. 1, eff. Jan. 24, 1980.

18A:58-34. Funds appropriated, etc., for cost of state aid to local districts for vocational education; expenditure

The commissioner may expend such sums as may be appropriated or otherwise allocated to the department to meet the state's share of the cost of aid to local school districts for vocational education.

L.1967, c.271.

18A:58-35. Additional state aid to vocational education

The department is hereby authorized and empowered, out of any funds now or hereafter appropriated to the department for state aid to vocational education, to employ for staff services such personnel as may be required to properly implement and carry out said state aid program of vocational education; provided, however, that the amount to be expended for such staff services shall be financed on the basis of 50% participation by the state and 50% by the federal government.

L.1967, c.271.

18A:58-36. State appropriation for construction of area vocational school facilities

The state board, in addition to its other budget requests concerning state aid for vocational education, shall formulate annual budget requests for state support for the construction of area vocational education school facilities. Within the limit of funds appropriated to the state board for such purposes, and in accordance with rules and regulations prescribed by the state board, the board of education of a county vocational school system, or the board of education of any school district may apply to the state board and receive state support for the construction of area vocational education school facilities in amounts not to exceed one fourth of the cost of said construction. The

funds appropriated for this purpose shall be combined with that portion of funds received from the federal government under the vocational education act of 1963 (77 Stat. 403, Public Law 88-210) required by said act to be used for construction of area vocational education school facilities.

L.1967, c.271.

18A:58-37. Allocation and distribution of federal and state funds

Said combined funds shall be allocated and distributed pursuant to applicable federal and state statutes and rules and regulations thereunder, including rules and regulations of the state board; provided, however, that, to the extent said combined funds are sufficient, and insofar as same is permitted by federal law, the allocation of said combined state and federal funds shall be made in such amounts and over such periods of time so as to pay for, or reimburse, one half of the total cost incurred by county vocational school districts or by a local school district in constructing and equipping or either thereof of area vocational school facilities.

L.1967, c.271.

18A:58-37.1. Legislative findings

The Legislature hereby finds and determines that the security and welfare of the State require the fullest development of the material resources and skills of its youth. To achieve this objective increased efforts must be undertaken to educate more of the talent of our State. It is hereby declared to be the public policy of the State, that the public welfare and safety require that the State and local communities provide assistance to educational programs which are important to the welfare of the State.

L.1974, c. 79, s. 1.

18A:58-37.2 Definitions.

2. As used in this act:

a. "Commissioner" means the State Commissioner of Education.

b. "Nonpublic school" means an elementary or secondary school within the State, other than a public school, offering education for grades kindergarten through 12, or any combination of them, wherein any child may legally fulfill compulsory school attendance requirements and which complies with the requirements of Title VI of the Civil Rights Act of 1964 (Pub.L.88-352).

c. "Textbook" means books, workbooks or manuals, whether bound or in looseleaf form, or electronic textbooks, including but not limited to, computer software, computer-assisted instruction, interactive videodisk, and other computer courseware and magnetic media, intended as a principal source of study material for a given class or group of students, a copy of which is available for the individual use of each pupil in such class or group. Computer software shall be prepared educational programs which are subject-oriented and for student instruction.

d. "Student" means any child who is a resident of the State and who is enrolled as a full-time pupil in a public or nonpublic school in grades kindergarten through 12. A child who boards at a school but whose parents do not maintain a residence in this State shall not be deemed to be a resident of the State within the meaning of this act.

L.1974,c.79,s.2; amended 2000, c.13.

18A:58-37.3. Purchase and loan of textbooks

a. The board of education in each school district in the State in which a nonpublic school is located shall have the power and duty to purchase and to loan textbooks upon individual request, to all students attending school in such district, who are enrolled in grades kindergarten through 12 of a public or nonpublic school.

b. No board of education shall be required to expend funds for the purchase and loan of textbooks in excess of the amounts provided in State aid pursuant to this act.

L.1974, c. 79, s. 3. Amended by L.1984, c. 121, s. 1, eff. Aug. 8, 1984.

18A:58-37.4. Textbooks loaned to students in nonpublic schools; free rental; length of use of designated textbook

a. Textbooks which are loaned to students enrolled in grades kindergarten through 12 of any nonpublic school shall be textbooks which are used in any public elementary or secondary school of the State or are approved by any board of education. Such textbooks are to be loaned without charge to such children subject to such rules and regulations as are, or may be adopted by the commissioner and such board of education.

b. When a textbook has been designated for use in a school district such textbook shall not be superseded by any other book, prior to the expiration of 5 years following such designation, except upon the authorization of the board of education.

L.1974, c. 79, s. 4.

18A:58-37.5. Appropriation of aid

The commissioner shall, upon request of the local board and pursuant to the rules and regulations of the State Board of Education distribute to each school district an amount equal to the cost of textbooks purchased and loaned by the school district pursuant to this act, but in no event shall the aid appropriated to the district exceed the following amount:

a. The expenditures for the purchase of textbooks pursuant to this act made during the school year 1979-80 shall not exceed an average of \$10.00 for each student residing in the district, who, on the last school day prior to October 16 of the preceding school year was enrolled in grades kindergarten through 12 of a public or nonpublic school; and,

b. The expenditures for the purchase of textbooks made during the school year 1980-81, and in any subsequent year shall not exceed the State average budgeted textbook expense per public school pupil for the prebudget year for each student residing in the district, who, on the last school day prior to October 16 of the preceding school year was enrolled in grades kindergarten through 12 of a public or nonpublic school.

L.1974,c.79,s.5; amended 1979,c.194,s.1; 1990,c.52,s.76.

18A:58-37.6 Expenditure of aid for textbooks.

6. State aid provided pursuant to P.L.2007, c.260 (C.18A:7F-43 et al.) may be expended for the purchase and loan of textbooks for public school pupils in an amount which shall not exceed the State average budgeted textbook expense for the prebudget year per pupil in resident enrollment. Nothing contained herein shall prohibit a board of education in any district from purchasing textbooks in excess of the amounts provided pursuant to this act.

L.1974, c.79, s.6; amended 1979, c.194, s.2; 1990, c.52, s.77; 1996, c.138, s.83; 2007, c.260, s.76.

18A:58-37.6a. Increase in amount of state aid; determination of state average budgeted textbook expenditures

a. Beginning in the school year 1981-82 and in each subsequent year, the amount of State aid per pupil pursuant to this act shall increase by the percentage increase in the State average budgeted textbook expense per public school pupil.

b. Annually, by November 1, the commissioner shall determine the State average budgeted textbook expenditures per public school pupil.

L.1979, c. 194, s. 3, eff. Sept. 13, 1979.

18A:58-37.7. State aid to school districts

The sums payable as State aid to school districts pursuant to this act shall be paid in full no later than July 31. The State Treasurer shall make such payment to each board of education upon a certificate of the commissioner and warrant of the Director of the Division of Budget and Accounting.

A district shall refund any unexpended State aid after completion of the school year if the expenditures incurred by the district pursuant to P.L. 1974, c. 79 (C. 18A:58-37.1 et seq.) are less than the amount of State aid received therefor. The refund shall be paid no later than December 1.

L. 1974, c. 79, s. 7. Amended by L. 1986, c. 17, s. 1, eff. July 1, 1986.

18A:59-1. Apportionment and distribution of federal funds; exceptions

18A:59-1. Whenever moneys are made available for school purposes by any act of congress, except the act of congress referred to in Article 2 of this chapter, or any agency of the federal government, or made available or deposited in any manner in accordance with any law enacted by the congress of the United States, such moneys shall be apportioned by the commissioner under plans approved by the State board, if said moneys are for use in the public school system, or by the Commission on Higher Education, if said moneys are for use in higher education. Such moneys shall be distributed as aid to the several districts or in any other manner designated for any educational purpose defined in the federal statutes or in the regulations of federal agencies making allotments or in the laws of this State.

L.1967, c.271; amended 1994,c.48,s.71.

18A:59-2. Federal funds as trust funds; distribution

18A:59-2. All moneys mentioned in N.J.S.18A:59-1 shall be considered trust funds and shall be distributed by the commissioner or by the Commission on Higher Education, as the case may be, in conformity with said plans.

L.1967, c.271; amended 1994,c.48,s.72.

18A:59-3. Custody of federal funds; disbursement

The state treasurer is hereby appointed custodian of all moneys made available to the state of New Jersey under the provisions of section 18A:59-1. He shall receive and provide for the proper custody thereof. He shall disburse such moneys upon the warrant of the director of the division of budget and accounting in the department of the

treasury when such disbursement has been certified to said director by the officer authorized to distribute the same.

L.1967, c.271.

18A:59-4. Act of congress accepted

The provisions of the act of congress, approved February 23, 1917, entitled "An act to provide for the promotion of vocational education; to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for the cooperation with the states in the preparation of teachers of vocational subjects, and to appropriate money and regulate its expenditure," are hereby accepted by the state of New Jersey.

L.1967, c.271.

18A:59-5. State board empowered to act

The state board is hereby designated as the state board for the purposes of said act of congress, and shall cooperate, as in the act provided, with the federal board for vocational education in the administration of the provisions thereof. The state board shall do all that is or may be required to secure for the state of New Jersey the benefits of appropriations under the act of congress for all purposes specified therein.

L.1967, c.271.

18A:59-6. Custodian of funds

The state treasurer is hereby appointed custodian of all money paid to the state from appropriations under said act of congress. He shall receive and provide for the proper custody thereof. He shall disburse such money upon the warrant of the director of the division of budget and accounting in the department of the treasury when such disbursement has been certified by the state board.

L.1967, c.271.

18A:59-7. State appropriation for training of teachers of vocational subjects

To secure for the state the maximum appropriation under such act of congress for the training of teachers of vocational subjects as therein provided there shall be appropriated each year from any money in the state treasury not otherwise appropriated a sum not less than the maximum which the state can receive under such act of congress for the ensuing school year for that purpose. Such sum shall be used for the training of teachers of vocational subjects in accordance with such act of congress in one or more of the state schools or colleges or institutions under state control.

L.1967, c.271.

18A:59-8. State appropriation for salaries of teachers of agricultural subjects

To secure for the state the advantages under such act of congress for the supervision of agricultural subjects as therein provided, there shall be appropriated each year, from any money in the state treasury not otherwise appropriated, a sum not less than \$1,000.00, which sum shall be expended for the salary or salaries of teachers, supervisors, or directors of agricultural subjects, in accordance with the terms of the act of congress.

L.1967, c.271.

18A:60-1 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, the Department of Children and Families, 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.

L.1967, c.271; amended 1986, c.158, s.2; 1999, c.46, s.33; 2006, c.47, s.101.

18A:60-1.1 Findings, declarations.

1. The Legislature hereby finds that it is in the best interests of the State of New Jersey to provide job security during good behavior and efficiency for the teachers and other certified professional educators employed in State institutions within the Department of Corrections, the Department of Children and Families, and the Department of Human Services. To accomplish this goal it is appropriate to provide tenure protection for such professionals teaching in such State institutions, subject to the provisions set forth in this act.

L.1986, c.158, s.1; amended 2006, c.47, s.102.

18A:60-1.2 Tenure after 3 years' service.

3. Any teacher or other certified individual serving in a teaching capacity in a State institution within the Department of Corrections, the Department of Children and Families, or the Department of Human Services as of July 1, 1986, who has completed at least two academic years of teaching service or its equivalent within three calendar years with satisfactory evaluations, shall acquire tenure under this act upon the completion of one additional calendar year of satisfactory service in such capacity.

L.1986, c.158, s.3; amended 2006, c.47, s.103.

18A:60-2. Dismissal and reduction in salary

No such professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher, or other person employed in a teaching capacity, so under tenure, shall be dismissed or subjected to a reduction in salary except for inefficiency, incapacity, conduct unbecoming a teacher, or other just cause, and only in the manner prescribed by subarticle B of article 2 of chapter 6 of this title.

L.1967, c.271.

18A:60-3 Reduction in staff.

18A:60-3. Nothing contained in this chapter shall be held to limit the right of the commissioner, in the case of any educational institution conducted under his jurisdiction, supervision or control; or the Commissioner of Corrections, the Commissioner of Children and Families, or the Commissioner of Human Services, in the case of any State institution conducted under their jurisdiction, supervision or control; or of the board of trustees of a college, in the case of a college, to reduce the number of professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity in any such institution or institutions when the reduction is due to natural diminution of the number of students or pupils in the institution or institutions. Dismissals resulting from such reduction shall not be by reason of residence, age, sex, marriage, race, religion, or political affiliation. When such professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity under tenure are dismissed by reason of such reduction, those professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, or other persons employed in a teaching capacity having the least number of years of service to their credit shall be dismissed in preference to those having longer terms of service. Should any such professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher, or other person employed in a teaching capacity under tenure be dismissed as a result of such reduction, such person shall be and remain upon a preferred eligible list in the order of years of service for reemployment, whenever vacancies occur, and shall be reemployed by the commissioner in such order, when, and if, a vacancy in a position for which such professor, associate professor, assistant professor, instructor, supervisor, registrar, teacher, or other person employed in a teaching capacity shall be qualified. Such reemployment shall give full recognition to previous years of service.

L.1967, c.271; amended 1986, c.158, s.4; 2006, c.47, s.104.

18A:60-5. Indemnity of employees in certain criminal actions

Should any criminal action be instituted against any such employee for any such act or omission and should such proceeding be dismissed or result in a final disposition in favor of such employee, the state shall reimburse him for the cost of defending such proceeding, including reasonable counsel fees and expenses of the original hearing or trial and all appeals.

L.1967, c.271.

18A:60-6. Short title

This act shall be known and may be cited as "The State and County College Tenure Act."

L.1973, c. 163, s. 1, eff. July 1, 1973.

18A:60-7. Definitions

2. As used in this act, the following words and phrases shall have the following meaning:

a. "Academic rank" means instructor, assistant professor, associate professor and professor.

b. "Faculty member" means any full-time member of the teaching staff appointed with academic rank. Other full-time professional persons shall be considered faculty members if they concurrently hold academic rank.

L.1973,c.163,s.2; amended 1994,c.48,s.73.

18A:60-8. Tenure in academic rank; conditions

Faculty members shall be under tenure in their academic rank, but not in any administrative position, during good behavior, efficiency and satisfactory professional performance, as evidenced by formal evaluation and shall not be dismissed or reduced in compensation except for inefficiency, unsatisfactory professional performance, incapacity or other just cause and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes, after employment in such college or by such board of trustees for

a. 5 consecutive calendar years; or

b. 5 consecutive academic years, together with employment at the beginning of the next academic year; or

c. the equivalent of more than 5 academic years within a period of any 6 consecutive academic years.

L.1973, c. 163, s. 3, eff. July 1, 1973.

18A:60-9. Tenure by exceptional action after 2 years service

Notwithstanding the provisions of section 3 of this act a board of trustees may, as an exceptional action and upon the recorded two-thirds majority roll call vote of all its members and upon the recommendation of the president, grant tenure to an individual faculty member after employment in such college or by such board of trustees for 2 consecutive academic years. The provisions of this section shall not be negotiable as a term and condition of employment under the "New Jersey Employer-Employee Relations Act," P.L.1968, c. 303.

L.1973, c. 163, s. 4, eff. July 1, 1973.

18A:60-10. Establishment of procedure for career development

5. It shall be the responsibility of the board of trustees and the president of each State and county college, in conjunction with their faculty to establish a formal procedure for the career development of all members of the professional staff including, but not limited to, a systematic and regular evaluation for the purpose of identifying any deficiencies, extending assistance for their correction and improving instruction.

L.1973,c.163,s.5; amended 1994,c.48,s.74.

18A:60-11. Inapplicability of act to faculty member with tenure prior to second day of 1973-74 school year

The provisions of section 3 of this act shall not apply to any faculty member who shall have acquired tenure prior to the second day of the 1973-74 school year.

L.1973, c. 163, s. 6, eff. July 1, 1973.

18A:60-12. Nontenured faculty member prior to end of 1973-74 school year; election of program for tenure; notice

Any nontenured faculty member presently employed by a State or county college or who begins employment in the 1973-74 school year may elect to be included under the provisions of N.J.S. 18A:60-1 or the provisions of section 3 of this act. On or before November 1, 1973, or within 60 days of employment each nontenured faculty member at a State or county college shall notify the college president in writing of his intention to be governed under the provisions of N.J.S. 18A:60-1 or the provisions of section 3 of this act. Any faculty member not filing a written notice in the prescribed manner shall be governed under the provisions of section 3 of this act.

L.1973, c. 163, s. 7, eff. July 1, 1973.

18A:60-13. Faculty members beginning employment after 1973-74 school year; application of act

The provisions of section 3 of this act shall apply to all faculty members beginning their employment after the 1973-74 school year.

L.1973, c. 163, s. 8, eff. July 1, 1973.

18A:60-14. Professional staff without faculty rank; contracts

Members of the professional staff not holding faculty rank may be appointed by a board of trustees for 1-year terms; provided, however, that after employment in a college for 5 consecutive academic years or for the equivalent of 5 academic years within a period of any 6 consecutive academic years, such employees may be offered contracts of no more than 5 years in length. During the period of such contracts, such employees shall be subject to dismissal only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes, and must be notified by the president not later than 1 year prior to the expiration of such contracts of the renewal or nonrenewal of the contract.

L.1973, c. 163, s. 9, eff. July 1, 1973. Amended by L.1979, c. 21, s. 1.

18A:60-15. Application of act to full-time faculty members

This act shall apply to full-time faculty members employed in any State or county college notwithstanding the provisions of N.J.S. 18A:60-1, 18A:64-21 and 18A:64A-13.

L.1973, c. 163, s. 10, eff. July 1, 1973.

18A:61-1. Purpose; name; free tuition

A school shall be maintained for the purpose of training and educating deaf children. The name and title of the school shall be the "Marie H. Katzenbach school for the deaf." Tuition therein shall be free.

L.1967, c.271.

18A:61-2. Supervision by commissioner

The commissioner, subject to the approval of the State board, shall:

- a. Have the control and care of the buildings and grounds owned and used by the State for the school for the deaf;
- b. Appoint and remove a superintendent, teachers and other employees, and fix the compensation of those whose compensation is not fixed by statute or otherwise determinable by authority of law;
- c. Provide furniture, textbooks, school apparatus and other supplies;
- d. Make rules for the government and management of the school and the admission of pupils thereto; and
- e. Provide, by contract or otherwise, all necessary transportation for pupils maintained at the school.

L.1967, c.271; amended by L.1973, c. 311, s. 1, eff. July 1, 1973.

18A:61-2.1. Advisory board

The State Board of Education with the approval of the Governor shall appoint biannually an advisory board to the Marie H. Katzenbach School for the Deaf which shall consist of not less than seven nor more than 15 members representative of professional and lay interests. The advisory board shall advise the superintendent of the school in planning, implementing and evaluating the educational program of the school.

L.1981, c. 313, s. 1, eff. Dec. 3, 1981.

18A:61-3. Persons admitted

Deaf persons of suitable age and capacity for instruction, who are legal residents of this state and not over 21 years of age, shall be entitled to the privileges of the school for the time, not exceeding 14 years, the state board shall determine, unless more persons apply for admission at one time than be properly accommodated, in which case the board shall so apportion the number received that each county is represented therein in the ratio of its deaf population to the total deaf population of the state.

L.1967, c.271.

18A:61-4. Application for admission

18A:61-4. Application for admission shall be made to the State board by a parent, guardian or friend of a proposed pupil in the manner directed by the board. The board shall require that the application be accompanied by a certificate from a judge of the Superior Court or the county clerk of the county, a chosen freeholder or clerk of the township, the mayor or other executive officer of the municipality in which the applicant shall reside, stating:

- a. That the applicant is a legal resident of the municipality claimed as his residence;
- b. The age, circumstances and capacity of the proposed pupil; and
- c. The ability or inability of the proposed pupil or his parent or guardian to pay any part of the expense of his care and maintenance.

L.1967, c.271; amended 1991,c.91,s.238.

18A:61-5. Expense of maintaining pupil

Whenever the board is satisfied that the resources of a person applying for admission to the school or who is a pupil thereat, or those of his parent or guardian, are sufficient to defray either the whole or a part of the expense of maintenance of the pupil, the board may require the parent or guardian to pay either the whole or such portion thereof as it shall deem just and equitable.

L.1967, c.271

18A:61A-1. Declaration of policy

1. It is hereby declared to be the policy of the State to foster, encourage and promote, and to provide assistance for, the cultural development of the citizens of New Jersey, and to this end the State Legislature hereby establishes a school for the workplace readiness skills of students in the performing, literary and visual arts which shall be defined as an educational institution of the State under the supervision and direction of the State Board of Education, to serve the students of New Jersey and to supplement and provide instruction to fulfill the Core Curriculum Content Standards for the Visual and Performing Arts adopted by the State Board of Education, to be known as the New Jersey School of the Arts, hereinafter referred to as "the school."

L.1969,c.95,s.1; amended 2000, c.115, s.1.

18A:61A-2. Purpose of school

2. The primary purpose of the school shall be the professional training of students in the fields of art, music, drama, dance, and creative writing at the secondary level of instruction, with emphasis placed upon performance of the arts and academic studies of the arts. The school will provide such courses to any secondary school within the State and such other programs as are deemed necessary to meet the needs of its students and of the State, consistent with appropriations made and gifts received or solicited therefor, and may co-operate with other secondary schools and institutions which provide such courses of instruction.

L.1969,c.95,s.2; amended 2000, c.115, s.2.

18A:61A-3. Board of trustees

3. The school shall be governed by a board of trustees consisting of 11 members, appointed by the Governor with the advice and consent of the Senate, who will serve terms of six years and until the appointment and qualification of their successors; except that, of the first appointees to the board, four members shall be appointed for terms of six years, four members for terms of four years, and three members for terms of two years, with all terms to commence on July 1 of the year in which the members shall be appointed. Members of the board shall serve without remuneration but shall be entitled to reimbursement for expenses incurred in the performance of their duties. The Secretary of State or a designee shall be an ex-officio member of the board of trustees. A vacancy in the membership of the board shall be filled by appointment for the unexpired term.

L.1969,c.95,s.3; amended 2000, c.115, s.3.

18A:61A-4. Organization, operation of board; coordinators

4. The board of trustees shall organize at a meeting to be called by the Commissioner of Education and annually thereafter by election from their number of a chairman and a vice chairman and appointment of a secretary, who may but need not be a member of the board of trustees, and such other officers as the board shall determine. The meeting for the election and appointment of officers shall be held not earlier than July 1 and not later than October 1 of each year. Officers shall serve for terms of one year, and until their successors are selected and qualified. The board of trustees shall be known as "The Trustees of the New Jersey School of the Arts" and shall be a body corporate, with all the powers usually conferred upon such bodies and necessary to enable it to make contracts, and to exercise such other rights and privileges as may be necessary for carrying out the provisions and purposes of this act. The school shall employ northern, central and southern coordinators and hire appropriate professional staff to implement programs in music, dance, visual arts and creative writing in each of the 21 counties of the State.

L.1969,c.95,s.4; amended 1983, c.244; 2000, c.115, s.4.

18A:61A-6. Board supervision; powers, duties

6. The board of trustees of the school shall, within the general policies and guidelines set by the State Board of Education, have general supervision over, and shall be vested with the conduct of, the school. It shall, within the general policies and guidelines set by the State Board of Education, have the power and duty to:

a. Determine the educational curriculum and program of the school in accordance with the arts standards, frameworks and assessments;

b. Determine policies for the organization, administration and development of the school;

c. Study the educational and financial needs of the school; annually acquaint the Governor and Legislature with the condition of the school; and prepare, and after concurrence by and jointly with the State Board of Education, present the annual budget to the Governor and Legislature, in accordance with law;

d. Subject to the provisions of P.L.1944, c.112 (C.52:27B-1 et seq.), direct and control the expenditures of the school in accordance with the provisions of the budget and the appropriations acts of the Legislature, except that with respect to transfers of funds pursuant to P.L.1944, c.112 (C.52:27B-1 et seq.), the school shall be deemed a spending agency, and as to funds received or solicited from other sources, in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, the counsel, advice and assistance of the Division of Investment in the Department of the Treasury shall be available to the board of trustees in the establishment and maintenance of endowment and trust funds;

e. With the approval of the State Board of Education appoint and fix the compensation of a director of the school who shall be its executive officer and shall serve at the pleasure of the board of trustees;

f. Appoint members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment in accordance with salary policies adopted by the State Board of Education, which salary policies shall prescribe qualifications for the education staff that may be in any given classification;

g. Appoint, remove, promote and transfer such other officers, agents or employees as may be required for carrying out the purposes of the school and assign their duties, determine their salaries and prescribe qualifications for all positions, all in accordance with the provisions of Title 11A, Civil Service, of the New Jersey Statutes;

h. Subject to the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), 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 purposes of the school;

i. Adopt bylaws and make and promulgate such rules, regulations and orders, not inconsistent with the provisions of this act that are necessary and proper for the administration and operation of the school and the carrying out of its purposes;

j. Receive and accept private and corporate contributions for such purposes and upon such terms as the donor may prescribe consistent with the purposes of the school and general policies and guidelines set by the State Board of Education.

L.1969,c.95,s.6; amended 2000, c.115, s.5.

18A:61A-7. Contracts by board

Subject to the approval of the State Board of Education or the board of education of a school district, as the case may be, the board of trustees may contract for the use of existing facilities, courses of instruction and programs in academic and other nonarts courses and instruction of other educational institutions and to employ faculty and other personnel jointly or on a co-operative or cost sharing basis with such other educational institutions.

L.1969, c. 95, s. 7, eff. June 26, 1969.

18A:61B-1. Transfer of state school district for institutions from department of institutions and agencies to department of education

The State School District for Institutions within the Department of Institutions and Agencies, together with all of its functions, powers and duties, is continued but such State School District is hereby transferred to the Department of Education. All personnel, appropriations, books, papers and property necessary to the operation of the existing State School District are likewise transferred. All rules, regulations, acts, determinations and decisions in force at the time of such transfer proceedings or other such matters undertaken or commenced by the State School District shall continue in force.

L.1976, c. 98, s. 23, eff. Nov. 1, 1976.

18A:61C-1. College-level instruction for high school students

1. The Commissioner of Education, the Commission on Higher Education, in consultation with the Presidents' Council, shall establish a program to promote increased cooperation between the State's high schools and institutions of higher education. The objective of this program shall be to increase the access of our State's able high school students to the educational resources available in our institutions of higher education. This program shall supplement the efforts of local school districts to provide appropriate education to their students and shall not relieve a district of any obligation established by statute or regulation.

The program shall increase the availability of college-level instruction for high school students through courses offered by institutions of higher education at their campuses and in high schools. The program shall seek the involvement of all institutions of

higher education, two-year and four-year, public and nonpublic, and all school districts, including those which are not located in close proximity to an appropriate institution of higher education.

L.1986,c.194,s.1; amended 1994,c.48,s.75.

18A:61C-3. Rules, regulations

3. The Department of Education and the Commission on Higher Education each 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 this act.

L.1986,c.194,s.3; amended 1994,c.48,s.76.

18A:61C-4. College credit

1. The Commissioner of the Department of Education, in consultation with the Commission on Higher Education and the Presidents' Council, shall establish a program to provide courses for college credit on public high school campuses to high school pupils, through institutions of higher education in this State.

L.1986,c.193,s.1; amended 1994,c.48,s.77.

18A:61C-5. Enrollment

Any institution of higher education and any local school district may enroll in the program.

L. 1986, c. 193, s. 2, eff. Dec. 17, 1986.

18A:61C-6. Contents of program

The program shall consist of at least the following:

- a. Procedures for institutions of higher education and local districts who wish to enroll in the program;
- b. Procedures for pupils who wish to enroll in the program, including procedures to insure that no student who is academically eligible shall be excluded from participation in college courses offered on high school campuses because of inability to pay;
- c. Requirements prescribing minimum qualifications a teacher shall possess as a condition for enrollment in the program.

L. 1986, c. 193, s. 3, eff. Dec. 17, 1986.

18A:61C-7. Course limitations

4. The commissioner, in consultation with the Commission on Higher Education and the Presidents' Council, may limit courses taught under the program to courses which are equivalent to those offered by the institution of higher education to its regularly admitted students.

L.1986,c.193,s.4; amended 1994,c.48,s.78.

18A:61C-8. Course credit acceptance

5. A public institution of higher education shall accept the course credit of a student who successfully participates in the program.

L.1986,c.193,s.5; amended 1994,c.48,s.79.

18A:61C-9. Rules, regulations

6. The commissioner, in consultation with the Commission on Higher Education and the Presidents' Council, and with the approval of the State Board of Education, shall adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary for the operation of the program.

L.1986,c.193,s.6; amended 1994,c.48,s.80.

18A:61D-1. Immunization record

1. Every public and independent institution of higher education in this State shall, as a condition of admission or continued enrollment, require every graduate and undergraduate student who is 30 years of age or less and is enrolled full-time or part-time in a program or course of study leading to an academic degree, to submit to the institution a valid immunization record which documents the administration of all required immunizations against vaccine-preventable disease, or evidence of immunity from these diseases, in accordance with regulations promulgated by the Department of Health. The institution shall keep the records on file in such form and manner as prescribed by the department.

L.1988,c.158,s.1; amended 1994,c.48,s.81.

18A:61D-2. Exemption

2. An institution may, in accordance with regulations promulgated by the department, exempt from the requirements of section 1 of P.L.1988, c.158 (C.18A:61D-1) any student who attended an elementary or secondary school located in this State.

L.1988,c.158,s.2; amended 1994,c.48,s.82.

18A:61D-3. Conflict with religious beliefs

A student who submits to the institution of higher education a written statement that immunization conflicts with his religious beliefs shall not be required to submit a list of immunizations to the institution as a condition of admission or continued enrollment.

L. 1988, c. 158, s. 3.

18A:61D-4. Contraindication

4. A student who submits to the institution a written statement that an immunization is medically contraindicated shall submit a valid immunization record of other administered immunizations in accordance with regulations promulgated by the department.

L.1988,c.158,s.4; amended 1994,c.48,s.83.

18A:61D-5. Liability not imposed

The provisions of this act shall not be construed as holding any institution of higher education liable for failure to notify a student of any outbreak of contagious disease, or the threat of any disease outbreak.

L. 1988, c. 158, s. 5.

18A:61D-6. Rules, regulations

6. The Commissioner of Health, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

L1988,c.158,s.6; amended 1994,c.48,s.84.

18A:61D-7 Meningococcal vaccinations, dissemination of information about meningitis to college students.

2. Beginning with the 2000-2001 school year, each four-year public or private institution of higher education in this State, in a manner prescribed by regulation of the Commissioner of Health and Senior Services and consistent with the purposes of section 1 of P.L.2000, c.25 (C.26:2X-1), shall:

a. provide information about meningitis, as well as the meningococcal vaccination requirement established pursuant to section 2 of P.L.2003, c.284 (C.18A:62-15.1), to all prospective students prior to their matriculation, and include with that information notice of the availability and benefits of a meningococcal vaccination; and

b. develop procedures for facilitating, receiving and recording student responses to the information provided pursuant to subsection a. of this section, including: compliance with the vaccination requirement established pursuant to section 2 of P.L.2003, c.284 (C.18A:62-15.1); and the decision of any student who is exempted from that requirement to receive the vaccination.

L.2000,c.25,s.2; amended 2003,c.284,s.1.

18A:61D-8. Findings, declarations relative to hepatitis B vaccinations

1. The Legislature finds and declares that:

a. Hepatitis B is a serious viral disease that attacks the liver and can cause lifelong infection, cirrhosis of the liver, liver cancer, liver failure and even death; after tobacco, hepatitis B is the world's leading known cause of cancer;

b. Hepatitis B virus is spread through blood and other body fluids and has been shown in some instances to remain infectious on environmental surfaces for at least a month at room temperature; in some settings, the virus can be up to 100 times more contagious than the virus that causes AIDS;

c. Individuals are at greater risk of hepatitis B virus infection who: have multiple sex partners; use injection drugs; have household contact with an individual who has lifelong hepatitis B infection; and travel to areas of the world where hepatitis B is common;

d. In 1999, an estimated 80,000 individuals in the United States were infected with the hepatitis B virus, and one out of 20 individuals in the United States will be infected with the virus at some time in their lives; approximately 30% of individuals who are infected show no signs or symptoms and can unknowingly pass the virus to others;

e. The highest rate of hepatitis B disease occurs in individuals 20 to 49 years of age; in 1998, 205 hepatitis B cases were reported in New Jersey, with 60% of those occurring in individuals 25 to 44 years of age;

f. Hepatitis B vaccine, which has been available since 1982, prevents hepatitis B disease and its serious consequences; the federal Centers for Disease Control and

Prevention recommends routine vaccination of individuals zero to 18 years of age for hepatitis B;

g. As of September 2001, the New Jersey Department of Health and Senior Services requires hepatitis B immunization prior to school entry for all children in the State, with a sixth grade catch-up dose for those not already immunized; and

h. Since the hepatitis B immunization requirement for school entry in the State was recently adopted and the highest rates of hepatitis B infection in the nation and State are occurring in individuals between 20 and 50 years of age, it is appropriate for the State to require every high school student, and each new student enrolling on a full-time basis in a program leading to an academic degree at an institution of higher education in the State, to be vaccinated for hepatitis B.

L.2002,c.58,s.1.

18A:61D-9. Hepatitis B vaccination required for certain students at institutions of higher education

2. a. Beginning with the 2008-09 school year, a new student enrolling in a program leading to an academic degree at a public or private institution of higher education in this State, who registers for 12 or more credit hours of course study per semester or term, shall be vaccinated for hepatitis B within nine months of attendance as a condition of continued attendance at that institution, except as provided in section 4 of this act.

b. A student shall present evidence of the vaccination required pursuant to this section to the institution in a manner prescribed by the institution.

c. The Department of Health and Senior Services shall require each public or private institution of higher education in this State to offer the vaccination required pursuant to this section to its students through the institution's student health services program or through a contractual agreement with a community health care provider.

d. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of subsections a., b. and c. of this section and sections 3 and 4 of this act.

L.2002,c.58,s.2.

18A:61D-10. Exemption from vaccination.

4. A student shall not be required to receive a vaccination pursuant to section 2 or 3 of this act based upon one of the following:

a. a written statement submitted to the secondary school or institution of higher education, as applicable, by a licensed physician indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health and Senior Services, which shall exempt the student from the vaccination for the stated period of time; or

b. a written statement submitted to the secondary school or institution of higher education, as applicable, by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds.

L.2002,c.58,s.4.

18A:61E-1. Short title

1. This act shall be known and may be cited as the "New Jersey Campus Sexual Assault Victim's Bill of Rights Act."

L.1994,c.160,s.1.

18A:61E-2. "Campus Sexual Assault Victim's Bill of Rights"; development; content

2. The Commission on Higher Education shall appoint an advisory committee of experts which shall develop a "Campus Sexual Assault Victim's Bill of Rights" which affirms support for campus organizations which assist sexual assault victims and provides that the following rights shall be accorded to victims of sexual assaults that occur on the campus of any public or independent institution of higher education in the State and where the victim or alleged perpetrator is a student at the institution or when the victim is a student involved in an off-campus sexual assault.

a. The right to have any allegation of sexual assault treated seriously; the right to be treated with dignity; and the right to be notified of existing medical, counseling, mental health or student services for victims of sexual assault, both on campus and in the community whether or not the crime is reported to campus or civil authorities.

"Campus authorities" as used in this act shall mean any individuals or organizations specified in an institution's statement of campus security policy as the individuals or organizations to whom students and employees should report criminal offenses.

b. The right to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the crime occurred, and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities. The provisions of this subsection shall be in addition to any campus disciplinary proceedings which may take place.

c. The right to be free from pressure from campus personnel to refrain from reporting crimes, or to report crimes as lesser offenses than the victims perceive the crimes to be, or to report crimes if the victim does not wish to do so.

d. The right to be free from any suggestion that victims are responsible for the commission of crimes against them; to be free from any suggestion that victims were contributorily negligent or assumed the risk of being assaulted; to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy; and to be free from any suggestion that victims should refrain from reporting crimes in order to avoid unwanted personal publicity.

e. The same right to legal assistance, and the right to have others present, in any campus disciplinary proceeding, that the institution permits to the accused; and the right to be notified of the outcome of any disciplinary proceeding against the accused.

f. The right to full, prompt, and victim-sensitive cooperation of campus personnel in obtaining, securing, and maintaining evidence, including a medical examination if it is necessary to preserve evidence of the assault.

g. The right to be informed of, and assisted in exercising, any rights to be confidentially or anonymously tested for sexually transmitted diseases or human immunodeficiency virus; the right to be informed of, and assisted in exercising, any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

h. The right to have access to counseling under the same terms and conditions as apply to other students seeking such counseling from appropriate campus counseling services.

i. The right to require campus personnel to take reasonable and necessary action to prevent further unwanted contact of victims with their alleged assailants, including but not limited to, notifying the victim of options for and available assistance in changing academic and living situations after an alleged sexual assault incident if so requested by the victim and if such changes are reasonably available.

L.1994,c.160,s.2.

18A:61E-3. Implementation of bill of rights

3. In developing the "Campus Sexual Assault Victim's Bill of Rights," established by P.L.1994, c.160 (C.18A:61E-1 et seq.), the committee created pursuant to section 2 of P.L.1994, c.160 (C.18A:61E-2) shall review existing policies and procedures of public and independent institutions of higher education within the State and shall, as appropriate, incorporate those policies into a proposed bill of rights. The committee shall make a recommendation to the commission which incorporates a proposed "Campus Sexual Assault Victim's Bill of Rights." The commission following consultation with the New Jersey Presidents' Council, established pursuant to section 7 of P.L.1994, c.48 (C.18A:3B-7), shall adopt a "Campus Sexual Assault Victim's Bill of Rights." The commission shall make the "Campus Sexual Assault Victim's Bill of Rights" available to each institution of higher education within the State. The governing boards of the institutions shall examine the resources dedicated to services required on each campus to guarantee that this bill of rights is implemented, and shall make appropriate requests to increase or reallocate resources where necessary to ensure implementation.

L.1994,c.160,s.3.

18A:61E-4. Distribution to students

4. Every public and independent institution of higher education within the State shall make every reasonable effort to ensure that every student at that institution receives a copy of the "Campus Sexual Assault Victim's Bill of Rights."

L.1994,c.160,s.4.

18A:61E-5. Reports of suspected offenses

5. Nothing in this act or in any "Campus Assault Victim's Bill of Rights" developed in accordance with the provisions of this act, shall be construed to preclude or in any way to restrict any public or independent institution of higher education in the State from reporting any suspected crime or offense to the appropriate law enforcement authorities.

L.1994,c.160,s.5.

18A:61E-6. Immunity

6. Notwithstanding any other provision of law to the contrary, no public or independent institution of higher education or its employees shall be liable for damages resulting from any exercise of judgment or discretion in connection with the performance of their duties unless the actions evidence a reckless disregard for the duties imposed by this act. Nothing in this section shall be deemed to grant immunity to any person causing damage by his willful, wanton or grossly negligent act of commission or omission.

L.1994,c.160,s.6.

18A:62-1. Public institutions of higher education

The public institutions of higher education are the six state colleges; the county colleges; the public junior colleges; the New Jersey college of medicine and dentistry; the college of aeronautical and airspace science established in Atlantic County pursuant to chapter 285 of the laws of 1964; the industrial schools; Newark college of engineering; Rutgers, the state university; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

L.1967, c.271.

18A:62-1.1 Voter registration at public institutions of higher education.

2. The registrar or other principal officer responsible for the registration of students at each public institution of higher education as included under the provisions of N.J.S.18A:62-1 shall:

a. cause copies of the voter registration forms and instructions furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be displayed at the office of registration for that institution and to be made available to each eligible enrolled student at and each eligible prospective student of the institution who, when appearing in person at that office, may wish on a voluntary basis to register to vote;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to that office of registration; and

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of registration that is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

As used in this section:

"eligible enrolled student" means an individual who is already enrolled in a public institution of higher education who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election; and

"eligible prospective student" means an individual who is applying for initial enrollment in a public institution of higher education who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election.

L.2003,c.36,s.2.

18A:62-2. Disbursements to denominational schools prohibited

No disbursements of the moneys appropriated by the state for the purposes of public higher education shall be made to any institution wholly or in part under the control of a religious denomination or in which a denominational tenet or doctrine is taught.

L.1967, c.271.

18A:62-3. Enrollment of senior citizens in tuition-free courses in State institutions of higher education

1. Each public institution of higher education in New Jersey may permit persons of the age of 65 or more years to enroll without the payment of any tuition charges in regularly scheduled courses; provided that available classroom space permits and that tuition paying students constitute the minimum number required for the course, provided that nothing herein shall preclude public institutions from requiring registration fees for individuals attending courses pursuant to waivers granted under this act.

L.1979,c.31,s.1; amended 1982,c.137,s.1; 1994,c.48,s.85.

18A:62-4. Residency requirement

1. Persons who have been resident within this State for a period of 12 months prior to enrollment in a public institution of higher education are presumed to be domiciled in this State for tuition purposes. Persons who have been resident within this State for less than 12 months prior to enrollment are presumed to be nondomiciliaries for tuition purposes. Persons presumed to be nondomiciled or persons who are presumed to be domiciled, but whose domiciliary status is challenged by the institution, may demonstrate domicile according to rules and regulations established for that purpose by the

Commission on Higher Education. Residence established solely for the purpose of attending a particular educational institution is not domicile for the purposes of this act.

L.1979,c.361,s.1; amended 1994,c.48,s.86.

18A:62-4.1. Resident tuition for military personnel

United States military personnel and their dependents who are living in New Jersey and are attending public institutions of higher education in New Jersey shall be regarded as residents of the State for the purpose of determining tuition.

L. 1985, c. 231, s. 1, eff. July 11, 1985.

18A:62-4.2. Options for student at public institution of higher education unable to complete course due to military service

1. a. A student at a New Jersey public institution of higher education who is unable to complete a course because the student is called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States shall be entitled to the options set forth in this section with respect to the student's grade for the course.

b. A student who has completed at least eight weeks of attendance in a course may choose to:

- (1) receive a letter grade; or
- (2) receive a grade of pass or fail; or
- (3) receive a grade of incomplete; or
- (4) withdraw from the course.

c. A student who has completed less than eight weeks of attendance in a course may choose to:

- (1) receive a grade of incomplete; or
- (2) withdraw from the course.

d. A letter grade or a grade of pass shall only be awarded if, in the opinion of the faculty member teaching the course, the student has completed sufficient work, and there is sufficient evidence of progress toward meeting the requirements of the course, to justify the grade.

e. A grade of incomplete shall remain valid for a period of one year after the student returns to the New Jersey public institution of higher education.

f. A student who chooses to accept a grade of pass or fail may, within one year after returning to the New Jersey public institution of higher education, receive a letter grade for the course by completing the work required for the course, in which case the letter grade shall replace the pass or fail grade as the student's grade for the course.

g. A student who chooses to withdraw from a course shall receive a full refund of tuition and fees attributable to that course.

h. A student who has paid amounts for room, board or fees shall, except as provided in subsection g. of this section, receive a refund of that portion of those amounts attributable to the time period during which the student did not use the services for which payment was made.

i. Any refund payable to a student who is a financial aid recipient shall be subject to the applicable State and federal regulations regarding refunds.

L.1997,c.377,s.1.

18A:62-4.3 Student at public institution of higher education, re-enrollment right, refund of fees if called to active duty for certain military operations.

1. A student who is a member of the New Jersey National Guard or of the Reserve component of the Armed Forces of the United States and who is unable to complete a course at a New Jersey public institution of higher education because the student is called to active duty as a consequence of Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom shall be entitled to re-enroll in the course upon the completion of military service or to receive a refund of any tuition and fees paid for that course. A student who has paid room, board, or other fees to the institution shall also be entitled to a refund of the portion of those charges attributable to the time period in which the facilities or services were not used by the student.

New Jersey independent institutions of higher education are encouraged to provide the same re-enrollment right and refunds for their students who are members of the New Jersey National Guard or of the Reserve component of the Armed Forces of the United

States and who are called to active duty as a consequence of Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom.

L.2005,c.33,s.1; per s.2, expires one year following termination of Operation Iraqi Freedom.

18A:62-5. Violence and hazing; monitor of incidence; uniform record-keeping system

The Chancellor of Higher Education shall establish standards and promulgate rules and regulations to monitor the incidence of violence and hazing in the institutions of higher education in New Jersey and shall establish a uniform record-keeping system for the purpose of gathering information pertaining to such offenses. As used in this act, "violence" means any crime against person or property which creates a risk of causing bodily harm.

L.1982, c. 223, s. 1, eff. Dec. 30, 1982; per s.4, act to "remain in effect for a period of 3 years.

18A:62-6. Report by employee; filing; forwarding of report and action taken to state department of higher education

Any employee of an institution of higher education observing or having direct knowledge from a participant or victim of an act of violence or hazing shall, in accordance with standards established by the chancellor, file a report describing the incident to the chief executive officer of the institution in a manner prescribed by the chancellor, and a copy of the report shall be forwarded to the State Department of Higher Education.

The chief executive officer of the institution shall notify the State Department of Higher Education of the incident and of the action taken regarding the incident.

L.1982, c. 223, s. 2, eff. Dec. 30, 1982; per s.4, act to "remain in effect for a period of 3 years.

18A:62-7. Annual report

The Chancellor of Higher Education shall include in his annual report to the Governor and the Legislature, pursuant to N.J.S. 18A:3-21, a section detailing the extent of violence and hazing in the institutions of higher education, explaining the measures being taken to counter the problem, and making recommendations to alleviate the problem.

L.1982, c. 223, s. 3, eff. Dec. 30, 1982; per s.4, act to "remain in effect for a period of 3 years.

18A:62-15. Health insurance coverage required for full-time students at institutions of higher education

77. a. Every student enrolled as a full-time student at a public or private institution of higher education in this State shall maintain health insurance coverage which provides basic hospital benefits. The coverage shall be maintained throughout the period of the student's enrollment.

b. Every student enrolled as a full-time student shall present evidence of the health insurance coverage required by subsection a. of this section to the institution at least annually, in a manner prescribed by the institution.

c. The State Department of Health shall require all public and private institutions of higher education in this State to offer health insurance coverage on a group or individual basis for purchase by students who are required to maintain the coverage pursuant to this section.

d. The Commissioner of Health shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of subsections a., b. and c. of this section.

e. The Student Assistance Board in but not of the Department of the Treasury shall adopt rules and regulations to require that a public or private institution of higher education in this State consider the coverage required pursuant to this section as an educational cost for purposes of determining a student's eligibility for financial aid.

f. Nothing in this section shall be construed to permit a hospital in this State to deny access to hospital care to a full-time student whose health insurance coverage required by this section lapses for any reason.

g. The provisions of this section shall not apply to a person who is a participant in the REACH program established pursuant to P.L.1987, c.282 (C.44:10-9 et seq.).

L.1991,c.187,s.77; amended 1994,c.48,s.87.

18A:62-15.1 Meningococcal vaccination required for certain students residing in college dorms.

2. a. Beginning in September 2004, a new student enrolling in a program leading to an academic degree at a public or private institution of higher education in this State,

who resides in a campus dormitory, shall receive a meningococcal vaccination as a condition of attendance at that institution, except as provided in section 3 of this act.

As used in this act, "institution of higher education" means a university or college that provides a four-year program of instruction.

b. A student shall present evidence of the vaccination required pursuant to subsection a. of this section to the institution in a manner prescribed by the institution.

c. The Department of Health and Senior Services shall require each public or private institution of higher education in this State to offer the vaccination required pursuant to subsection a. of this section to its students through the institution's student health services program or through a contractual agreement with a community health care provider.

d. The Commissioner of Health and Senior Services shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to carry out the purposes of subsections a., b. and c. of this section and section 3 of this act. e. Nothing in this act shall be construed to require a student who does not reside in a campus dormitory to receive a meningococcal vaccination.

L.2003,c.284,s.2.

18A:62-15.2 Exemption from vaccination.

3. a. A student shall not be required to receive a vaccination pursuant to subsection a. of section 2 of this act based upon one of the following:

(1) a written statement submitted to the institution of higher education by a licensed physician indicating that the vaccine is medically contraindicated for a specific period of time and the reasons for the medical contraindication, based upon valid medical reasons as determined by regulation of the Commissioner of Health and Senior Services, which shall exempt the student from the vaccination for the stated period of time; or

(2) a written statement submitted to the institution of higher education by the student, or the student's parent or guardian if the student is a minor, explaining how the administration of the vaccine conflicts with the bona fide religious tenets or practices of the student, or the parent or guardian, as appropriate; except that a general philosophical or moral objection to the vaccination shall not be sufficient for an exemption on religious grounds.

b. In the event of an actual or threatened outbreak of meningitis at a public or private institution of higher education in this State, the institution may exclude from attendance a student who has been exempted from the vaccination requirement of this act pursuant to subsection a. of this section, as determined by the Commissioner of Health and Senior Services.

L.2003,c.284,s.3.

18A:62-16. Findings, declarations

1. The Legislature finds and declares that:

a. Adult illiteracy is a widespread problem in society which reduces the pool of available skilled labor and thereby impedes economic growth and global competitiveness.

b. Although various national and Statewide literacy organizations have established community-based literacy programs, the need for literacy tutor volunteers is great.

c. Students could assist in reducing the problem of illiteracy by being active participants in providing literacy tutoring, thereby expanding the State's pool of literacy volunteers.

d. Students who provide literacy tutoring would be performing a public service for the communities where they reside while gaining college credit toward graduation.

e. The active participation of the State's public universities and colleges in the fight against illiteracy would reinforce their commitment to provide an educated work force.

L.1992,c.49,s.1.

18A:62-17. Establishment of literacy tutoring program

2. The governing body of each public institution of higher education may elect to establish a literacy tutoring program which would offer course credit toward graduation for students who choose to participate.

L.1992,c.49,s.2.

18A:62-18. Joint sponsorship of literacy tutoring program

3. The governing body of each public institution of higher education may jointly sponsor the literacy tutoring program with a local agency or organization which would:

a. Link students to the various literacy programs in their communities and throughout the State.

b. Coordinate the training of student tutors; and

c. Monitor the performance of a student providing literacy tutoring.

L.1992,c.49,s.3.

18A:62-19. Substitution of elective course

4. A student enrolled in a public institution of higher education on a full-time or part-time basis may elect to substitute an elective course offered by the institution with the literacy tutoring program for the same number of credits.

L.1992,c.49,s.4.

18A:62-20. Completion of required number of credit hours

5. A student in the literacy tutoring program shall be required to complete the same minimum number of credit hours in a semester as would normally be required were the student not enrolled in the literacy tutoring program.

L.1992,c.49,s.5.

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.

L.1992,c.49,s.6; amended 1994, c.48, s.88; 1999, c.46, s.34.

18A:62-22. Student tuition, fees, certain; collection method, "optional fee" defined

1. The governing body of any public institution of higher education shall not allow funds for legislative agents or organizations as defined in chapter 13C of Title 52 of the New Jersey Statutes which attempt to influence legislation to be assessed on student tuition bills, except that optional fees for non-partisan organizations which employ legislative agents or attempt to influence legislation shall be collected by the governing body whenever students at the institution have authorized an optional fee for such organizations by a majority vote of those students voting in an official student referendum. For the purposes of this section "optional fee" shall mean any amount payable on a student tuition bill, appearing as a separately assessed item, but not a mandatory charge or a waivable fee. Optional fees shall be accompanied by a statement as to the nature of the item, and that the item is not a charge required to be paid by the student but rather the student may add the charge to the total amount due, and that the item appears on the bill at the request of the student body, and does not necessarily reflect the endorsement of the governing body.

L.1995,c.63.

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.

L.1999,c.46,s.20.

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

21. a. 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 16 credits per semester tuition-free provided that:

(1) the member has completed Initial Active Duty Training and, except as otherwise provided pursuant to subsection c. of this section, is in good standing as an active member of the New Jersey National Guard;

(2) 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 or a course of graduate study and is enrolled as a graduate student in good standing at that institution; and

(3) 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.

b. The State shall reimburse a public institution of higher education for the tuition cost of each National Guard member who enrolls in the institution pursuant to the provisions of this section.

c. Any member of the New Jersey National Guard whose enrollment in a public institution of higher education on a tuition-free basis pursuant to subsection a. of this section is interrupted by a deployment to active duty shall be permitted to receive the free tuition benefit after discharge from service under conditions other than dishonorable. In the event of a non-medical discharge or a medical discharge that is not caused by an illness or injury related to the performance of duties for the National Guard, eligibility for the free tuition benefit shall begin from the date of discharge and shall continue for one semester or a period of time equal to the length of the deployment, whichever is longer. In the event of medical discharge or medical retirement as a result of illness or injury incurred in the combat theater, as a result of terrorist action, or in the response to a natural disaster, eligibility for the free tuition benefit shall begin from the date of discharge or retirement and shall continue until completion of the degree program in which enrolled or for five years, whichever occurs first.

L.1999,c.46,s.21; amended 2001, c.9, s.1; 2001, c.427; 2007, c.11, s.1.

18A:62-24.1 Nonresident tuition rate for NJ National Guard members prohibited.

1. No public institution of higher education in this State shall impose a nonresident tuition rate or differential fee on a member of the New Jersey National Guard, if the member meets the criteria set forth in section 21 of P.L.1999, c.46 (C.18A:62-24).

L.2005,c.317,s.1.

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 16 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 or a course of graduate study and is enrolled as a graduate 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.

L.1999,c.46,s.22; amended 2001, c.9, s.2; 2007, c.11, s.2.

18A:62-25.1 Nonresident tuition for certain survivors of members of NJ National Guard prohibited.

2. No public institution of higher education in this State shall impose a nonresident tuition rate or differential fee on a child or surviving spouse of a member of the New Jersey National Guard, if the child or surviving spouse meets the criteria set forth in section 22 of P.L.1999, c.46 (C.18A:62-25).

L.2005,c.317,s.2.

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.

L.1999,c.46,s.23.

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.

L.1999,c.46,s.24.

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.

L.1999,c.46,s.25.

18A:62-29 Short title.

1. This act shall be known and may be cited as the "Higher Education Incentive Funding Act."

L.1999,c.226,s.1.

18A:62-30 Findings, declarations relative to higher education finance.

2. The Legislature finds and declares that a mechanism is needed to provide incentives that will assist the State's public and independent colleges and universities in their fund raising efforts, and that a State commitment to provide matching funds for private donors' investment in higher education has the potential to generate additional external support for programs and activities that could have a significant impact on the individual campuses of the State's higher education institutions.

L.1999,c.226,s.2.

18A:62-31 Definitions relative to higher education finance.

3. As used in this act:

"Amount" of a contribution or a donation means, in the case of property other than cash, the fair market value of the property contributed or donated as of the close of business on the day on which the recipient of that contribution or donation acquires ownership of the property.

"Contribution year" means the fiscal year in which the endowment contribution or contributions were made, with respect to which State matching funds under sections 5 through 7 of P.L.1999, c.226 (C.18A:62-33 through C.18A:62-35) are sought or have been paid.

"Donation" means the conveyance by gift of property consisting of cash or marketable securities, the corpus of which property may, under the terms of the gift, be expended by the donee, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the donor.

"Donation year" means the fiscal year in which the donation or donations were made, with respect to which State matching funds under sections 9 through 11 of P.L.1999, c.226 (C.18A:62-37 through C.18A:62-39) are sought or have been paid.

"Endowment contribution" means the conveyance by gift of property consisting of cash or marketable securities, the corpus of which property may not, under the terms of the gift, be expended by the person to whom the contribution is made, and the income from which property may, but need not, be restricted under those terms as to use for particular purposes stipulated by the contributor.

"Fiscal year" means the State fiscal year.

"Gift" means a completed irrevocable transfer of property, including transfer by testamentary disposition, for which transfer the transferor receives no consideration, and in which property the transferee's interest is not subject to any retained interest of the transferor or to any concurrent or future interest of any other person.

L.1999,c.226,s.3.

18A:62-32. "Higher Education Incentive Endowment Fund"

4. There is created in the Department of the Treasury a non-lapsing fund, the "Higher Education Incentive Endowment Fund" (the "endowment fund"), which, subject to the availability of funds, shall be used to provide State matching funds against endowment contributions to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, or their institutionally related foundations, in accordance with the provisions of sections 5 through 7 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

L.1999,c.226, s.4; amended 1999, c.368, s.1.

18A:62-33. State matching funds for endowment contributions to four-year public institutions

5. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made an endowment contribution to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$1,000,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

a. In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of \$1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

b. In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under subsection a. of this section.

L.1999,c.226, s.5; amended 1999, c.368, s.2.

18A:62-34. State matching funds for endowment contributions to two-year public institutions

6. a. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made an endowment contribution to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$100,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such contribution received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of \$100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under paragraph (1) of this subsection.

b. With respect to a fiscal year in which three or more persons, corporations or other business entities, or foundations each shall have made endowment contributions to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$50,000 or more but less than \$100,000, and the cumulative amount in that fiscal year of those endowment contributions of \$50,000 or more but less than \$100,000 is at least \$250,000, the recipient institution or foundation shall be eligible to receive State matching funds in subsequent fiscal years as follows:

(1) In the fiscal year first following the contribution year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of \$250,000 that is less than or equal to that cumulative amount of such contributions received in the contribution year. There shall be no limit on the number of such endowment contributions from single contributors in that contribution year in the amount of \$50,000 but less than \$100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of

State matching funds to which the applicant institution or foundation is entitled under this paragraph and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied; and

(2) In the second fiscal year following the contribution year and in each of the eight subsequent fiscal years following the second fiscal year, the institution or foundation shall be entitled to receive from the endowment fund, without application, State matching funds in an amount equal to the amount paid under paragraph (1) of this subsection.

L.1999,c.226, s.6; amended 1999, c.368, s.3.

18A:62-35. State matching funds for endowment contributions to four-year independent institutions

7. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation makes an endowment contribution to a four-year independent institution of higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of \$1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of \$100,000 with respect to each such contribution. There shall be no limit on the number of such endowment contributions from single contributors in a contribution year in the amount of \$1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire contribution year and may be submitted at any time after the close of that contribution year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the endowment fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a contribution year shall not thereafter receive additional State matching funds with respect to the same contribution year.

L.1999,c.226, s.7; amended 1999, c.368, s.4.

18A:62-36. "Higher Education Incentive Grant Fund"

8. There is created in the Department of the Treasury a non-lapsing fund, the "Higher Education Incentive Grant Fund" (the "grant fund"), which, subject to the availability of funds, shall be used to provide State matching funds against donations to four-year public institutions of higher education, two-year public institutions of higher education, and independent institutions of higher education that receive direct State aid, or their institutionally related foundations, in accordance with the provisions of sections 9 through 11 of this act and subject to the provisions of subsections a. and b. of section 12 of the act.

L.1999,c.226, s.8; amended 1999, c.368, s.5.

18A:62-37. State matching funds for donations to four-year public institutions

9. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made a donation to a four-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$1,000,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds under this section. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of \$1,000,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

L.1999,c.226, s.9; amended 1999, c.368, s.6.

18A:62-38. State matching funds for donations to two-year public institutions

10. a. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation shall have made a donation to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$100,000 or more, the recipient institution or foundation shall be eligible to receive State matching funds under this subsection. In

the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the amount of each such donation received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of \$100,000 or more each for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

b. With respect to every fiscal year in which three or more persons, corporations or other business entities, or foundations each shall have made donations to a two-year public institution of higher education, or to a foundation institutionally related to such a public institution, in the amount of \$50,000 or more but less than \$100,000, and the cumulative amount in that fiscal year of those donations of \$50,000 or more but less than \$100,000 is at least \$250,000, the recipient institution or foundation shall be eligible to receive State matching funds under this subsection. In the fiscal year next following the donation year, the institution or foundation may apply to the State Treasurer for State matching funds in an amount equal to 10% of the highest exact multiple of \$250,000 that is less than or equal to that cumulative amount of such donations received in the donation year. There shall be no limit on the number of such donations from single donors in that donation year in the amount of \$50,000 but less than \$100,000 each with respect to which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this subsection and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this subsection with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

L.1999,c.226, s.10; amended 1999, c.368, s.7.

18A:62-39. State matching funds for donations to four-year independent institutions

11. With respect to a fiscal year in which at least one person, corporation or other business entity, or foundation makes a donation to a four-year independent institution of higher education that receives direct State aid, or to a foundation institutionally related to such an institution, in the amount of \$1,000,000 or more, the recipient institution or foundation shall be eligible to apply for and to receive State matching funds in the amount of \$100,000 with respect to each such donation. There shall be no limit on the number of such donations from single donors in that donation year in the amount of \$1,000,000 or more for which such application may be made. Any such application shall be made only with respect to the entire donation year and may be submitted at any time after the close of that donation year up until the application deadline established by the State Treasurer. Following the receipt of all applications, but not later than the 90th day following the application deadline, the State Treasurer shall determine the amount of State matching funds to which the applicant institution or foundation is entitled under this section and shall pay that amount from the grant fund to the institution or foundation, including with that payment an explanation of the denial, if any, of any claim of entitlement to matching funds for which the institution or foundation had applied. An institution or foundation that shall have received payment of State matching funds under this section with respect to a donation year shall not thereafter receive additional State matching funds with respect to the same donation year.

L.1999,c.226, s.11; amended 1999, c.368, s.8.

18A:62-40. Ineligibility for receipt of State matching funds; use of matching funds

12. a. No institution of higher education having a total endowment of more than \$1,000,000,000, and no foundation institutionally related to such an institution, shall be eligible to receive State matching funds under this act.

b. No endowment contribution or donation to an institution of higher education from a foundation institutionally related to that institution shall be eligible to be matched with State funds under the provisions of this act.

c. The matching funds provided to an institution of higher education or to a foundation institutionally related to such an institution pursuant to sections 4 through 11 of this act shall be used by the institution or foundation exclusively for academic

purposes and shall not be used to fund any activity, program or project unrelated or only incidentally related to those purposes, such as the award of athletic scholarships, except that the matching funds may be used for the payment of the cost of building construction, in accordance with the terms as to use for particular purposes stipulated by the donor of the endowment contribution or donation. The matching funds provided shall not be used for the purpose of sectarian instruction, the construction or maintenance of sectarian facilities, or for any other sectarian purpose or activity. These restrictions shall not apply to the use by the institution or foundation of any of the endowment contributions and donations with respect to which those matching funds were paid.

L.1999,c.226, s.12; amended 1999, c.368, s.9.

18A:62-41. Documents included with application for State matching funds; information required

13. In order for an institution or foundation to receive in a fiscal year State matching funds pursuant to an application therefor under the provisions of this act, the governing body of the institution or foundation shall provide the State Treasurer with a copy of the institution's annual independent financial audit, the institution's education foundation audit, or other financial certification, as deemed appropriate by the Treasurer, that verifies that the institution has raised the necessary amount through endowment contributions or donations to qualify for the State matching funds. An institution or foundation receiving State matching funds shall also provide in each fiscal year the annual average amount of endowment contributions and donations received in the contribution year and the donation year and in the five previous contribution and donation years.

L.1999,c.226, s.13; amended 1999, c.368, s.10.

18A:62-42. Funds administered separately

14. a. The endowment fund and the grant fund shall be administered separately by the State Treasurer. Each fund shall consist of moneys appropriated or otherwise made available to it by the Legislature and any interest received on the investment of moneys in that fund.

b. If, in any fiscal year, the fund balance in either the endowment fund or the grant fund is insufficient to fund payment in full of the State matching funds authorized to be paid under the provisions of this act, the amount of available funds shall be prorated among all eligible applicants.

L.1999,c.226, s.14; amended 1999, c.368, s.11.

18A:62-43 Rules, regulations.

15. 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 carry out the provisions of this act.

L.1999,c.226,s.15.

18A:62-44 Reasonable substitution of certain courses for certain disabled college students.

1. a. Any student attending a public institution of higher education in the State or an independent institution of higher education which receives direct State aid or a degree-granting post secondary institution whose students are eligible for State tuition grants and scholarships, who is hearing impaired, visually impaired, or learning disabled shall be eligible for reasonable substitution of specific courses required for the completion of degree requirements, provided that:

(1) Documentation is provided that the student's request for substitution of a specific course is related to the disability;

(2) The substitution of a specific course does not constitute a fundamental alteration in the nature of the degree requirements and the specific course is not required for professional certification; and

(3) The specific courses are not offered by a public or independent institution of higher education as requirements for a health professions degree.

b. The Commission on Higher Education may promulgate rules and regulations necessary to carry out the provisions of this act, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), provided that the rules and regulations are not inconsistent with federal rules and regulations.

L.2002, c.110,s.1.

18A:62-45 Provision of organ donation information at institutions of higher education.

1. a. Beginning with the 2009-2010 school year, each public institution of higher education in the State shall provide information to its students, either through student health services or as part of the curriculum, that emphasizes the benefits to the health

and well-being of society and the lives that are saved through organ donations, and that instills knowledge that will enable young adults to make an informed decision about registering to become an organ donor or designating a decision-maker to make the decision on behalf of the young adult. The information shall also instill an understanding of the outcome if no decision about becoming an organ donor or designating a decision-maker is registered or otherwise recorded. The information provided shall be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey.

b. Beginning with the 2009-2010 school year, each independent institution of higher education in the State is encouraged to provide information to its students, either through student health services or as part of the curriculum, that emphasizes the benefits to the health and well-being of society and the lives that are saved through organ donations, and that instills knowledge that will enable young adults to make an informed decision about registering to become an organ donor or designating a decision-maker to make the decision on behalf of the young adult. The information shall also instill an understanding of the outcome if no decision about becoming an organ donor or designating a decision-maker is registered or otherwise recorded. The information provided shall be prepared in collaboration with the organ procurement organizations designated pursuant to 42 U.S.C.s.1320b-8 to serve in the State of New Jersey.

L.2007, c.121, s.1; amended 2008, c.48, s.4.

18A:62-46 Transfer of academic credits from associate degree program to baccalaureate program.

1. Each public institution of higher education, in consultation with the New Jersey Commission on Higher Education and the New Jersey Presidents' Council, shall establish and enter into a collective Statewide transfer agreement that provides for the seamless transfer of academic credits from a completed associate of arts or associate of science degree program to a baccalaureate degree program. The transfer agreement shall include:

a. a listing of the general education core courses as stipulated by the Presidents' Council;

b. policies and procedures for the seamless transfer and application of academic credits from a completed associate degree program to a baccalaureate degree program, including a guarantee that an associate of arts degree or an associate of science degree awarded by a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes shall be fully transferable and credited as the first two years of a baccalaureate degree program at the four-year public institution of higher education in the State to which a student is admitted;

c. policies and procedures for the implementation of an appeals process for students and institutions to resolve disputes regarding the transfer of academic credits;

d. policies and procedures for the annual review and update of the agreement; and

e. policies and procedures for the collection of data by the commission to ensure that all participating institutions of higher education are in compliance with the provisions of this act and to ensure that the agreement is fostering both a seamless transfer process and the academic success of transfer students at the senior institutions. The commission shall annually determine the data to be collected and shall notify each participating institution in a timely manner.

The policies and procedures set forth in the transfer agreement shall be fully operational by September 1, 2008.

L.2007,c.175,s.1.

18A:62-47 Adoption of policies, procedures regarding certain transfers.

2. On or before January 1, 2008, each public institution of higher education shall, in consultation with the Commission on Higher Education and the Presidents' Council, develop and adopt as part of the collective Statewide transfer agreement established pursuant to section 1 of this act policies and procedures for the transfer of credits earned by a student who has not completed his associate degree program prior to transferring into a baccalaureate degree program.

L.2007,c.175,s.2.

18A:62-48 Independent institutions may enter into agreement.

3. An independent institution of higher education in the State may elect to enter into the agreement.

L.2007,c.175,s.3.

18A:62-49 Annual report to Governor, Legislature.

4. The Commission on Higher Education shall prepare an annual report containing a compilation of the data collected pursuant to subsection e. of section 1 of this act, an analysis of the effect of the agreement on the transfer process and on the academic success of transfer students at the senior institutions, and an analysis of each

participating institution's compliance with the provisions of this act. The commission shall submit the report to the Legislature and the Governor by November 15th of each year.

L.2007,c.175,s.4.

18A:62-50 Cooperation considered relative to annual appropriation.

5. The cooperation of each public institution of higher education in abiding by the terms of the agreement shall be reviewed and considered by the Governor and the Legislature when making the annual appropriation for the institution.

L.2007,c.175,s.5.

18A:62-51 Construction of act as to standards and procedures for admission.

6. Nothing in this act shall be construed to require any public or independent institution of higher education to admit a student or to waive its admission standards and application procedures.

L.2007,c.175,s.6.

18A:63-1. Establishment of summer school and extension courses; curricula

18A:63-1. Summer schools and extension courses for the purpose of training and educating persons, in the science of education and in the art of teaching elementary agriculture, manual training, household economics and such other subjects as may be prescribed, shall be established and maintained in the State colleges.

L.1967, c.271; amended 1994,c.48,s.89.

18A:63-2. Tuition and incidental fees

18A:63-2. The State colleges and State summer schools may charge tuition and incidental fees in extension courses and summer school courses.

L.1967, c.271; amended 1994,c.48,s.90.

18A:64-1. Decentralization of authority

18A:64-1. The Legislature hereby finds that it is in the best interest of the State that the State colleges shall be and continue to be given a high degree of self-government and that the government and conduct of the colleges shall be free of partisanship. The Legislature finds further that a decentralization of authority and decision-making to the boards of trustees and administrators of the State colleges will enhance the idea of self-government. Such colleges shall be maintained for the purpose of providing higher education in the liberal arts and sciences and various professional areas, including the science of education and the art of teaching, at such places as may be provided by law. The names of the colleges shall be designated by the board of trustees subject to regulations of the Commission on Higher Education concerning university status. The name of each of the existing State colleges shall continue the same unless a new name is so designated.

L.1967, c.271; amended 1969,c.145,s.1; 1986,c.42,s.2; 1994,c.48,s.93.

18A:64-2. Control and management

The government, control, conduct, management and administration of each of the colleges shall be vested in the board of trustees of the college.

18A:64-3 Board of trustees.

L.1967, c.271.

18A:64-3 Board of Trustees.

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

L.1967, c.271; amended 1986, c.42, s.3;1994, c.48, s.94;1999, c.324.

18A:64-3.1. Student representatives

1. The board of trustees of any State college established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall provide for the election of two student representatives as provided herein, who shall be full-time, regularly matriculated students in good academic standing, and who shall be 18 years of age or older and citizens of the United States, to be elected by the students in the manner provided herein to serve on the board of trustees of that college for terms of two years commencing at the next organization of the board.

a. In order to implement the provisions of this section, each board of trustees shall schedule a public hearing on the question of the student election. After the public hearing, the board, at its regularly scheduled meeting in March following the effective date of this act, shall determine whether the students are to be elected by the student body at large or by the members of the student government association. Except that, for Thomas A. Edison State College, the method of the selection and the designation of eligible academic status of the student representatives shall be determined by the board of that college.

b. For the first election held pursuant to this section, one student shall be elected for a one year term as a full voting member, and one student shall be elected for two years, but shall serve as an alternate member during the first year and as a voting member during the second year.

At each subsequent election, one student shall be elected for two years, but shall serve during the first year as an alternate member, and as a voting member during the second year.

Any vacancies which occur shall be filled by the student governing body for the unexpired term only.

c. The standards for eligibility for student representatives on the board of trustees shall be the same as those required for other student government officers.

d. The student members shall be entitled to full participation in all activities of the board except that they shall not participate in:

(1) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of any specific prospective officer or employee or current officer or employee employed or appointed by the board, unless all the individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting.

(2) Any matter involving the purchase, lease, acquisition or sale of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of these matters were disclosed.

(3) Any pending or anticipated litigation in which the board is, or may become, a party, where it could adversely affect the public interest if discussion of these matters were disclosed, or any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.

e. Upon assuming office, the students shall agree to adhere to such standards of responsibility and confidentiality as are established by the board of trustees.

L.1986,c.139,s.1; amended 1988,c.82; 1994,c.48,s.95.

18A:64-4. Meeting and organization

Each such board shall meet and organize annually at a regular meeting held during the second week of September, by the election of a chairman, vice chairman and such other officers as the board shall determine. Such officers shall serve until the following September meeting and until their successors are elected and qualified. Vacancies in such offices shall be filled in the same manner for the unexpired term only.

The board may meet at such other times and at such places as it may designate.

L.1967, c.271.

18A:64-5. Expenses; no compensation

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

L.1967, c.271.

18A:64-6 Powers, duties of boards.

18A:64-6. The board of trustees of a State college shall have general supervision over and shall be vested with the conduct of the college. It shall have the power and duty to:

a. Adopt and use a corporate seal;

b. 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;

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

d. Study the educational and financial needs of the college; annually acquaint the Governor and Legislature with the condition of the college; and prepare and present

the annual budget to the Governor, the Division of Budget and Accounting in the Department of the Treasury and the Legislature in accordance with law;

e. Disburse all moneys appropriated to the college 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 college and tuition received by the college, in accordance with the provisions of the State budget and appropriation acts of the Legislature, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the State Department of the Treasury 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. All accounts of the college 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 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, without vote, and shall serve at the pleasure of the board of trustees;

h. Notwithstanding the provisions of Title 11, Civil Service, of the Revised Statutes, upon nomination by the president appoint a treasurer and such deans and other professional members of the academic, administrative and teaching staffs as defined in section 13 of P.L.1986, c.42 (C.18A:64-21.2) as shall be required and fix their compensation and terms of employment in accordance with salary ranges and policies which shall prescribe qualifications for various classifications and shall limit the percentage of the educational staff that may be in any given classification;

i. Upon nomination by the president, appoint, remove, promote and transfer such other officers, agents or employees as may be required for carrying out the purposes of the college and assign their duties, determine their salaries and prescribe qualifications for all positions, all in accordance with the provisions of Title 11, Civil Service, of the Revised Statutes;

j. Grant diplomas, certificates and degrees;

k. Pursuant to the provisions of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts and agreements for the purchase of lands, buildings, equipment, materials, supplies and services; 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 purposes of the college;

l. If necessary, take and condemn land and other property in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), whenever authorized by law to purchase land or other property;

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

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

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

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

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

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

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

t. Borrow money for the needs of the college, 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 this borrowing shall not be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, or be payable out of property or funds, other than moneys appropriated for that purpose, of the State;

u. Authorize any new program, educational department or school consistent with the institution's programmatic mission or approved by the commission;

v. (Deleted by amendment, P.L.1994, c.48);

w. Pursuant to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), award contracts and agreements for the purchase of goods and services, as distinct from contracts or agreements for the construction of buildings and other improvements, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State college, price and other factors considered; and

x. Pursuant to the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), award contracts and agreements for the construction of buildings and other improvements to the lowest responsible bidder, whose bid, conforming to the invitation for bids, will be the most advantageous to the State college.

L.1967, c.271; amended 1969, c.145, s.2; 1972, c.80, s.2; 1986, c.42, s.4; 1992, c.61, s.1; 1994, c.48, s.96; 2005, c.369, s.1.

18A:64-6.1. Contracts; warranty; violation

Every contract or agreement negotiated, awarded or made pursuant to this act shall contain a suitable warranty by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the State college shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

L.1969, c. 145, s. 6.

18A:64-6.2. Payments in violation of act; misdemeanor

Any person willfully authorizing, consenting to, making or procuring to be made payment of State College funds for or on account of any purchase, contract or agreement known to him to have been made or entered into in violation of any of the provisions of this act shall be guilty of a misdemeanor.

L.1969, c. 145, s. 7.

18A:64-6.3. Payment or gift by person dealing with State college prohibited; misdemeanor

The payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with any purchase, sale or contract, to any person employed by the State college, having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the State college, by or on behalf of any seller or supplier who has made, negotiated, solicited or offered to make and contract to sell or furnish real or personal property or services to the State college is hereby prohibited. Any person offering, paying, giving, soliciting or receiving any fee, commission, compensation, gift or gratuity in violation of this section shall be guilty of a misdemeanor.

L.1969, c. 145, s. 8.

18A:64-7. Additional powers and duties

18A:64-7. The board of trustees of a State college, in addition to the other powers and duties provided herein, shall have and exercise the powers, rights and privileges that are incident to the proper government, conduct and management of the college, and the control of its properties and funds and such powers granted to the college or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this article or applicable law.

L.1967, c.271; amended 1994,c.48,s.97.

18A:64-8. President; powers and duties

The president of a state college shall be responsible to its board of trustees and shall have such powers as shall be requisite, for the executive management and conduct of the college in all departments, branches and divisions, and for the execution and enforcement of the bylaws, rules, regulations and orders governing the management, conduct and administration of the college.

L.1967, c.271.

18A:64-9. Existing state colleges continued

The existing six state colleges presently maintained by the state of New Jersey and heretofore under the care, custody, control and administration of the commissioner and the state board shall hereafter be operated by their respective boards of trustees pursuant to the provisions of this article.

L.1967, c.271.

18A:64-10. Maintenance of demonstration schools

The board of trustees of each state college may maintain demonstration schools under regular teachers, in which pupils of the state colleges shall have the opportunity to observe and practice approved methods of instruction and discipline.

L.1967, c.271

18A:64-11. Conduct of extension courses, fees, etc.

18A:64-11. The board of trustees of each State college is authorized and empowered to conduct summer schools and extension courses through the six State colleges for the purpose of giving further training to the teachers in the public schools of this State and to charge fees therefor to be collected by the treasurers of the several State colleges.

L.1967, c.271; amended 1994,c.48,s.98.

18A:64-12. Rights of counties as to number of pupils

Each county shall be entitled to at least six times as many pupils in such colleges as it shall have representatives in the legislature. In case a county shall not have the full number of pupils to which it is entitled, pupils may be admitted from other counties.

L.1967, c.271.

18A:64-13. Tuition fees

18A:64-13. Students in each State college who are residents of New Jersey shall be required to pay each year a minimum tuition fee and nonresidents of the State shall pay an additional fee. Such fees and any increase of the minimum tuition fee shall be determined by each college board of trustees. The board of trustees may waive the payment of the college's anticipated tuition revenues to accomplish mission-related or policy goals.

L.1967, c.271; amended 1968,c.24; 1986,c.42,s.5; 1994,c.48,s.99.

18A:64-13.1. Definitions.

1. As used in this act:

a. "Job training course" means any course of instruction which will provide the individual with an identifiable job skill and will assist the individual in gaining reemployment, any course of instruction which is part of a training program approved pursuant to the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, or any course of instruction which is part of the education and training described in the Employability Development Plan developed for the individual pursuant to section 3 of P.L.1992, c.47 (C.43:21-59).

b. "Public institution of higher education" means the State colleges and the New Jersey Institute of Technology and all other institutions indicated by N.J.S.18A:62-1, except for county colleges.

L.1983,c.469,s.1; amended 1992,c.45,s.1.

18A:64-13.2. Tuition-free job training courses

2. Each public institution of higher education shall permit a person who has been in the labor market for at least two years and is unemployed or has received a layoff notice as a result of a factory or plant closing to enroll without payment of tuition in a job training course, provided that the person is not eligible for any available State or federal student financial aid and that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a public institution of higher education from requiring a registration fee not to exceed \$20.00 per academic term.

L.1983,c.469,s.2; amended 1992,c.45,s.2.

18A:64-13.3. Eligibility for continued participation

In order to remain eligible for participation in this program, the unemployed worker shall be required to maintain a passing grade in the job training course in which he is enrolled.

L.1983, c. 469, s. 3, eff. Jan. 12, 1984.

18A:64-13.4. Rules, regulations

4. The Commissioner of Labor, in consultation with the Presidents' Council, shall promulgate rules and regulations necessary to effectuate the purposes of this act. Regulations of the State Board of Higher Education implementing this act shall remain in full force and effect until modified or repealed by the Commissioner of Labor.

L.1983,c.469,s.4; amended 1994,c.48,s.100.

18A:64-14. Supplies; school fees

Each State college may require students to furnish such textbooks and incidental supplies and to pay such general school fees as may be fixed by the board of trustees. The board of trustees shall provide apparatus and such books and supplies as are not required to be furnished by students as provided in this section.

L.1967, c.271; amended by L. 1986, c. 42, s. 6, eff. July 9, 1986.

18A:64-17. Work for students

The president of any state college may, under regulations approved by the board of trustees, provide work in or about such college for any student or students who demonstrate financial need. The value of such work as determined by the president under the aforementioned regulations shall be credited toward the payment in part or in whole of any one or combination of the following charges for such student or students: tuition, room and board; provided that the number of students aided under the provisions of this section shall not exceed 25% of the number of the full-time students of such college.

L.1967, c.271.

18A:64-18. Retention of revenue

18A:64-18. a. Moneys which are derived by the State colleges as room and board revenues from student housing and food service facilities and which are not pledged for the payment of principal and interest on bonds of this State and which are in excess of sums required for the operation, maintenance, and rental of such facilities shall be retained in a separate account by each college and may be expended by each college for the cost of operation, maintenance and rental of such facilities in subsequent years. The unexpended balance in any such account at the end of any fiscal year shall not lapse into the General Treasury.

b. Moneys which are derived from student union building fees collected at a State college, which are in excess of the sums required for the operation, maintenance and rental of such a facility, shall be retained in a separate account by each college and may be expended by each college for the cost of operation, maintenance and rental of such facilities in subsequent years. The unexpended balance of any such account at the end of any fiscal year shall not lapse into the General Treasury.

c. Moneys which are derived from the operation of parking facilities, and any other facilities financed by student fees, which are in excess of sums required for the operation and maintenance of such facilities at a State college, shall be retained in a separate account by each college and may be expended by each college for the cost of operation, maintenance and rental of such facilities in subsequent years. The unexpended balance of any such account at the end of any fiscal year shall not lapse into the General Treasury.

d. No revenues received pursuant to this section shall be transferred from their respective accounts if contractual obligations between the college and the New Jersey Educational Facilities Authority prohibit these actions.

L.1967, c.271; amended 1968,c.122; 1969,c.145,s.3; 1970,c.275; 1972,c.80,s.3; 1986,c.42,s.7; 1994,c.48,s.101.

18A:64-18.1. Monthly installments

a. Funds appropriated by the State for the operation of the State colleges shall be paid to each college in 12 equal installments on the first day of each month; except that Thomas A. Edison College of New Jersey shall have its appropriated funds paid to it on a quarterly installment basis.

b. Any unexpended balance at the end of any fiscal year shall be retained and may be expended by each college in subsequent fiscal years.

L. 1986, c. 42, s. 8, eff. July 9, 1986.

18A:64-18.2. Investment procedure.

9. All functions, powers and duties relating to the investment or reinvestment of funds within the jurisdiction of the board of trustees, including the purchase, sale or exchange of any investments or securities, may be exercised and performed by the Director of the Division of Investment in the Department of the Treasury in accordance with the provisions of P.L.1950, c.270 (C.52:18A-79 et seq.) if so authorized by the board. Sections 10 and 11 of P.L.1986, c.42 (C.18A:64-18.3 and 18A:64-18.4) shall only be applicable in the event of such an election. Before any investment, reinvestment, purchase, sale or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after the submission to it, file with the director its written acceptance or rejection of the proposed investment, reinvestment, purchase, sale or exchange; and the director shall have authority to make the investment, reinvestment, purchase, sale or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment. All earnings on investments shall be retained by each State college.

The finance committee of the board of trustees shall consist of three members of the board, who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

L.1986,c.42,s.9; amended 1994,c.48,s.299.

18A:64-18.3. Authorized investments

The Director of the Division of Investment, in addition to other investments presently or from time to time hereafter authorized by law, shall have authority, subject to any acceptance required, to invest and reinvest the funds in, and to acquire for or on behalf of the board, bonds or other evidence of indebtedness or capital stock or other securities issued by any company incorporated within the United States or within the Dominion of Canada, which shall be authorized or approved for investment by regulation of the State Investment Council in the Division of Investment and in which life insurance companies organized under the laws of this State may legally invest.

L. 1986, c. 42, s. 10, eff. July 9, 1986.

18A:64-18.4. State Treasurer as custodian

The State Treasurer shall be the custodian of the board's investment funds, shall select all depositories and custodians and shall negotiate and execute custody agreements in connection with the assets or investments of any of these funds.

L. 1986, c. 42, s. 11, eff. July 9, 1986.

18A:64-18.5. Bank deposits made by State colleges, security

1. In all cases when a deposit is made by a State college in a State or federally chartered bank, savings bank or savings and loan association, the State Treasurer, in order to secure the deposit, shall require from the bank or institution a deposit of bonds, notes, certificates of indebtedness or bills or other obligations of or guaranteed by the United States; or bonds or other obligations of or guaranteed by the State of New Jersey; or bonds or other obligations of any county, municipality or any other public body corporate and politic created by or established under any law of this State by or on behalf of any one or more counties or municipalities or any board, commission, department or agency of any of the foregoing; or any other obligations now or hereafter authorized by law as security for public deposits. This requirement shall be deemed to be met if the Federal Reserve Bank of New York or the Federal Reserve Bank of Philadelphia or any other banking institution with total assets in excess of \$300,000,000 located within the Second or Third Federal Reserve Districts and approved for such purpose by the State Treasurer, certifies to the State Treasurer that, pursuant to authority given by the depository, it holds obligations, owned by the depository, of the kind and in the amount required by the State Treasurer to secure such deposit. No bank shall be permitted to hold securities, of the kind hereinbefore described, as security for public moneys on deposit in the same bank.

No State or federally chartered bank, savings bank or savings and loan association in which a State college makes deposits of public moneys shall be required to secure the deposits as required by this section to the extent that the deposits are insured by the Federal Deposit Insurance Corporation or by any other federal agency which insures deposits made in state or national banks or savings and loan associations.

L.1995,c.93.

18A:64-19. Repairs to buildings and furniture

The board of trustees of each State college shall have control and care of the building and ground owned and used by the State for the college and shall order necessary repairs to the grounds, buildings, and furniture of the college.

L.1967, c.271; amended by L.1969, c. 145, s. 4.

18A:64-20. Employment of professors, etc., continued; tenure rights, etc., preserved

All professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, and other persons employed by the state of New Jersey, the state board of education or the commissioner of education in the state colleges on July 1, 1967 shall continue in their respective employments in the employ of the board of trustees of their respective colleges and any and all rights of tenure, civil service, retirement, pension disability, leave of absence or similar benefits provided by or under the provisions of the laws of this state shall not be affected or interrupted by virtue of such transfer.

L.1967, c.271.

18A:64-21. Future professors, etc., to have similar tenure rights, etc.

All professors, associate professors, assistant professors, instructors, supervisors, registrars, teachers, and other persons employed by the board of trustees of the state colleges shall have the same rights of tenure, seniority, pension, protection from liability, rights to legal counsel and all other rights and privileges of similar employees of the state board of education or the commissioner of education on July 1, 1967 in the existing state colleges.

L.1967, c.271.

18A:64-21.1. Negotiation authority unaffected

12. The Governor shall continue to function as the public employer under the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.) and through

the Office of Employee Relations act as the chief spokesperson on behalf of the State colleges with respect to all matters under negotiation. One representative of the State college sector shall be designated by the Governor as a member of the negotiating team, upon recommendation by the State colleges.

L.1986,c.42,s.12; amended 1994,c.48,s.102.

18A:64-21.2. Professional positions

Professional members of the academic, administrative and teaching staffs shall include all faculty positions, current professional positions listed as unclassified positions pursuant to Title 11, Civil Service, of the Revised Statutes and all professional positions currently listed as classified positions pursuant to Title 11 of the Revised Statutes, which are not presently included within any bargaining unit. All these positions shall be removed from the provisions of Title 11 of the Revised Statutes; however, any employee currently having classified status in a title shall have the option of retaining all the rights and privileges of a classified employee in that title for so long as the employee maintains uninterrupted service in, or is on an approved leave of absence from, that title.

L. 1986, c. 42, s. 13, eff. July 9, 1986.

18A:64-21.3. Jurisdiction removed

All State college faculty and professional positions shall be removed from the jurisdiction of the Vacancy Review Board, established pursuant to Executive Order No. 10 (1982).

L. 1986, c. 42, s. 14, eff. July 9, 1986.

18A:64-21.4. Employer-Employee Relations Act unaffected

Nothing in this amendatory and supplementary act shall be construed or interpreted to contravene or modify the provisions of the "New Jersey Employer-Employee Relations Act," P.L. 1941, c. 100 (C. 34:13A-1 et seq.) or to limit or restrict the scope of negotiations as provided pursuant to that law.

L. 1986, c. 42, s. 15, eff. July 9, 1986.

18A:64-21.5. Tenure, pension rights

Nothing in this amendatory and supplementary act shall be so construed as to deprive any person of any tenure rights or of any other right or protection provided that person under any pension law or retirement system of this State.

L. 1986, c. 42, s. 16, eff. July 9, 1986.

18A:64-21.6. Findings, declarations

1. The Legislature finds and declares that:

a. The State of New Jersey has designated the Kelsey building located at 101 West State Street, City of Trenton, a State landmark and historic site which is being preserved as a part of the cultural heritage of this State;

b. The original intent of Henry Cooper Kelsey, whose generosity constructed this building, was to support educational purposes;

c. The State has determined that an appropriate use of this facility is served by supporting the programs of Thomas A. Edison State College; and

d. The State, Thomas A. Edison State College, and the City of Trenton have jointly agreed that the interest of these parties is well-served by the physical presence of Thomas A. Edison State College in the Kelsey building and the adjoining properties known as 105 through 115 West State Street in the City of Trenton.

L.1993,c.116,s.1.

18A:64-21.7. Use of Kelsey building by Thomas A. Edison State College

2. The Kelsey School of Industrial Arts building located at the corner of West State and Willow Streets, designated as 101 West State Street, City of Trenton, County of Mercer, and State of New Jersey, along with adjacent properties known as 105 through 115 West State Street, City of Trenton, County of Mercer, and State of New Jersey are hereby designated for the exclusive use by and in support of the academic and administrative activities of Thomas A. Edison State College.

L.1993,c.116,s.2.

18A:64-26. Short title

This act shall be known and may be cited as the "Public College Auxiliary Organization Act."

L.1982, c. 16, s. 1, eff. April 1, 1982.

18A:64-27. Definitions

As used in this act:

a. "College" means any State or county college.

b. "Auxiliary organization" means an organization, subject to the provisions of this act, that performs selected functions or operations of a college while maintaining an identity distinct from that of the college.

L.1982, c. 16, s. 2, eff. April 1, 1982. Amended by L.1983, c. 23, s. 1, eff. Jan. 22, 1983.

18A:64-28. Number of organizations

A college may establish and utilize one or more auxiliary organizations for the performance of college operations or functions.

L.1982, c. 16, s. 3, eff. April 1, 1982.

18A:64-29. Functions and operations

4. An auxiliary organization may engage only in such operations and may serve only such functions as are allowed by law and as shall be approved by the board of trustees of the college. Such functions or operations may include, but shall not be limited to:

- a. operation of student centers;
- b. operation of student pubs;
- c. management of student dormitories;
- d. operation of college bookstores.

L.1982,c.16,s.4; amended 1994,c.48,s.103.

18A:64-30. Powers

Each auxiliary organization shall be a body corporate and politic, with corporate succession. Each auxiliary organization shall have the power to contract, to sue and be sued, to make, amend and rescind rules for its own reorganization and operation, but it shall not in any manner, directly, or indirectly, pledge the credit of the State.

L.1982, c. 16, s. 5, eff. April 1, 1982.

18A:64-31. Board of directors; composition; terms; vacancies

Each auxiliary organization shall have a board of directors composed of the president of the college or his designee, one member of the college board of trustees, and at least five citizens appointed by the college board of trustees, at least two of whom shall be students. The citizen members shall be appointed for 3 year terms except that the initial appointment shall be staggered so that two members shall be appointed for terms of 2 years and one member shall be appointed for a term of 1 year. There shall be no limitation on the number of terms an individual may serve. Vacancies shall be filled in the manner of the original appointment. Each member shall serve until a successor is appointed and qualified.

L.1982, c. 16, s. 6, eff. April 1, 1982.

18A:64-32. Board of directors; conflict of interest; expenses

No member of the board of directors of an auxiliary organization shall have a financial interest in any contract or other transaction entered into by the board of which he is a member. Any contract or transaction entered into in violation of this section is void. The members of the board of directors shall receive no compensation for their services, but shall be paid their necessary expenses in performing their duties.

L.1982, c. 16, s. 7, eff. April 1, 1982.

18A:64-33. Board as public body; provisions governing

The board of directors is a "public body" as defined in section 3 of the "Open Public Meetings Act," P.L.1975, c. 231 (C. 10:4-8), and shall conduct its business in accordance with the provisions of that act.

L.1982, c. 16, s. 8, eff. April 1, 1982.

18A:64-34. Bank accounts, purchases

9. An auxiliary organization shall maintain its own bank accounts and shall make such purchases as are necessary to its operation, without regard to the provisions of

P.L.1954, c.48 (C.52:34-6 et seq.), pursuant to regulations promulgated by the Board of Trustees.

L.1982,c.16,s.9; amended 1994,c.48,s.104.

18A:64-35. Legal counsel

An auxiliary organization shall obtain private legal counsel and shall not be represented by the Attorney General.

L.1982, c. 16, s. 10, eff. April 1, 1982.

18A:64-36. Acceptance of gifts

11. An auxiliary organization may accept any grant, contract, bequest, trust or gift unless the Board of Trustees determines that acceptance would be contrary to policies of the institution or inconsistent with public policy.

L.1982,c.16,s.11; amended 1994,c.48,s.105.

18A:64-37. Annual budget; approval

The annual budget of each auxiliary organization shall be approved by the board of directors of the organization.

L.1982, c. 16, s. 12, eff. April 1, 1982.

18A:64-38. Officers and employees; civil service

As may be necessary for its operation, an auxiliary organization may appoint, retain and employ officers, agents, employees and experts, who shall be within the unclassified service of the Civil Service; except that, officers, agents, employees and experts of an auxiliary organization established by a county college shall not be subject to the provisions of Title 11 of the Revised Statutes.

L.1982, c. 16, s. 13, eff. April 1, 1982. Amended by L.1983, c. 23, s. 2, eff. Jan. 22, 1983.

18A:64-39. Colleges; leasing or renting of facilities

An auxiliary organization may lease or rent facilities and office space from the college, provided that it reimburses the college for the fair rental value for its use of such facilities.

L.1982, c. 16, s. 14, eff. April 1, 1982.

18A:64-40. Commercial services on college campuses; self support; surplus funds

Operations of commercial services on college campuses, such as a food service or bookstore, or such commercial services as may be provided in a college union, shall, when operated by an auxiliary organization, be self supporting. Any surplus funds from commercial operations shall be used for purposes that are consistent with the educational purposes of the institution.

L.1982, c. 16, s. 15, eff. April 1, 1982.

18A:64-41. Expenses; liability in tort or contract

Expenses incurred by an auxiliary organization shall be payable from funds raised by the organization, and no liability or obligation, in tort or contract, shall be incurred by the State for the operation of such an organization.

L.1982, c. 16, s. 16, eff. April 1, 1982.

18A:64-42. Financial standards

17. The board of trustees shall, prior to the operation of any auxiliary organization under this act:

a. Institute with the approval of the Director of the Division of Budget and Accounting a standard Statewide accounting and reporting system for businesslike management of the operation of auxiliary organizations.

b. Implement financial standards which will tend to assure the fiscal viability of auxiliary organizations. These standards shall include proper provisions for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, insurance, and adequate provisions for new business requirements.

c. Institute procedures to assure that transactions of the auxiliary organizations are within the educational purposes of the college.

d. Develop policies for the appropriation of surplus funds not required to implement section 15 of P.L.1982, c.16 (C.18A:64-40). Uses of such funds shall be regularly reported to the board of trustees of the college.

e. Determine which college employees may also be employed by the auxiliary organization and the terms and conditions of such employment.

L.1982,c.16,s.17; amended 1994,c.48,s.106.

18A:64-43. Certified public accountant

18. A certified public accountant shall be selected by each auxiliary organization. The certified public accountant shall annually audit the auxiliary organization's funds. Auxiliary organizations shall contract for and receive such audit annually, and shall submit the audit to the board of trustees of the college, and to the Director of the Division of Budget and Accounting.

L.1982,c.16,s.18; amended 1994,c.48,s.107.

18A:64-44. College student government association; compliance with act

Each college student government association to which student fee moneys are allocated by the college, whether or not it is an auxiliary organization subject to the provisions of this act, shall comply with the provisions of section 18 of this act.

L.1982, c. 16, s. 19, eff. April 1, 1982.

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.

L.1985,c.161,s.1; amended 1999, c.46, s.35.

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.

L.1985,c.161,s.2; amended 1994, c.48, s.108; 1999, c.46, s.36.

18A:64-47. Officers; rules

The association shall select such officers and make such rules as may be necessary for the transaction of business.

L. 1985, c. 161, s. 3, eff. July 1, 1985.

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.

L.1985,c.161,s.4; amended 1999, c.46, s.37.

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.

L.1985,c.161,s.5; amended 1999, c.46, s.38.

18A:64-50 Purposes 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.

L.1985,c.161,s.6; amended 1994, c.48, s.109; 1999, c.46, s.39.

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.

L.1985,c.161,s.7; amended 1999, c.46, s.40.

18A:64-52. Short title

This article shall be known and may be cited as the "State College Contracts Law."

L. 1986, c. 43, s. 1, eff. July 9, 1986.

18A:64-53 Definitions.

2. As used in this article, unless the context otherwise indicates:

a. "Board of trustees" means the board of a State college;

b. "Contracting agent" means the business officer of the State college having the power to prepare advertisements, to advertise for and receive bids, and to make awards for the State college in connection with the purchases, contracts or agreements permitted by this article or the officer, committee or employee to whom the power has been delegated by the State college;

c. "Contracts" means contracts or agreements for the performance of work or the furnishing or hiring of services, materials or supplies, as distinguished from contracts of employment;

d. "Legal newspaper" means a newspaper circulating in this State which has been printed and published in the English language at least once a week for at least one year continuously;

e. "Materials" includes goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus or any other tangible thing, except real property or any interest therein;

f. "Extraordinary unspecifiable services" means services or products which cannot be reasonably described by written specifications;

g. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services also means services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor;

h. "Project" means any work, undertaking, construction or alteration;

i. "Purchases" are transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property except real property or any interest therein;

j. "State college" means an institution of higher education established pursuant to chapter 64 of Title 18A of the New Jersey Statutes;

k. "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a State college;

l. "Information technology" means telecommunication goods and services, including, but not limited to, software, hardware and systems implementation and support for voice, data and video.

L.1986,c.43,s.2; amended 2005, c.369, s.2.

18A:64-54 Bid threshold.

3. a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any sums expended for the performance of any work or services in connection with the same project or the furnishing of similar materials or supplies during the same fiscal year,

paid with or out of college funds, does not exceed the total sum of \$26,200 or, commencing January 1, 2005, the amount determined pursuant to subsection b. of this section, in any fiscal year may be made, negotiated and awarded by a contracting agent, when so authorized by resolution of the board of trustees of the State college without public advertising for bids and bidding therefor.

b. Commencing January 1, 2005 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas, as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which it is reported.

c. Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 36 consecutive months, notwithstanding that the 36 -month period does not coincide with the fiscal year.

L.1986,c.43,s.3; amended 1994, c.48, s.110; 1997, c.292, s.1; 2005, c.369, s.3.

18A:64-55 Public bidding required.

4. Every contract or agreement for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price of which is to be paid with or out of college funds, not included within the terms of section 3 of this article, shall be made and awarded only by the State college after public advertising for bids and bidding therefor, except as provided otherwise in this article or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate \$26,200 or, commencing January 1, 2005, the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), except by written contract or agreement.

L.1986,c.43.s.4; amended 1997, c.292, s.2; 2005, c.369, s.4.

18A:64-56 Exceptions.

5. Any purchase, contract or agreement of the character described in section 4 of P.L.1986, c.43 (C.18A:64-55) may be made, negotiated or awarded by the State college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

a. The subject matter thereof consists of:

(1) Professional services; or

(2) Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject, however, to procedures consistent with open public bidding whenever possible; or

(3) Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or

(4) The doing of any work by employees of the State college; or

(5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the State college may be a party and the use of electronic data or media services, including the internet, for the printing of these legal notices and legal briefs, records and appendices; or

(6) Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services, including electronic databases and digital formats; or

(7) Food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias; or

(8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with that board; or

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with the services; or

(10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or

(11) Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or

(12) Publishing of legal notices in newspapers as required by law and the use of electronic data or media services, including the internet, for the publication of the legal notices; or

(13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or

(14) The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America, and amounts due on other financial obligations to the State college, including but not limited to, the amounts due on tuition and fees and room and board; or

(15) Professional consulting services; or

(16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or

(17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations; or

(18) Printing, including without limitation catalogs, yearbooks and course announcements and the production and reproduction of such material in electronic and digital formats, including compact discs; or

(19) Information technology; or

(20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or

(21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a State college for resale to college students and employees; or

(22) Purchase or rental of graduation caps and gowns and award certificates or plaques; or

(23) Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions; or

(24) Management contracts for bookstores, performing arts centers, residence halls, parking facilities and building operations; or

(25) Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security; or

(26) Construction management services for construction, alteration or repair of any building or improvement; or

(27) Purchase or rental of equipment of a technical nature when the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

b. It is to be made or entered into with the United States of America, the State of New Jersey, a county or municipality or any board, body, or officer, agency or authority or any other state or subdivision thereof.

c. The State college has advertised for bids pursuant to section 4 of P.L.1986, c.43 (C.18A:64-55) on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected the bids on two occasions because the State college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the State college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing the contract or agreement; provided that:

(1) A reasonable effort is just made by the contracting agent to determine that the same or equivalent materials or supplies at a cost which is lower than the negotiated price are not available from any agency or authority of the United States, the State of New Jersey or of the county in which the State college is located, or any municipality in close proximity to the State college;

(2) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of this article; and

(3) Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1986, c.43 (C.18A:64-55), shall be stated in the resolution awarding the contract or agreement; except that if on the second occasion the bids received are rejected as unreasonable as to price, the State college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each bidder a reasonable opportunity to negotiate, but the State college shall not award the contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any reasonable vendor, and is a reasonable price for the work, materials, supplies or services. Whenever a State college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

L.1986,c.43,s.5; amended 1994, c.48, s.111; 2005, c.369, s.5.

18A:64-57 Emergency procedures.

6. Any purchase, contract, or agreement may be made, negotiated or awarded by a State college without public advertising for bids and bidding therefor, notwithstanding that the cost or contract price will exceed \$26,200 or, commencing January 1, 2005, the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), when an emergency affecting the health, safety or welfare of occupants of college property requires the immediate delivery of the materials or supplies or the performance of the work, if the purchases, contracts or agreements are awarded or made in the following manner:

a. A written requisition for the performance of the work or the furnishing of materials or supplies, certified by the employee in charge of the building, facility or equipment where the emergency occurred, is filed with the contracting agent or his deputy in charge describing the nature of the emergency, the time of its occurrence, and the need for invoking this section. The contracting agent, or his deputy in charge, being satisfied that the emergency exists, is authorized to award a contract for the work, materials or supplies.

b. Upon the furnishing of the work, materials or supplies in accordance with the terms of the contract or agreement, the contractor furnishing the work, materials or supplies is entitled to be paid therefor and the State college is obligated for the payment.

c. The board of trustees may prescribe rules and procedures to implement the requirements of this section.

L.1986,c.43,s.6; amended 1997, c.292, s.3; 2005, c.369, s.6.

18A:64-58. Contract subdivision prohibited

7. No purchase, contract or agreement which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement includes the furnishing of additional services or equipment or buying materials or supplies or the doing of additional work, shall be subdivided so as to bring it or any of the parts thereof under the maximum price or cost limitation set forth in P.L.1986, c.43 (C.18A:64-52 et seq.), thus dispensing with the requirement of public advertising and bidding therefor. Where the doing of any work is included in or incident to the performance or completion of any project which is single in character or inclusive of the furnishing of additional work, materials or supplies or which requires the furnishing of more than one article of materials or supplies, all of the work, materials or supplies requisite for the completion of the project shall be included in one purchase, contract or agreement.

L.1986,c.43,s.7; amended 1994,c.48,s.112.

18A:64-59. Annual solicitation

Except as provided in this article, every State college shall, on an annual basis or at such lesser intervals as may be fixed by it, solicit by public advertisement the submission of bids for the furnishing of all work, materials and supplies which can be purchased or agreed or contracted to be furnished only after public advertising for bids and bidding therefor.

L. 1986, c. 43, s. 8, eff. July 9, 1986.

18A:64-60 State college purchases through State agency; procedure.

9. a. Any State college, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, may purchase any materials, supplies, goods, services or equipment pursuant to a contract or contracts for those materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property or any municipality or county in this State.

b. A State college may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the

General Services Administration or schedules from other federal procurement programs subject to the following conditions:

(1) the price of the goods or services being procured is no greater than the price offered to federal agencies;

(2) the State college receives the benefit of federally mandated price reductions during the term of the contract and is protected from price increases during that time; and

(3) the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under any State contract, unless the State college determines that because of factors other than price, selection of a vendor from the Federal Supply Schedules would be more advantageous to the State college.

c. Whenever a purchase is made pursuant to this section, the State college shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the State college. Prior to placing such an order, the State college shall document with specificity that the materials, supplies, goods, services or equipment selected best meet the requirements of the State college.

L.1986,c.43,s.9; amended 1996,c.16,s.5; 2005,c.369,s.7; 2006,c.10,s.2.

18A:64-61. Joint action authorized

10. The board of trustees of two or more State colleges may provide jointly by agreement for the purchasing of work, materials, or supplies for their respective colleges, and also may enter into a joint purchasing agreement with other units of State or local government.

L.1986,c.43,s.10; amended 1994,c.48,s.113.

18A:64-62. Contents of agreements

a. Joint agreements shall set forth the categories of work, materials or supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating State college or other governmental unit and other matters deemed necessary to carry out the purposes of the agreement.

b. Funds for each participant's share of expenditures for purchases under any joint agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as appropriations are made for other expenses of the participant.

L. 1986, c. 43, s. 11, eff. July 9, 1986.

18A:64-63. Subject to laws

12. Joint purchases and all agreements pertaining thereto shall be subject to all provisions of law.

L.1986,c.43,s.12; amended 1994,c.48,s.114.

18A:64-64. Specification

All specifications for any purchase, contract or agreement governed by this article shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this article may:

a. Require a standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or

b. Require that any bidder be a resident of, or that his place of business be located in, the county in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; or

c. Discriminate on the basis of race, religion, sex or national origin; or

d. Require with regard to any purchase, contract or agreement the furnishing of any "brand name," although specifications may in all cases require "brand name or equivalent," nor shall materials or supplies which are patented or copyrighted be specified unless the resolution authorizing the purchase, contract or agreement sets forth the manner in which the special need for the patented or copyrighted materials or supplies is directly related to the performance or purpose for which the purchase, contract or agreement is made; or

e. Fail to include any option for renewal, extension or release which the State college may intend to exercise or require; or

f. Fail to include any terms and conditions necessary for the performance of any extra work; or

g. Fail to disclose any matter necessary to the substantial performance of the contract or agreement.

Any specification adopted by the State college which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect, and the purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the board of trustees of the State college.

L. 1986, c. 43, s. 13, eff. July 9, 1986.

18A:64-65 Advertisement for bids; notice of revisions.

14. a. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to that date for any construction projects or any other contract or purchase. In addition to being published in a legal newspaper, advertisements may also be posted using electronic data or media services, including the internet. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the State college shall be sealed and shall be opened only at such time and place as all bids received are unsealed and announced. At that time and place, the contracting agent of the State college shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made. No bids shall be received after the time designated in the advertisement.

b. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a legal newspaper or newspapers no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids.

Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the State college shall not be considered failure by the State college to provide notice.

L.1986,c.43,s.14; amended 1992, c.61, s.3; 1993, c.60; 1994, c.48, s.115; 2005, c.191, s.2; 2005, c.369, s.8.

18A:64-66. Conformance to specifications

No bid shall be accepted which does not conform to the specifications furnished therefor. Nothing contained in this article shall be construed as depriving any State college of the right to reject all bids.

L. 1986, c. 43, s. 15, eff. July 9, 1986.

18A:64-67 Guaranty.

16. There may be required from any person bidding on any purchase, contract or agreement, advertised in accordance with law, that the bid be accompanied by a guaranty payable to the State college that, if the purchase, contract or agreement is awarded to him, he will enter into a contract therefor. The guaranty shall be in the amount of 10% of the bid but not in excess of \$20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid bond. For a construction contract the guaranty shall be in the amount of 10% of the bid. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any State college, which condition requires a guaranty in an amount other than 10% of the bid or in excess of \$20,000.00, the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

The college may require a bid guaranty alone without also requiring a performance bond or other security in the contract.

L.1986,c.43,s.16; amended 2005, c.369, s.9.

18A:64-68 Provision of surety company bond, other security.

17. a. In addition to or independently of the guaranty which may be required pursuant to this article, the State college may require that the successful bidder provide a surety company bond or other security acceptable to the State college:

(1) For the faithful performance of all provisions of the advertisement for bids, the specifications and any other documents issued to bidders or a repair or maintenance bond; and

(2) In a form which may be required in the specifications or other documents issued to bidders.

b. In every case in which a performance bond is required, the requirement shall be set forth in the specifications or other documents issued to all bidders.

c. The State college shall require that all performance bonds be issued by a surety which meets the following standards:

(1) The surety shall have the minimum surplus and capital stock or net cash assets required by R.S.17:17-6 or R.S.17:17-7, whichever is appropriate, at the time the invitation to bid is issued; and

(2) With respect to all payment and performance bonds in the amount of \$850,000 or more, (a) if the amount of the bond is at least \$850,000 but not more than \$3.5 million, the surety shall hold a current certificate of authority, issued by the United States Secretary of the Treasury pursuant to 31 U.S.C.s.9305, that is valid in the State of New Jersey as listed annually in the United States Treasury Circular 570, except that if the surety has been operational for a period in excess of five years, the surety shall be deemed to meet the requirements of this subparagraph if it is rated in one of the three highest categories by an independent, nationally recognized United States rating company that determines the financial stability of insurance companies, which rating company or companies shall be determined pursuant to standards promulgated by the Commissioner of Banking and Insurance by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and (b) if the amount of the bond is more than \$3.5 million, then the surety shall hold a current certificate of authority, issued by the United States Secretary of the Treasury pursuant to 31 U.S.C.s.9305, that is valid in the State of New Jersey as listed annually in the United States Treasury Circular 570 and, if the surety has been operational for a period in excess of five years, shall be rated in one of the three highest categories by an independent, nationally recognized United States rating company that determines the financial stability of insurance companies, which rating company or companies shall be determined pursuant to standards promulgated by the Commissioner of Banking and Insurance by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A surety subject to the provisions of subparagraph (b) of this paragraph which does not hold a certificate of authority issued by the United States Secretary of the Treasury shall be exempt from the requirement to hold such a certificate if the surety meets an equivalent set of standards developed by the Commissioner of Banking and Insurance through regulation which is at least equal, and may exceed, the general criteria required for issuance of a certificate of authority by the United States Secretary of the Treasury pursuant to 31 U.S.C.s.9305. A surety company seeking such an exemption shall, not later than the 180th day following the effective date of P.L.1995, c.384 (N.J.S.2A:44-143 et al.), certify to the appropriate State college that it meets that equivalent set of standards set forth by the commissioner as promulgated.

d. A State college shall not accept more than one payment and performance bond to cover a single construction contract. The State college may accept a single bond executed by more than one surety to cover a single construction contract only if the combined underwriting limitations of all the named sureties, as set forth in the most current annual revision of United States Treasury Circular 570, or as determined by the Commissioner of Banking and Insurance pursuant to R.S.17:18-9, meet or exceed the amount of the contract to be performed.

e. A board, officer or agent contracting on behalf of a State college shall not accept a payment or performance bond unless there is attached thereto a Surety Disclosure Statement and Certification to which each surety executing the bond shall have subscribed. This statement and certification shall be complete in all respects and duly acknowledged according to law, and shall have substantially the following form:

SURETY DISCLOSURE STATEMENT AND CERTIFICATION

, surety(ies) on the attached bond, hereby certifies(y) the following:

(1) The surety meets the applicable capital and surplus requirements of R.S.17:17-6 or R.S.17:17-7 as of the surety's most current annual filing with the New Jersey Department of Banking and Insurance.

(2) The capital (where applicable) and surplus, as determined in accordance with the applicable laws of this State, of the surety(ies) participating in the issuance of the attached bond is (are) in the following amount(s) as of the calendar year ended December 31, (most recent calendar year for which capital and surplus amounts are available), which amounts have been certified as indicated by certified public accountants (indicating separately for each surety that surety's capital and surplus amounts, together with the name and address of the firm of certified public accounts that shall have certified those amounts):

(3) (a) With respect to each surety participating in the issuance of the attached bond that has received from the United States Secretary of the Treasury a certificate of authority pursuant to 31 U.S.C.s.9305, the underwriting limitation established therein and the date as of which that limitation was effective is as follows (indicating for each such surety that surety's underwriting limitation and the effective date thereof):

(b) With respect to each surety participating in the issuance of the attached bond that has not received such a certificate of authority from the United States Secretary of the Treasury, the underwriting limitation of that surety as established pursuant to R.S.17:18-9 as of (date on which such limitation was so established) is as follows (indicating for each such surety that surety's underwriting limitation and the date on which that limitation was established):

(4) The amount of the bond to which this statement and certification is attached is \$

(5) If, by virtue of one or more contracts of reinsurance, the amount of the bond indicated under item (4) above exceeds the total underwriting limitation of all sureties on the bond as set forth in item (3)(a) or (3)(b) above, or both, then for each such contract of reinsurance:

(a) The name and address of each such reinsurer under that contract and the amount of that reinsurer's participation in the contract is as follows:

; and

(b) Each surety that is party to any such contract of reinsurance certifies that each reinsurer listed under item (5)(a) satisfies the credit for the reinsurance requirement established under P.L.1993, c.243 (C.17:51B-1 et seq.) and any applicable regulations in effect as of the date on which the bond to which this statement and certification is attached shall have been filed with the appropriate public agency.

CERTIFICATE

(to be completed by an authorized certifying agent

for each surety on the bond)

I (name of agent), as (title of agent) for (name of surety), a corporation/mutual insurance company/other (indicating type of business organization) (circle one) domiciled in (state of domicile), DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statements made by me are true, and ACKNOWLEDGE that, if any of those statements are false, this bond is VOID.

(Signature of certifying agent)

(Printed name of certifying agent)

(Title of certifying agent)

L.1986,c.43,s.17; amended 1995, c.384, s.4; 2005, c.369, s.10.

18A:64-69 Time limit, return of bid guaranty.

18. The State college shall award the contract or reject all bids within such time as may be specified in the specifications or other documents issued to all bidders, but in no case more than 60 days, except the bids of any bidders who consent thereto, either before or after the 60-day period, may, at the request of the State college, be held for consideration for such longer period of time as may be agreed. Within three days, Sundays and holidays excepted, after the awarding of the contract and the approval of the successful bidder's performance bond, if any, the bid guaranty of the remaining bidders shall be returned to them.

L.1986,c.43,s.18; amended 2005, c.369, s.11.

18A:64-70 Awards to responsible bidder whose bid is most advantageous.

19. All contracts or agreements for the purchase of goods and services, as distinct from contracts or agreements for the construction of buildings and other improvements, which require public advertisement for bids shall be awarded by the board of trustees to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State college, price and other factors considered.

Prior to the award of any contract or agreement which does not require public advertisement, the estimated cost of which is 20% or more of the amount set forth in this act or, commencing January 1, 1985, 20% of the amount determined by the Governor pursuant to subsection b. of section 3 of this act, the contracting agent shall, except in the case of professional services, solicit quotations therefor whenever practicable, and the award thereof shall be made, in accordance with section 3 of this article, on the basis of the quotation, conforming to the request for proposals, which is most advantageous to the State college, price and other factors considered; however, if the contracting agent deems it impractical to solicit competitive quotations or having sought the quotations determines that the award should not be made on that basis, the contracting agent shall file a statement of explanation of the reason or reasons therefor, which shall be placed on file with the purchase, contract, or agreement.

L.1986,c.43,s.19; amended 2005, c.369, s.12.

18A:64-73. Liquidated damages

Any purchase, contract or agreement made pursuant to this article may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform the contract or agreement in accordance with its terms, conditions or the terms and conditions of this article.

L. 1986, c. 43, s. 22, eff. July 9, 1986.

18A:64-74. Building construction

Purchases, contracts or agreements for the construction of buildings and other improvements shall be subject to all the terms and conditions of this article and to the terms and conditions of this subdivision H.

L. 1986, c. 43, s. 23, eff. July 9, 1986.

18A:64-75. Plans, specifications

24. All plans and specifications for the erection, alteration, improvement or repair of college buildings shall be drawn by or under the supervision of an appropriate officer employed by the college to whom these powers shall have been delegated by the Board of Trustees.

L.1986,c.43,s.24; amended 1994,c.48,s.116.

18A:64-76.1 Advertisements by contracting agent for bids; award of contracts.

2. a. Whenever the entire cost for the construction, alteration or repair of any building by a State college will exceed the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), the contracting agent shall advertise for and receive in the manner provided by law:

(1) separate bids for the following categories of work:

(a) the plumbing and gas fitting work;

(b) the heating and ventilating systems and equipment;

(c) the electrical work, including any electrical power plants;

(d) the structural steel and ornamental iron work;

(e) all other work and materials required for the completion of the project, or

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

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

All bids submitted shall set forth the names and license numbers of all subcontractors to whom the bidder will subcontract the work described in the foregoing categories (a) through (e).

b. Contracts shall be awarded to the lowest responsible bidder whose bid, conforming to the invitation for bids, will be the most advantageous to the State college. Whenever two or more bids of equal amounts are the lowest bids submitted by responsible parties, the college may award the contract to any of the parties, as, in its discretion, it may determine.

L.1992, c.61, s.2; amended 2005, c.369, s.13.

18A:64-77 Deduction for costs of completion.

26. All specifications for the doing of any construction work for a State college shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion, and every contract shall contain a provision that if the construction work is not completed by the date fixed for completion or in the number of days allowed for completion, as set forth in the specifications, there shall be a deduction from the contract price for any moneys paid by the college to other contractors for the completion of the project. This requirement shall not preclude the State college from seeking liquidated damages or other remedies.

L.1986,c.43,s.26; amended 2005, c.369, s.14.

18A:64-78 Sale of surplus personal property.

27. Any college may, by resolution of its board of trustees, authorize the sale in the following manner of its personal property not needed for college purposes:

a. If the estimated fair value of the property to be sold exceeds \$26,200 or, commencing January 1, 2005, the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), in any one sale and the property does not consist of perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale, shall be published once in a legal newspaper. Sales shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another college or to any body politic by private sale without advertising for bids.

d. If no bids are received, the property may then be sold at private sale without further publication or notice thereof but in no event at less than the estimated fair value; or the State college may, if it so elects, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property if sold by a willing seller to a willing buyer less the cost to the college of continuing to store or maintain the property.

e. A State college may reject all bids if it determines a rejection to be in the public interest. In any case in which the college has rejected all bids, it may readvertise the personal property for a subsequent public sale. If it elects to reject all bids at a second public sale pursuant to this section, it may then sell the personal property without further publication or notice thereof at private sale, but in no event shall the negotiated price at the private sale be less than the amount of the highest bid rejected at the preceding two public sales, nor shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed \$26,200 or, commencing January 1, 2005, the amount determined pursuant to subsection b. of section 3 of P.L.1986, c.43 (C.18A:64-54), in any one sale or the property consists of perishable goods, it may be sold at private sale without advertising for bids.

L.1986,c.43,s.27;amended 1997, c.292, s.4; 2005, c.369, s.15.

18A:64-79 Multi-year contracts.

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

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

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

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

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

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

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

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

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

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

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

k. The management and operation of bookstores, performing arts centers, residence halls, parking facilities and building operations for a term not exceeding five years; or

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

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

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

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

L.1986,c.43,s.28; amended 1994, c.48, s.117; 2005, c.369, s.16.

18A:64-81. Immunity

30. No action for damages shall lie against the Board of Higher Education, the Commission on Higher Education, the Presidents' Council, any State official, any State college or its board of trustees or any of its officers because of any action taken by virtue of the provisions of this article.

L.1986,c.43,s.30; amended 1994,c.48,s.118.

18A:64-82 Indemnification agreement.

31. Any State college may enter into an agreement indemnifying the New Jersey Educational Facilities Authority or the United States of America, or any board, body, officer or agency thereof, from any liability for loss or damage to the person or property of others resulting from any project financed or to be financed by the New Jersey Educational Facilities Authority for the benefit of the State college, any project undertaken or to be undertaken by the federal government for the benefit of the State college or any project the cost of which or any part thereof is to be paid out of federal funds.

L.1986,c.43,s.31; amended 1999, c.217, s.10.

18A:64-83. Validation

Any action, purchase, sale, contract or agreement taken, made or entered into prior to the effective date of this article is validated and confirmed; provided that in no event shall multi-year leases or contracts entered into prior to the effective date of this article be renewed or extended except in accordance with the terms and provisions of this article.

L. 1986, c. 43, s. 32, eff. July 9, 1986.

18A:64-84. Consultation with employee representatives

Prior to the conclusion of any contract or subcontract for the performance of work substantially similar to that performed by negotiations unit employees, a State college shall allow for reasonable consultation with the appropriate bargaining unit

representative regarding such action. The negotiations unit's representative shall be entitled to review the supporting documentation concerning the purchase, contract or subcontract and to an assessment of the impact of that purchase, contract or subcontract on the negotiations unit employees of the college.

L. 1986, c. 43, s. 33, eff. July 9, 1986.

18A:64A-1. Definitions

18A:64A-1. As used in this chapter:

- a. "Base year" means the fiscal year two years prior to that in which the budget is to be implemented; provided, however, for determining the level of State aid for fiscal 1982, the "base year" shall be the fiscal year three years prior to that in which the budget is to be implemented;
- b. "Capital outlay expense" means those funds devoted to or required for the acquisition, landscaping or improvement of land; the acquisition, construction, reconstruction, improvement, remodeling, alteration, addition or enlargement of buildings or other structures; and the purchase of furniture, apparatus and other equipment;
- c. "County college" means an educational institution established or to be established by one or more counties, offering programs of instruction, extending not more than two years beyond the high school, which may include but need not be limited to specialized or comprehensive curriculums, including college credit transfer courses, terminal courses in the liberal arts and sciences, and technical institute type programs;
- d. "Educational and general costs" means expenditures of a county college according to regulations established by the State Treasurer;
- e. "Local bond law" means the local bond law, chapters 1 and 2 of Title 40A of the New Jersey Statutes (N.J.S.40A:1-1 et seq.);
- f. "Operational expense" means those funds devoted to or required for the regular or ordinary expenses of the college, including administrative, maintenance, minor capital and salary expenses but excluding capital outlay expenses;
- g. "Elected public official" means a person elected to a public office in the State of New Jersey other than an elected representative serving on a board of education pursuant to the provisions of N.J.S.18A:12-1 and section 1 of P.L.1977, c.30 (C.18A:54-16.1).

L.1967, c.271; amended 1981,c.329,s.1; 1983,c.518,s.1; 1994,c.48,s.119.

18A:64A-2. Petition to establish a college

18A:64A-2. When the board of chosen freeholders of one or more counties, after study and investigation, shall deem it advisable for such county or counties to establish a county college, such board or boards of county freeholders may petition the Commission on Higher Education for permission to establish and operate a county college. A report shall be attached to such petition and shall include information on the higher educational needs of the county or counties, a description of the proposed county college, the proposed curriculum, an estimate of the cost of establishing and maintaining such county college, and any other information or data deemed pertinent.

The commission shall determine whether there is a need for such college and whether the county or counties have the financial capacity to support such college. If the commission finds such a need to exist and further finds that establishing and maintaining such college is financially feasible, it shall approve the petition and shall so notify the board or boards of chosen freeholders.

L.1967, c.271; amended 1994,c.48,s.120.

18A:64A-3. Upon approval, establishment of college by resolution; publication; public hearing; referendum petition

18A:64A-3. Whenever the board or boards of chosen freeholders receive notification that the Commission on Higher Education approves the establishment of a county college, each participating board may provide by resolution for the establishment of a county college in accordance with the provisions of this chapter. Prior to the final passage of said resolution, the board of chosen freeholders shall have published, in full, in a newspaper circulating in the county, the resolution together with the time and place of a public hearing to be had upon said resolution. Said publication shall be at least 10 days prior to the time fixed for the public hearing.

Within five days after passage, the resolution shall be published in full in a newspaper circulating in the county and a copy of said resolution shall be filed for public inspection with the clerk of the board of chosen freeholders and with the clerk of each municipality in said county. The resolution shall become effective in said county 45 days after passage unless there is filed with the county clerk within said 45 days, a petition requesting a referendum in said county signed by either five per cent or 10,000 of the registered voters of said county, whichever is lesser, or such a petition authorized by the governing body of a municipality or municipalities representing in total at least 15% of the population of said county. If such petition is so filed, the

proposal for the establishment of a county college shall be submitted to the registered voters of said county at the next general election.

Where a county college is to be established by more than one county, similar resolutions authorizing the establishment of such county college shall be passed by the board of chosen freeholders in each participating county. If a petition such as is described above is filed in one or more said participating counties, then the proposal for the establishment of a county college shall be submitted to the registered voters of the county or counties in which such petition or petitions are filed.

The county clerk of each participating county shall notify the commission and the board of chosen freeholders of each other participating county upon the elapse of 45 days after the passage of the resolution in said county whether the question of the establishment of a county college is to be submitted to the registered voters of said county at the next general election.

L.1967, c.271; amended 1994,c.48,s.121.

18A:64A-4. Referendum; how conducted

18A:64A-4. If a proposal for the establishment of a county college is to be submitted to the registered voters of the county, the county clerk shall have published at least 10 days before said general election notice thereof in a newspaper circulating in the county and the county clerk shall have printed or cause to be printed on the official ballot to be used at such general election the following:

If you favor the proposition printed below, make a cross (X), plus (+) or check (!) mark in the square opposite the word "Yes." If you are opposed thereto, make a cross (X), plus (+) or check (!) mark in the square opposite the word "No."

Yes.	Shall a county college be established in
 pursuant to chapter 64A of Title 18A
No.	of the New Jersey Statutes?

If a county college is to be established in one county, the name of the county, and if it is to be established in more than one county, the names of the counties, should be inserted in the question.

In any county in which voting machines are used the question shall be placed upon the official ballots to be used upon the voting machines without the foregoing instructions to the voters and shall be voted upon by the use of such machines without marking as aforesaid.

If the question of the establishment of a county college is submitted to the people of the county, that county clerk shall send notice of the results of said election to the commission and the board of chosen freeholders of each of the participating counties.

L.1967, c.271; amended 1994,c.48,s.122.

18A:64A-5. Upon approval, establishment of college in several counties

18A:64A-5. If at said election the proposal for the establishment of the county college is approved by a majority of all the votes cast both for and against said question in the county, then the board of chosen freeholders shall proceed to establish a county college.

Where the county college is to be established by more than one county, then the boards of chosen freeholders of the participating counties shall not establish a county college until the commission notifies said boards that a similar resolution of the board of chosen freeholders in each participating county has become effective upon the elapse of the 45-day period or the proposal for the establishment of a county college has been approved by a majority of the registered voters of said county at a general election.

L.1967, c.271; amended 1994,c.48,s.123.

18A:64A-6. Upon unfavorable vote, limitations on resubmission

18A:64A-6. If a majority of the votes in a county are cast against a proposal for the establishment of a county college, the board of chosen freeholders of such county may not establish a county college unless thereafter the board:

a. Submits a petition to the Commission on Higher Education in accordance with the provisions of section 18A:64A-2, and

b. Submits a proposal for the establishment of a county college at a general election and has it approved by a majority of the votes of the county voting thereon.

The board of chosen freeholders shall not resubmit a proposal which has been defeated to the voters of the county before the third general election thereafter; however, an alternate proposal may be submitted at any general election.

L.1967, c.271; amended 1994,c.48,s.124.

18A:64A-8 Boards of trustees; apportionment of membership where established in more than one county.

18A:64A-8. For each county college there shall be a board of trustees, consisting of the county superintendent of schools and 10 persons, eight of whom shall be appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders, at least two of whom shall be women and two of whom shall be appointed by the Governor, according to criteria and for such initial terms as shall be established. However, no trustee shall be appointed after July 1, 1994 who is an employee of a constituent county. The president of the college shall serve as an ex officio member of the board of trustees without vote. In addition, the student body of each county college shall be entitled to elect from the graduating class one representative to serve as a member on the board of trustees for a term of one year commencing at the first meeting of the board in July following graduation of his class. The student representative may be granted voting rights by a majority vote of the members of the board of trustees. If the board of trustees grants the student representative voting rights and all members of the board are present at the board meeting and there is a tie vote, the chairman shall break the tie.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be residents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of six months after their service on the trustee search committee. The trustee search committee shall nominate individuals for consideration by the appointing authority of the county for appointment to the board of trustees.

When a county college is established by more than one county, the board of trustees shall be increased by two members for each additional participating county. The membership of the board of trustees shall be apportioned by the commission among the several counties as nearly as may be according to the number of inhabitants in each county as shown by the last federal census, officially promulgated in this State. Each apportionment shall continue in effect until a reapportionment shall become necessary by reason of the official promulgation of the next federal census or the enlargement of the board by the admission of one or more additional counties as provided for in section 18A:64A-24. Each county shall be entitled to have at least two members and the county superintendent of the schools of said county on the board of trustees.

Amended 1979, c.252; 1981, c.329, s.2; 1994, c.48, s.125; 2007, c.147, s.1.

18A:64A-9. Qualifications of appointed members of boards, terms of office, etc.; filling vacancies; no compensation of members

18A:64A-9. Appointed members of the board of trustees shall have been residents of the county for a period of four years prior to said appointment, and no elected public official or employee of the county college shall serve as a voting member of the board. The term of office of appointed members, except for the first appointments, shall be for four years. Each member shall serve until his successor shall have been appointed and qualified.

Vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Any appointed member may be removed by the board of chosen freeholders of the appointing county for cause upon notice and opportunity to be heard. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

A voting member of a board of trustees shall not be eligible to accept employment as an employee of the college at which he has served as a member of the board for a period of two years following resignation or expiration of his term as a member.

In the case of a county college established by one county, the terms of office of members initially appointed to the board of trustees by the appointing authority of the county shall be as follows: two persons shall receive terms of one year; two, terms of two years; two, terms of three years; and two, terms of four years.

In the case of a county college established by more than one county, the terms of the members initially appointed to the board of trustees shall be fixed so that as nearly as possible, one-quarter of the appointed members will receive terms of four years, one-quarter terms of three years, one-quarter terms of two years and the remainder terms of one year. Such terms shall be allocated by the commission among the participating counties, in accordance with the number of members on the board of trustees apportioned to each county, starting with the terms of four years, by allocating one of such terms to each of the participating counties in alphabetical order of the names of such counties, and continuing, still in such order, with the terms of three years, the terms of two years and the terms of one year.

Members initially appointed to the board may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of November 1 of the year in which the appointment was made.

L.1967, c.271; amended 1969,c.249; 1981,c.329,s.3; 1994,c.48,s.126.

18A:64A-10. County college board officers

The board of trustees of a county college shall organize annually in November by the election of a chairman, vice chairman and such other officers as the board shall determine.

L.1967, c.271; amended by L. 1985, c. 173, s. 1, eff. May 31, 1985.

18A:64A-11. Boards of trustees bodies corporate; designation, custody and responsibility for property and management and control of college; annual report

18A:64A-11. The board of trustees shall be a body corporate and shall be known as the "board of trustees of" (here insert the name of the county college).

The board of trustees shall have custody of and be responsible for the property of the college and shall be responsible for the management and control of said college. The board shall make an annual report to the Commission on Higher Education and to the board of chosen freeholders of each participating county.

L.1967, c.271; amended 1994,c.48,s.127.

18A:64A-12 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.

L.1967, c.271; amended 1981, c.329, s.4; 1994, c.48, s.128; 1999, c.46, s.41.

18A:64A-13 Teaching staff, employees and administrative officers other than president; rights and privileges.

The teaching staff employees and administrative officers other than the president of the county college are hereby held to possess all the rights and privileges of teachers employed by local boards of education. The president and teaching staff members shall be eligible for membership in the teachers' pension and annuity fund.

For the benefit of its other officers and employees, the county college, as a public agency, may elect to participate in the public employees' retirement system.

L.1967, c.271.

18A:64A-13.1. County college employee permitted to waive health care coverage

3. Notwithstanding the provisions of any other law to the contrary, a county college that enters into a contract providing group health care benefits to its employees may allow any employee who is eligible for other health care coverage to waive coverage under the county college's plan to which the employee is entitled by virtue of employment with the county college. The waiver shall be in such form as the county college shall prescribe and shall be filed with the county college. In consideration of filing such a waiver, a county college may pay to the employee annually an amount, to be established in the sole discretion of the county college, which shall not exceed 50% of the amount saved by the county college because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the other health care coverage for any reason, including, but not limited to, the retirement or death of the employee's spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county college in such form as the county college shall prescribe, that the waiver is revoked. The decision of a county college to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

L.2003,c.3,s.3.

18A:64A-13.2 County college board of trustees, notices of certain layoffs; required.

1. The board of trustees of a county college shall provide to a member of the non-academic support staff who has been employed for at least one year a notice not less than 30 days prior to the date of the layoff of the member which is necessary for reasons of financial exigency or enrollment decline. If the member has been employed for less than one year, the board shall provide a notice of not less than 14 days prior to the date of the layoff of the member which is necessary for reasons of financial exigency or enrollment decline. The provisions of this section shall not apply to a negotiated agreement in which the deadlines for such notices exceed the applicable 30 days or 14 days.

L.2005,c.253,s.1.

18A:64A-14. Selling, giving or leasing property to boards

18A:64A-14. Counties, municipalities, school districts or special schools may sell, give or lease any of their property, including county or municipal funds, to the board of trustees of a county college.

L.1967, c.271; amended 1994,c.48,s.129.

18A:64A-15. Boards of school estimate

Each county college shall have a board of school estimate.

In the case of a county college established by one county, such board shall consist of the chairman of the board of chosen freeholders, two members of the board of chosen freeholders appointed by that board and two members of the board of trustees appointed by that board.

In the case of a county college established by more than one county, such board shall consist of the chairman of the board of chosen freeholders from each participating county, one member of the board of chosen freeholders from each participating county appointed by that board and one member of the board of trustees from each participating county appointed by that board.

L.1967, c.271.

18A:64A-16. Appointments to boards of school estimate; filling vacancies; secretary; powers

Appointments to the board of school estimate shall be made annually on or before December 1 and any vacancy in the board's membership by reason of the resignation, death or removal of any member thereof shall be filled by the board which originally appointed the members. The secretary of the board of trustees shall be the secretary of the board of school estimate but shall receive no additional compensation therefor.

The board of school estimate shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for use of the county college for the operation and capital outlay expenses for the school year, exclusive of the amount to be received from the state and other sources.

L.1967, c.271

18A:64A-17. Method of fixing amounts necessary for operation and capital outlay expenses of college; certification; apportionment between participating counties

18A:64A-17. On or before February 1 in each year, the board of trustees of the county college shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year. Said board of trustees shall, at the same time, fix a date, place and time for the holding of a public hearing by the board of school estimate with respect to said itemized statement of the amount of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year and with respect to the various items and purposes for which said money is to be appropriated, which date shall be between February 1 and February 15 and which date shall be not less than seven days after the publication of said itemized statement as herein provided and shall cause notice of such public hearing and said statement to be published at least once in at least one newspaper published in the county not less than seven days prior to the date fixed for such public hearing, and said notice shall also set forth that said itemized statement will be on file and open to examination of the public, between reasonable hours to be fixed therein, and, at a place to be named therein, from the date of said publication until the date of the holding of said public hearing and said board of trustees shall cause said itemized statement to be on file and open to the examination of the public accordingly and to be produced at said public hearing for the information of those attending the same.

On the date and at the time and place so fixed by the board of trustees for such public hearing, the board of school estimate shall at a public hearing grant the taxpayers and other interested persons an opportunity to present objections and to be heard with respect to said itemized statement of the amount of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year and with respect to the various items and purposes for which said money is to be appropriated and at or after said public hearing but not later than February 15 of each year, the board of school estimate shall fix and determine, by official action taken at a public meeting of the board, the amount of money necessary for the operation and capital outlay expenses of the college for the ensuing year, exclusive of the amount to be received from the State and from other sources.

The board of school estimate shall, on or before February 15 of each year, make a certificate of such amount signed by at least a majority of its members. Copies thereof shall be delivered to the board of trustees of the college and to each participating board of chosen freeholders.

In the case of a county college established by more than one county, the amount to be raised for the annual operation and capital outlay expenses shall be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R.S.54:4-49. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, the amount to be raised for the annual operation and capital outlay expenses may be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R.S.54:4-49; or, upon the basis of unweighted student credit hours; or upon the basis of any combination of apportionment valuations and unweighted student credit hours. The certificate of the board of school estimate shall certify the proportioned part of the total to be raised by each participating county. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, operational expenses shall include any facility use fee or other charge which may be agreed upon by the participating counties and the board of trustees upon the approval of a majority of the members of the board of school estimate.

L.1967, c.271; amended 1994, c.48, s.130; 1998, c.140, s.1.

18A:64A-18. Appropriation of amounts to be raised by boards of chosen freeholders and raising by taxation

The board of chosen freeholders shall, upon receipt of the certificate, appropriate the amount of the operation expenses certified therein, in the same manner as other appropriations are made by said board and the amount shall be assessed, levied and collected in the same manner as moneys appropriated for other purposes in the counties are appropriated, levied and collected.

L.1967, c.271

18A:64A-19. Issuance of bonds

18A:64A-19. (1) Whenever the board of trustees of a county college shall decide that it is necessary to raise money for the purpose of acquiring or improving lands or buildings for use by the college or erecting, enlarging, improving, altering, reconstructing, furnishing or equipping buildings or other structures for use by the college, it may, in lieu of proceeding in accordance with N.J.S.18A:64A-16 and 18A:64A-17, at any time prepare and deliver to each member of the board of school estimate a statement of the estimated cost of such purpose and of the amount of money estimated by the board of trustees to be then needed for such purpose. If the amount of money so estimated shall include any funds expected to be received for said purpose as State or federal aid, such statement shall specify the amount and source of said funds and may include an agreement by the board of trustees to repay the county, out of the said funds when received, for any amounts appropriated by any county for the county college in anticipation of said funds. After receipt of such statement, the board of school estimate shall fix and determine the sum of money then needed for the purpose specified in said statement and the amount thereof to be raised by the participating county or counties which shall, if there be two or more such counties, be apportioned among them upon the basis of apportionment valuations as defined in R.S.54:4-49 and which may include amounts expected to be repaid as aforesaid by the board of trustees. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, the amount to be raised may be apportioned among the participating counties upon the basis of apportionment valuations as defined in R.S.54:4-49; or, upon the basis of unweighted student credit hours; or upon the basis of any combination of apportionment valuations and unweighted student credit hours; or in proportion to the percentage of bonds to be issued by each county for the project as may be agreed upon by the participating counties and the board of trustees. The board of school estimate shall thereupon make a certificate of such sum and amount or amounts signed by at least a majority of its members, and copies thereof and of the statement received from the board of trustees shall be delivered to the board of trustees and to the board of chosen freeholders of each participating county.

(2) The board of chosen freeholders of a participating county upon receipt of any such certificate shall appropriate the amount certified therein for the purpose therein specified, or upon receipt of a certificate as provided in N.J.S.18A:64A-17 shall appropriate the amount of the capital outlay expenses certified therein, either:

(a) By the method provided for in N.J.S.18A:64A-18; or

(b) By a bond ordinance authorizing the issuance of bonds or notes of the county to finance such appropriation and purpose adopted in accordance with the limitations and any exceptions thereto, and in the manner or mode of procedure, prescribed by the local bond law, and the sale and issuance of said bonds or notes pursuant to the local bond law; provided, however, that no down payment shall be required and the provisions of N.J.S.40A:2-11 of the local bond law shall not be applicable to such bond ordinance and that the purpose for which the bonds or notes are to be issued may be stated and identified as and shall be the purpose specified in said certificate notwithstanding that the appropriation therefor may be sufficient only for planning or other preliminary or initial expenses in connection therewith or may be made in anticipation of State or federal aid expected to be received for said purpose and applied to repayment to the county.

(3) The proceeds of the sale of such bonds or notes shall be paid to the treasurer of the county college and shall be paid out by him only on the warrants or orders of the board of trustees of the county college. The treasurer shall in no event disburse such proceeds, except to pay and retire any such notes and pay the expenses of issuing and selling such bonds or notes and for the purpose or purposes for which such bonds or notes were issued. If for any reason any part of such proceeds are not applied to or necessary for such purpose or purposes, the board of trustees of the county college may transfer the balance remaining unapplied to the capital outlay account of the county college.

(4) Except with the concurrence and consent of the board of chosen freeholders of the county expressed by resolution, no amount shall be appropriated under this section which, if added to the amount of bonds or notes of the county for county college purposes outstanding or authorized but unissued at the date of such appropriation, shall exceed an amount equal to one half of one per cent of the equalized valuation basis of said county as shown on the annual debt statement of the county last filed pursuant to the local bond law.

L.1967, c.271; amended 1994, c.48, s.131; 1998, c.140, s.2.

18A:64A-20. Emergency appropriation for college purposes

18A:64A-20. If the board of trustees shall determine that it is necessary in any school year to raise money in addition to the amount in its annual budget for such year for:

(1) current expenses for the operation and maintenance of the college when the amount necessary therefor was underestimated in the budget;

(2) repair or utilization of property destroyed or made unsuitable by accident or other unforeseen cause; or

(3) meeting emergencies arising since the preparation of such budget;

the board shall prepare and deliver to each member of the board of school estimate a statement of the amount of money determined to be necessary therefor.

The board of school estimate shall meet within a reasonable time after the delivery of the statement and fix and determine the amount necessary for such purpose or purposes. In the case of a county college established by more than one county, the board shall apportion upon the basis of the apportionment valuations as defined in R.S.54:4-49, such amount among the participating counties. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, the amount to be raised may be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R. S. 54:4-49; or, upon the basis of unweighted student credit hours; or upon the basis of any combination of apportionment valuations and unweighted student credit hours as determined by the board of school estimate. The board shall then certify the amount so determined and apportioned to the board of trustees of the college and to each participating board of chosen freeholders.

The board of chosen freeholders, upon receipt of such certificate, shall appropriate the amount certified therein and shall raise such amount in the manner provided for by N.J.S.18A:64A-18 and 18A:64A-19.

L.1967, c.271; amended 1994, c.48, s.132; 1998, c.140, s.3.

18A:64A-21. First year's estimates of expenses, etc.; preparation, delivery

18A:64A-21. Notwithstanding the time limitations specified in N.J.S.18A:64A-17, during the calendar year in which the board or boards of chosen freeholders first establish a county college, the board of trustees of the county college may prepare and deliver to the board of school estimate of the college an estimate of the amount necessary to finance the county college until the first regular budget is adopted and available.

The board of school estimate shall meet within a reasonable time after the delivery of said estimate and shall fix and determine the amount necessary to so finance the county college and, if more than one county participated in establishing the county college, shall apportion said amount upon the basis of apportionment valuations as defined in R.S.54:4-49. The board shall then certify the amount so determined to the board of trustees of the college and to the board of chosen freeholders of each participating county.

The board of chosen freeholders shall, upon receipt of the certification, appropriate its share of said amount in the manner provided for by N.J.S.18A:64A-18 and 18A:64A-19.

L.1967, c.271; amended 1994,c.48,s.133.

18A:64A-22. Annual budget requests for State support of colleges

18A:64A-22. Notwithstanding any other law to the contrary, the Council of County Colleges may submit to the State Treasurer annual budget requests for State support of county colleges. Within the limits of funds appropriated for such purposes, the board of trustees of a county college may based upon the itemized statement fixed and determined pursuant to N.J.S.18A:64A-17 apply to the State Treasurer and receive State support:

a. For capital projects in amounts not to exceed one-half of the cost of said capital projects, and

b. For operational costs to the extent of 43% but not to exceed 50% of the educational and general costs of the county colleges in the base year; provided, however, that for the purposes of determining State aid, only credit courses and noncredit remedial, developmental, general education development and adult basic education courses shall be included in calculating such costs. This sum shall be distributed to the county colleges by the treasurer in consultation with the Council of County Colleges according to a formula that includes categorical support and differential funding based on program costs.

No county college shall receive more than 50% of its projected educational and general costs through the provisions of this act.

Each county which operates a county college shall continue to provide moneys for the support of the college in an amount no less than those moneys provided in the year in which this act is enacted or 25% of the operational expense in the base State fiscal year, whichever is greater.

State support for the operational expenses of county colleges shall be made within limits of State appropriation.

L.1967, c.271; amended 1977,c.133; 1979,c.110; 1981,c.329,s.5; 1994, c.48,s.134.

18A:64A-22.1 County college capital project aid.

1. Whenever the funds appropriated are insufficient to satisfy the State's share of capital projects for county colleges pursuant to N.J.S.18A:64A-22, additional State support for such projects shall be made available to counties in which county colleges are located for the payment of interest and principal on bonds and notes entitled to the benefits of this act and interest on notes issued in anticipation thereof and entitled to the benefits of the "County College Capital Projects Fund Act," P.L.1997, c.360

(C.18A:72A-12.2 et seq.), provided that the total principal amount of such bonds and notes shall not exceed \$265,000,000.

L.1971,c.12,s.1; amended 1985, c.136; 1994, c.48, s.135; 1997, c.360, s.7; 2000, c.111; 2004, c.100.

18A:64A-22.2 Action by State Treasurer.

2. Whenever the State Treasurer shall determine that he is unable to provide State support for a capital project of a county college pursuant to N.J.S.18A:64A-22 within the limit of available State appropriations, the State Treasurer shall determine the amount of bonds and notes entitled to the benefits of this act and the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) and not theretofore allocated to another capital project. The State Treasurer shall determine the necessity or advisability of making available additional State support for the capital project. To the extent he determines additional support is necessary or advisable, he shall certify to the board of chosen freeholders of the county in which said capital project is located, the county college at which the capital project is located, and the New Jersey Educational Facilities Authority the amount of bonds or notes relating to the capital project which shall be entitled to the benefits of this act and the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), which amount shall not exceed the amount of bonds and notes entitled to the benefit of those acts and not theretofore allocated to another capital project. A copy of such certification shall be filed by the State Treasurer with the Director of the Division of Local Finance.

L.1971,c.12,s.2; amended 1994, c.48, s.136; 1997, c.360, s.8.

18A:64A-22.3 Issuance of bonds, notes.

3. At any time within one year of the certification by the State Treasurer to the board of chosen freeholders, the county college at which the capital project is located, and the New Jersey Educational Facilities Authority pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2), the board of chosen freeholders is authorized to issue bonds, or notes in anticipation thereof, in an aggregate amount not exceeding the amount set forth in the treasurer's certification. Bonds or notes may also be issued by the New Jersey Educational Facilities Authority pursuant to the provisions of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) or by another legally empowered issuer in an aggregate amount not exceeding the amount set forth in the State Treasurer's certification. Bonds issued by any issuer other than the authority or the board of chosen freeholders pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) shall be subject to the provisions of P.L.1971, c.12 (C.18A:64A-22.1 et seq.) in the same manner as bonds or notes issued by the board of chosen freeholders; provided that in the event bonds or notes are issued by another legally empowered issuer, the bonds or notes shall be sold by the issuer by competitive sale unless the State Treasurer expressly consents in writing to a negotiated sale of the bonds or notes by the issuer. Such bonds shall be in addition to the sums authorized to be borrowed by said board pursuant to N.J.S.18A:64A-19 for the purpose of funding the county share of such capital projects. No bonds or notes, other than bonds or notes issued by the New Jersey Educational Facilities Authority as authorized pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), shall be issued pursuant to this act bearing an interest rate in excess of a maximum rate theretofore specified by the State Treasurer and, in the case of bonds, unless the State Treasurer has theretofore approved the maturity schedule for the repayment of said bonds.

L.1971,c.12,s.3; amended 1997, c.360, s.9.

18A:64A-22.4 Deduction from gross debt.

4. Such additional borrowing, if entered into by the county, shall constitute a deduction from the gross debt of such county and shall not be considered in determining its net debt for debt incurring purposes.

L.1971,c.12,s.4; amended 1997, c.360, s.10.

18A:64A-22.5 Issuance of temporary notes.

5. Any board of chosen freeholders or other legally empowered issuer which has authorized such additional bonds may issue temporary notes in anticipation of the issuance of permanent bonds to the extent permitted by applicable law.

L.1971,c.12,s.5; amended 1997, c.360, s.11.

18A:64A-22.6 Debt service certification; appropriation, payment of funds.

6. Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the treasurer of the county issuing such bonds or notes, or if applicable, the treasurer of the other legally empowered issuer of the bonds or notes, shall certify to the State Treasurer the exact amounts payable on account of interest and principal on such bonds and interest on such notes and the dates upon which such amounts are payable by the county or other issuer and the name and address of the paying agent or paying agents therefor. The amounts so certified by the county treasurer or the treasurer of

the other issuer to the State Treasurer shall be appropriated and paid to the county, or paid to the other legally empowered issuer, on or before the dates of each payment by the county or other issuer on such bonds or notes in an amount with respect to each such date equal to the amount payable on such date and shall be used by the county or other issuer only for such payment.

L.1971,c.12,s.6; amended 1972, c.106, s.1; 1997, c.360, s.12.

18A:64A-22.6a. Designation of paying agent; payments of state aid

No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State. All amounts of State aid to be paid under the provisions of this act for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf of the county issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such State aid hereunder payable with respect to such county. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

L.1972, c. 106, s. 2, eff. July 27, 1972.

18A:64A-22.7 Investments of proceeds; disposition of earnings.

7. On January 10 in each year the county treasurer or the treasurer of the other legally empowered issuer shall certify and pay to the State Treasurer the amount of the earnings received by the county or the issuer during the preceding year from the investment of the proceeds from the sale of such bonds or notes, provided that prior to the application of the proceeds to the purposes for which the bonds or notes have been issued such proceeds shall be invested in the State of New Jersey Cash Management Fund, established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4) or in such other investment as shall be explicitly authorized in writing by the State Treasurer.

L.1971,c.12,s.7; amended 1997, c.360, s.13.

18A:64A-22.8. Bonds or notes not debt or liability of state

Bonds or notes issued under the provisions of this act shall not be deemed to constitute a debt or liability of the State or a pledge of the faith and credit of the State but are dependent for repayment upon appropriations provided by law from time to time.

L.1971, c. 12, s. 8, eff. Jan. 28, 1971.

18A:64A-23. Acceptance of students residing in other counties; required certificates; charges to home counties

18A:64A-23. a. Each county college shall, to the extent its facilities will permit accept students who are residents of any other county in the State.

b. Any person desiring to enroll in a county college as a nonresident student shall apply to the chief fiscal officer of his county of residence for a certificate of residence showing that said person is a resident of said county. The chief fiscal officer of each county shall, upon application and submission to him of satisfactory evidence of such residence, issue said certificate provided that (1) the county does not sponsor a county college or contribute to the support of a county assisted college, or (2) the local county or county assisted college certifies that it does not offer the particular course or program of study desired by the applicant, or (3) the local county or county assisted college certifies that it cannot admit the applicant into a particular course or the desired program of study, pursuant to criteria established by the Commission on Higher Education. If the chief fiscal officer of a county refuses to issue such a certificate, the applicant may appeal to the board of chosen freeholders of the county within 10 days of the receipt of notice of such refusal. The board of chosen freeholders shall make a determination after a hearing, upon 10 days' notice to such chief fiscal officer and the applicant, and such determination shall be final and binding on the county.

Upon his registration for each college year, the nonresident student shall file with the college such a certificate of residence issued not earlier than two months prior thereto and such certificate of residence shall be valid for the current or next academic year succeeding the date of issuance, as the case may be.

c. Any county college so admitting nonresident students shall charge to and collect from each county within the State which has issued a certificate or certificates of residence pursuant to subsection b. and on the basis of which such nonresident students are attending such college, the sending county's share of the operating expenses of such county college, as certified by the board of school estimate and as paid by the receiving county for resident students, computed on a per full-time equated (FTE) student basis and multiplied by cost ratios as determined by the State Treasurer pursuant to N.J.S.18A:64A-22 for various instructional categories. Any county college shall additionally charge and collect the sum of \$1.00 per credit hour for each student so enrolled to compensate for minor capital costs of the college.

d. Within 10 days after the commencement of each college term, the county college shall charge the county's per FTE student share of operating expenses of such college for that term as aforesaid to each county which has issued a certificate or certificates of residence pursuant to subsection b., on the basis of which nonresident students are attending such county college. The amount so charged to the county issuing the certificate or certificates shall be paid within 30 days of the date of the billing.

L.1967, c.271; amended 1968,c.179,s.1; 1981,c.329,s.6; 1994,c.48,s.137.

18A:64A-23.1. Job training course

1. As used in this act, "job training course" means any course of instruction which will provide the individual with an identifiable job skill and will assist the individual in gaining reemployment, any course of instruction which is part of a training program approved pursuant to the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, or any course of instruction which is part of the education and training described in the Employability Development Plan developed for the individual pursuant to section 3 of P.L.1992, c.47 (C.43:21-59).

L.1983,c.470,s.1; amended 1992,c.45,s.3.

18A:64A-23.2. County college courses

2. Each county college shall permit a person who has been in the labor market for at least two years and is unemployed or has received a layoff notice as a result of a factory or plant closing to enroll without payment of tuition in a job training course, provided that the person is not eligible for any available State or federal student financial aid and that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a county college from requiring a registration fee not to exceed \$20.00 per academic term.

L.1983,c.470,s.2; amended 1992,c.45,s.4.

18A:64A-23.3. Eligibility for continued participation in program

In order to remain eligible for participation in this program, the unemployed worker shall be required to maintain a passing grade in the job training course in which he is enrolled.

L.1983, c. 470, s. 3, eff. Jan. 12, 1984.

18A:64A-23.4. Rules, regulations

4. The Commissioner of Labor shall promulgate rules and regulations necessary to effectuate the purposes of this act. Regulations of the State Board of Higher Education implementing this act shall remain in full force and effect until modified or repealed by the Commissioner of Labor.

L.1983,c.470,s.4; amended 1994,c.48,s.138.

18A:64A-24. Joinder in operation of county colleges by other counties

18A:64A-24. If the board of trustees of a county college shall determine that it is in the best interest of the college to allow one or more additional counties to join in the operation of said county college and the board or boards of chosen freeholders of the county or counties then operating the county college shall approve, said board of trustees shall fix the terms and conditions under which said additional county or counties may participate in the operation of the county college.

L.1967, c.271; amended 1994,c.48,s.139.

18A:64A-25. Referenda for other purposes permitted

Nothing in this chapter shall be construed to prohibit or prevent the referenda procedure specified in chapter 37 of Title 19 of the Revised Statutes.

L.1967, c.271.

18A:64A-25.1. Short title; citation

This article shall be known and may be cited as the "County College Contracts Law" .

L.1982, c. 189, s. 1, eff. Jan. 1, 1983.

18A:64A-25.2. Definitions

2. As used in this article, unless the context otherwise indicates:

a. "Board of trustees" means the board of trustees of a county college and the community college commission of a community college agency;

b. "County college" means any body corporate known as

(1) the board of trustees of a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes, or

(2) the community college commission of a community college agency established pursuant to P.L.1974, c.89 (C.18A:64A-30 et seq.);

c. "Contracting agent" means the business officer of the county college having the power to prepare advertisements to advertise for and receive bids and to make awards for the county college in connection with the purchases, contracts or agreements permitted by this article, or such officer, committee or employee to whom such power has been delegated by the county college;

d. "Contracts" mean contracts or agreements for the performance of work or the furnishing or hiring of services, materials or supplies as distinguished from contracts of employment;

e. "Legal newspaper" means a newspaper circulating in the county or counties in which the county college has been established, printed and published in the English language at least once a week for at least one year continuously;

f. "Materials" include goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus or any other tangible thing except real property or any interest therein;

g. "Extraordinary unspecifiable services" mean services or products which cannot be reasonably described by written specifications;

h. "Professional services" mean services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor;

i. "Project" means any work, undertaking, construction or alteration;

j. "Purchases" are transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein;

k. "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a county college.

L.1982,c.189,s.2; amended 1994,c.48,s.140.

18A:64A-25.3 Purchases, contracts and agreements not requiring advertising.

3. a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any sums expended for the performance of any work or services in connection with the same project or the furnishing of similar materials or supplies during the same fiscal year, paid with or out of college funds, does not exceed the total sum of \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of this section in any fiscal year may be made, negotiated and awarded by a contracting agent, when so authorized by resolution of the board of trustees of the county college, without public advertising for bids and bidding therefor.

b. Commencing January 1, 2003 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which it is reported.

c. Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 24 consecutive months, notwithstanding that such 24 -month period does not coincide with the fiscal year.

L.1982,c.189,s.3; amended 1984, c.241, s.1; 1994, c.48, s.141; 2001, c.281, s.1.

18A:64A-25.4. Contracts and agreements requiring advertising

Every contract or agreement for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price of which is to be paid with or out of college funds, not included within the terms of section 3 hereof, shall be made and awarded only by the county college after public advertising for bids and bidding therefor, except as provided otherwise in this article or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate \$7,500.00 or, commencing January 1, 1985, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3), except by written contract or agreement.

L.1982, c. 189, s. 4, eff. Jan. 1, 1983. Amended by L.1984, c. 241, s. 2, eff. Dec. 28, 1984.

18A:64A-25.5 Exceptions to requirement for advertising.

5. Any purchase, contract or agreement of the character described in section 4 may be made, negotiated or awarded by the county college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

a. The subject matter thereof consists of:

(1) Professional services; or

(2) Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject however, to procedures consistent with open public bidding whenever possible; or

(3) Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or

(4) The doing of any work by employees of the county college; or

(5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the county college may be a party; or

(6) Textbooks, copyrighted materials, student produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services; or

(7) Food supplies and services including food supplies and management contracts for student centers, dining rooms and cafeterias; or

(8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with said board; or

(9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services; or

(10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or

(11) Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or

(12) Publishing of legal notices in newspapers, as required by law; or

(13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or

(14) The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America; or

(15) Professional consulting services; or

(16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or

(17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students, not under the direct control of the college and expended by student organizations; or

(18) Printing, including without limitation catalogs, yearbooks and course announcements; or

(19) Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware; or

(20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or

(21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a county college bookstore, or by a service or management company under contract with a county college to operate a county college book store for resale to college students and employees; or

(22) Purchase or rental of graduation caps and gowns and award certificates or plaques; or

(23) Expenses for travel or conferences; or

(24) Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions.

b. It is to be made or entered into with the United States of America, the State of New Jersey, a county or municipality or any board, body, or officer, agency or authority or any other state or subdivision thereof.

c. The county college has advertised for bids pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected such bids on two occasions because the county college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the county college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any such contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing such contract or agreement; provided, however, that:

(1) A reasonable effort is made by the contracting agent to determine that the same or equivalent materials or supplies at a cost which is lower than the negotiated price are not available from any agency or authority of the United States, the State of New Jersey or from the county in which the county college is located, or any municipality in close proximity to the county college;

(2) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

(3) Any relevant amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding such contract or agreement; provided, further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the county college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each such bidder a reasonable opportunity to negotiate, but the county college shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such work, materials, supplies or services.

Whenever a county college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the county prosecutor of the county in which the county college is located and the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

L.1982,c.189,s.5; amended 1984, c.241, s.3; 1994, c.48, s.142; 2001, c.281, s.2.

18A:64A-25.6 Emergency purchases and contracts.

6. Any purchase, contract, or agreement may be made, negotiated or awarded by a county college without public advertising for bids and bidding therefor, notwithstanding that the cost or contract price will exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), when an emergency affecting the health, safety or welfare of occupants of college property requires the immediate delivery of the materials or supplies or the performance of the work, provided that such purchases, contracts or agreements are awarded or made in the following manner:

a. A written requisition for the performance of such work or the furnishing of materials or supplies, certified by the employee in charge of the building, facility or equipment where the emergency occurred, is filed with the contracting agent or his deputy in charge, describing the nature of the emergency, the time of its occurrence, and the need for invoking this section. The contracting agent, or his deputy in charge, being satisfied that the emergency exists, is hereby authorized to award a contract for said work, materials or supplies.

b. Upon the furnishing of such work, materials or supplies in accordance with the terms of the contract or agreement, the contractor furnishing such work, materials or supplies shall be entitled to be paid therefor and the county college shall be obligated for said payment.

c. The board of trustees may prescribe rules and procedures to implement the requirements of this section.

L.1982,c.189,s.6; amended 1984, c.241, s.4; 2001, c.281, s.3.

18A:64A-25.7. Contracts not to be divided

18A:64A-25.7. Contracts not to be divided

7. No purchase, contract or agreement which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement includes the furnishing of additional services or equipment or buying materials or supplies or the doing of additional work, shall be subdivided so as to bring it or any of the parts thereof under the maximum price or cost limitation set forth in section 3 of P.L.1982, c.189 (C.18A:64A-25.3), thus dispensing with the requirement of public advertising and bidding therefor. Where the doing of any work is included in or incident to the performance or completion of any project which is single in character or inclusive of the furnishing of additional work, materials or supplies or which requires the furnishing of more than one article of materials or supplies, all of the work, materials or supplies requisite for the completion of such project shall be included in one purchase, contract or agreement.

L.1982,c.189,s.7; amended 1994,c.48,s.143.

18A:64A-25.8. Periodic solicitation of bids

Except as provided in section 28, every county college shall, on an annual basis or at such lesser intervals as may be fixed by it, solicit by public advertisement the submission of bids for the furnishing of all work, materials and supplies which are and which under section 4 can be purchased or agreed or contracted to be furnished only after public advertising for bids and bidding therefor.

L.1982, c. 189, s. 8, eff. Jan. 1, 1983.

18A:64A-25.9 County college purchases through State agency; procedure.

9. a. Any county college, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, may purchase any materials, supplies, goods, services or equipment pursuant to a contract or contracts for such materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property.

b. A county college may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration as permitted by the "Federal Acquisition Streamlining Act of 1994," Pub.L. 103-355, and federal regulations adopted thereunder or schedules from other federal procurement programs.

c. Whenever a purchase is made, the county college shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the county college. Prior to placing such an order, the county college shall document with specificity that the materials, supplies, goods, services or equipment selected best meet the requirements of the county college.

L.1982,c.189,s.9; amended 1996, c.16, s.6; 2006,c.10,s.3.

18A:64A-25.10 Joint purchases by county colleges, municipalities or counties; authority.

10. The board of trustees of two or more county colleges may provide jointly by agreement for the purchasing of work, materials or supplies for their respective colleges, or one or more county colleges may provide for such purchase by joint agreement with the governing bodies of any municipality or of the county within whose boundaries any such college or colleges is or are wholly or partly located and may enter agreements with other institutions of higher education or with other units of government pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

L.1982,c.189,s.10; amended 2001, c.281, s.4.

18A:64A-25.11. Contents of agreement

a. Such agreement shall set forth the categories of work, materials or supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating county college, municipality or county and other matters deemed necessary to carry out the purposes of the agreement.

b. Funds for each participant's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as appropriations are made for other expenses of the participant.

L.1982, c. 189, s. 11, eff. Jan. 1, 1983.

18A:64A-25.13. Specifications generally

All specifications for any purchase, contract or agreement governed by this article shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this article may:

- a. Require a standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or
- b. Require that any bidder be a resident of, or that his place of business be located in, the county in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; or
- c. Discriminate on the basis of race, religion, sex or national origin; or
- d. Require with regard to any purchase, contract or agreement the furnishing of any "brand name" , although specifications may in all cases require "brand name or equivalent," nor shall materials or supplies which are patented or copyrighted be specified, unless the resolution authorizing the purchase, contract or agreement sets forth the manner in which the special need for such patented or copyrighted materials or supplies is directly related to the performance or purpose for which the purchase, contract or agreement is made; or
- e. Fail to include any option for renewal, extension or release which the county college may intend to exercise or require; or
- f. Fail to include any terms and conditions necessary for the performance of any extra work; or
- g. Fail to disclose any matter necessary to the substantial performance of the contract or agreement.

Any specification adopted by the county college which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect, and such purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the board of trustees of the county college.

L.1982, c. 189, s. 13, eff. Jan. 1, 1983.

18A:64A-25.14 Advertisements for bids; bids; general requirements; notice of revisions.

14. a. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the county college shall be sealed and shall be opened only at such time and place as all bids received are unsealed and announced. At such time and place, the contracting agent of the county college shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made. No bids shall be received after the time designated in the advertisement.

b. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a legal newspaper no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the county college shall not be considered failure by the county college to provide notice.

L.1982,c.189,s.14; amended 2005, c.191, s.3.

18A:64A-25.15. Bids to conform to specifications; rejection of bids

No bid shall be accepted which does not conform to the specifications furnished therefor. Nothing contained in this article shall be construed as depriving any county college of the right to reject all bids.

L.1982, c. 189, s. 15, eff. Jan. 1, 1983.

18A:64A-25.16. Guaranty to accompany bids; amount

There may be required from any person bidding on any purchase, contract or agreement, advertised in accordance with law, that the bid be accompanied by a guaranty payable to the county college that, if the purchase, contract or agreement is awarded to him, he will enter into a contract therefor and will furnish any performance bond or other

security which may be required pursuant to section 17. The guaranty shall be in the amount of 10% of the bid but not in excess of \$20,000.00, except as otherwise provided herein, and may be given, at the option of the bidder, by certified check, cashier's check or bid bond. For a construction contract the guaranty shall be in the amount of 10% of the bid. In the event that any law or regulation of the United States imposes any condition upon the awarding of a monetary grant to any county college, which condition requires a guaranty in an amount other than 10% of the bid or in excess of \$20,000.00, the provisions of this section shall not apply and the requirements of the law or regulation of the United States shall govern.

The college may require a bid guaranty alone without also requiring a performance bond or other security in the contract.

L.1982, c. 189, s. 16, eff. Jan. 1, 1983. Amended by L.1984, c. 241, s. 5, eff. Dec. 28, 1984.

18A:64A-25.17. Performance, guaranty and certificate

17. Performance, guaranty and certificate. a. In addition to or independent of the guaranty which may be required pursuant to section 16, the county college may require that the successful bidder provide a surety company bond or other security acceptable to the county college:

(1) For the faithful performance of all provisions of the advertisement for bids, the specifications and any other documents issued to bidders or a repair or maintenance bond; and

(2) In such form as may be required in the specifications or other documents issued to bidders.

b. In every case in which such performance bond is required, the requirement shall be set forth in the specifications or other documents issued to all bidders, and every bidder shall be required to submit with the bid a certificate from a surety company stating that it will provide that bidder with such a performance bond in the specified amount and form.

c. The county college shall require that all payment and performance bonds be issued by a surety which meets the following standards:

(1) The surety shall have the minimum surplus and capital stock or net cash assets required by R.S.17:17-6 or R.S.17:17-7, whichever is appropriate, at the time the invitation to bid is issued; and

(2) With respect to all payment and performance bonds in the amount of \$850,000 or more, (a) if the amount of the bond is at least \$850,000 but not more than \$3.5 million, the surety shall hold a current certificate of authority, issued by the United States Secretary of the Treasury pursuant to 31 U.S.C.9305, that is valid in the State of New Jersey as listed annually in the United States Treasury Circular 570, except that if the surety has been operational for a period in excess of five years, the surety shall be deemed to meet the requirements of this subparagraph if it is rated in one of the three highest categories by an independent, nationally recognized United States rating company that determines the financial stability of insurance companies, which rating company or companies shall be determined pursuant to standards promulgated by the Commissioner of Insurance by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and (b) if the amount of the bond is more than \$3.5 million, then the surety shall hold a current certificate of authority, issued by the United States Secretary of the Treasury pursuant to 31 U.S.C.9305, that is valid in the State of New Jersey as listed annually in the United States Treasury Circular 570 and, if the surety has been operational for a period in excess of five years, shall be rated in one of the three highest categories by an independent, nationally recognized United States rating company that determines the financial stability of insurance companies, which rating company or companies shall be determined pursuant to standards promulgated by the Commissioner of Insurance by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). A surety subject to the provisions of subparagraph (b) of this paragraph which does not hold a certificate of authority issued by the United States Secretary of the Treasury shall be exempt from the requirement to hold such a certificate if the surety meets an equivalent set of standards developed by the Commissioner of Insurance through regulation which at least equal, and may exceed, the general criteria required for issuance of a certificate of authority by the United States Secretary of the Treasury pursuant to 31 U.S.C.9305. A surety company seeking such an exemption shall, not later than the 180th day following the effective date of P.L.1995, c.384 (N.J.S.2A:44-143 et al.), certify to the appropriate county college that it meets that equivalent set of standards set forth by the commissioner as promulgated.

d. A county college shall not accept more than one payment and performance bond to cover a single construction contract. The county college may accept a single bond executed by more than one surety to cover a single construction contract only if the combined underwriting limitations of all the named sureties, as set forth in the most current annual revision of United States Treasury Circular 570, or as determined by the Commissioner of Insurance pursuant to R.S.17:18-9, meet or exceed the amount of the contract to be performed.

e. A board, officer or agent contracting on behalf of a county college shall not accept a payment or performance bond unless there is attached thereto a Surety Disclosure Statement and Certification to which each surety executing the bond shall have subscribed. This statement and certification shall be complete in all respects and duly acknowledged according to law, and shall have substantially the following form:

SURETY DISCLOSURE STATEMENT AND CERTIFICATION

_____, surety(ies) on the attached bond, hereby certifies(y) the following:

- (1) The surety meets the applicable capital and surplus requirements of R.S.17:17-6 or R.S.17:17-7 as of the surety's most current annual filing with the New Jersey Department of Insurance.
- (2) The capital (where applicable) and surplus, as determined in accordance with the applicable laws of this State, of the surety(ies) participating in the issuance of the attached bond is (are) in the following amount(s) as of the calendar year ended December 31, _____ (most recent calendar year for which capital and surplus amounts are available), which amounts have been certified as indicated by certified public accountants (indicating separately for each surety that surety's capital and surplus amounts, together with the name and address of the firm of certified public accounts that shall have certified those amounts):

(3) (a) With respect to each surety participating in the issuance of the attached bond that has received from the United States Secretary of the Treasury a certificate of authority pursuant to 31 U.S.C.9305, the underwriting limitation established therein and the date as of which that limitation was effective is as follows (indicating for each such surety that surety's underwriting limitation and the effective date thereof):

(b) With respect to each surety participating in the issuance of the attached bond that has not received such a certificate of authority from the United States Secretary of the Treasury, the underwriting limitation of that surety as established pursuant to R.S.17:18-9 as of (date on which such limitation was so established) is as follows (indicating for each such surety that surety's underwriting limitation and the date on which that limitation was established):

(4) The amount of the bond to which this statement and certification is attached is \$ _____.

(5) If, by virtue of one or more contracts of reinsurance, the amount of the bond indicated under item (4) above exceeds the total underwriting limitation of all sureties on the bond as set forth in items (3)(a) or (3)(b) above, or both, then for each such contract of reinsurance:

(a) The name and address of each such reinsurer under that contract and the amount of that reinsurer's participation in the contract is as follows:

; and

(b) Each surety that is party to any such contract of reinsurance certifies that each reinsurer listed under item (5)(a) satisfies the credit for reinsurance requirement established under P.L.1993, c.243 (C.17:51B-1 et seq.) and any applicable regulations in effect as of the date on which the bond to which this statement and certification is attached shall have been filed with the appropriate public agency.

CERTIFICATE
(to be completed by an authorized certifying agent
for each surety on the bond)

I (name of agent) , as (title of agent) for (name of surety) , a corporation/mutual insurance company/other (indicating type of business organization) (circle one) domiciled in (state of domicile) , DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statements made by me are true, and ACKNOWLEDGE that, if any of those statements are false, this bond is VOID.

(Signature of certifying agent)

(Printed name of certifying agent)

(Title of certifying agent)

L.1982,c.189,s.17; amended 1995,c.384,s.3.

18A:64A-25.18. Time for making awards; deposits returned

The county college shall award the contract or reject all bids within such time as may be specified in the specifications or other documents issued to all bidders, but in no case more than 60 days, except the bids of any bidders who consent thereto, either before or after said 60 day period, may, at the request of the county college, be held for consideration for such longer period as may be agreed. All bid security except the security of the three apparent lowest responsible bidders shall, if requested, be returned within 30 days from the opening of the bids, Sundays and holidays excepted, and the bids of such bidders shall be considered as withdrawn. Within 3 days, Sundays and holidays excepted, after the awarding of the contract and the approval of the successful bidder's performance bond, if any, the bid guaranty of the remaining bidders shall be returned to them.

L.1982, c. 189, s. 18, eff. Jan. 1, 1983.

18A:64A-25.19. Award of purchases, contracts or agreements

All purchases, contracts or agreements which require public advertisement for bids shall be awarded by the board of trustees to the lowest responsible bidder.

Prior to the award of any other purchase, contract or agreement the estimated cost of which is 20% or more, of the amount set forth in or, commencing January 1, 1985, 20% of the amount determined by the Governor pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3), the contracting agent shall, except in the case of professional services, solicit quotations therefor whenever practicable, and the award thereof shall be made, in accordance with section 3, on the basis of the lowest responsible quotation received which is most advantageous to the county college, price and other factors considered; provided, however, if the contracting agent deems it impractical to solicit competitive quotations or having sought such quotations determines that the award should not be on the basis of the lowest quotation received, the contracting agent shall file a statement of explanation of the reason or reasons therefor, which shall be placed on file with such purchase, contract or agreement.

L.1982, c. 189, s. 19, eff. Jan. 1, 1983. Amended by L.1984, c. 241, s. 6, eff. Dec. 28, 1984.

18A:64A-25.20. Award of contracts when bids are equal

Whenever two or more quotations or bids of equal amounts are the lowest quotations or bids submitted by responsible parties, the county college may award the contract to any one of such parties, as, in its discretion, it may determine.

L.1982, c. 189, s. 20, eff. Jan. 1, 1983.

18A:64A-25.22. Liquidated damages

Any purchase, contract or agreement made pursuant to this article may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract or agreement in accordance with its terms and conditions or the terms and conditions of this article.

L.1982, c. 189, s. 22, eff. Jan. 1, 1983.

18A:64A-25.23. Application of article and subdivision

Purchases, contracts or agreements for the construction of buildings and other improvements shall be subject to all the terms and conditions of this article and to the terms and conditions of this subdivision H.

L.1982, c. 189, s. 23, eff. Jan. 1, 1983.

18A:64A-25.24. Plans and specifications, drawn or supervised by appropriate officer
All plans and specifications for the erection, alteration, improvement or repair of college buildings shall be drawn by or under the supervision of an appropriate officer employed by the college to whom such powers shall have been delegated by the Board of Trustees.

L.1982, c. 189, s. 24, eff. Jan. 1, 1983.

18A:64A-25.25 Cost over threshold level; separate plans and specifications; bids; advertisement; award of contract; payment to subcontractor.

25. In the preparation of plans and specifications for the construction, alteration or repair of any building by a county college, when the entire cost of the work and materials will exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), separate plans and specifications may be prepared for each of the following to include all work and materials related thereto or to be performed or furnished in connection therewith:

- (a) The plumbing and gas fitting work;
- (b) The heating and ventilating systems and equipment;
- (c) The electrical work, including any electrical power plants;
- (d) The structural steel and ornamental iron work;
- (e) All other work and materials required for the completion of the project.

The contracting agent shall advertise for and receive in the manner provided by law (1) separate bids for each of the foregoing categories (a) through (e), or (2) bids for all work and materials required to complete the entire project, if awarded as a single contract, or (3) both. All bids submitted shall set forth the name or names of, and evidence of performance security from, all subcontractors to whom the bidder will subcontract the work described in the foregoing categories (a) through (e).

Contracts shall be awarded to the lowest responsible bidder. In the event that a contract is advertised in accordance with (3) above, the contract shall be awarded in the following manner: if the sum total of the amounts bid by the lowest responsible bidder for each category (a) through (e) is less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award separate contracts for each of such categories to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each category is not less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award a single contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (2) above, all payments required to be made under the contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

L.1982,c.189,s.25; amended 1983, c.67; 1984, c.241, s.7; 2001, c.281, s.5.

18A:64A-25.26. Specifications

All specifications for the doing of any such construction work for a county college shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion, and every such contract shall contain a provision for a deduction from the contract price for any moneys paid by the county college to any inspector or inspectors necessarily employed by it on the work for any number of days in excess of the number allowed in the specifications.

L.1982, c. 189, s. 26, eff. Jan. 1, 1983.

18A:64A-25.27 Authorization; resolution; method.

27. Any county college may, by resolution of its board of trustees, authorize the sale in the following manner of its personal property not needed for college purposes:

a. If the estimated fair value of the property to be sold exceeds \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property does not consist of perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale shall be published once in a legal newspaper. Such sales shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another county college or to any body politic by private sale without advertising for bids.

d. If no bids are received, the property may then be sold at private sale without further publication or notice thereof but in no event at less than the estimated fair value; or the county college may, if it so elects, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property if sold by a willing seller to a willing buyer less the cost to the college of continuing to store or maintain such property.

e. A county college may reject all bids if it determines such rejection to be in the public interest. In any case in which the college has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at the private sale be less than the amount of the highest bid rejected at the preceding two public sales, and provided further that in no event shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property consists of perishable goods, it may be sold at private sale without advertising for bids.

g. Notwithstanding the provisions of this section, by resolution of the board of trustees, a purchasing agent may include a sale of personal property no longer needed for county college purposes as part of specifications to offset the price of a new purchase.

L.1982,c.189,s.27; amended 1984, c.241, s.8; 2001, c.281, s.6.

18A:64A-25.28 Duration of certain contracts.

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

a. Supplying of:

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

(2) Fuel or oil for use in automobiles, autobuses, motor vehicles or equipment for any term not exceeding in the aggregate three years; or

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

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

d. Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware for any term of not more than five years; or

e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management programs or related services provided by a county college insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, for any term of not more than three years; or

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

g. Supplying of any product or rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or

h. The providing of food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias, for a term not exceeding three years; or

i. The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy through energy efficiency equipment or demand response equipment, including combined heat and power facilities, in, at, or adjacent to, buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not exceeding 15 years; provided that a contract is entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings. As used in this subsection, "combined heat and power facilities" means facilities designed to produce both heat and electricity from a single heat source; or

j. Any single project for the construction, reconstruction or rehabilitation of a public building, structure or facility, or a public works project including the retention of the services of an architect or engineer in connection with the project, for the length of time necessary for the completion of the actual construction; or

k. The management and operation of bookstores for a term not exceeding five years; or

l. Custodial or janitorial services for any term not exceeding in the aggregate three years; or

m. Child care services for a term not exceeding three years; or

n. Security services for a term not exceeding three years; or

o. Ground maintenance services for a term not exceeding three years; or

p. Laundering, dry-cleaning or rental of uniforms for a term not exceeding three years; or

q. The performance of work or services or the furnishing of materials and supplies for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 15 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

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

L.1982, c.189, c.28; amended 1984, c.241, s.9; 1985, c.204, s.8; 1988, c.144, s.4; 1994, c.48, s.144; 2001, c.281, s.7; 2008, c.83, s.2.

18A:64A-25.30. No action for damages for action by officials

30. No action for damages shall lie against the Board of Higher Education, the Commission on Higher Education, the Presidents' Council, any State official, any county college or its board of trustees or any of its officers because of any action taken by virtue of the provisions of this article.

L.1982,c.189,s.30; amended 1994,c.48,s.145.

18A:64A-25.31. Indemnity agreement with the United States, etc.

Any county college may enter into an agreement indemnifying the United States of America or any board, body, officer or agency thereof from any liability for loss or damage to the person or property of others resulting from any project undertaken or to be undertaken by the federal government for the benefit of such county college or any project the cost of which or any part thereof is to be paid out of federal funds.

L.1982, c. 189, s. 31, eff. Jan. 1, 1983.

18A:64A-25.32. Contracts, etc.; validated and confirmed

Any action, purchase, sale, contract or agreement taken, made or entered into prior to the effective date of this article is hereby validated and confirmed; provided that in no event shall multi-year leases or contracts entered into prior to the effective date of this article be renewed or extended except in accordance with the terms and provisions of this article.

L.1982, c. 189, s. 32, eff. Jan. 1, 1983.

18A:64A-25.33. Definitions

Definitions. For the purposes of this act:

a. "Fund" means a joint self-insurance fund established by a county college insurance group pursuant to this act. The joint self-insurance fund is a fund of public moneys from contributions made by members of a county college insurance group for the purpose of securing insurance protection, risk management programs, or related services as authorized by this act;

b. "County college insurance group" or "group" means an association formed by two or more county colleges for the development, administration, and provision of risk management programs, joint self-insurance fund or funds, and related services;

c. "Risk management program" means a plan, and activities carried out under the plan, by a county college insurance group to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund pursuant to this act, including safety engineering and other loss prevention and control techniques. Risk management program also includes the administration of one or more funds, including the processing and defense of claims brought against or on behalf of members of the group;

d. "Trustees" or "board of trustees" means the board of trustees established pursuant to the bylaws of the county college insurance group to govern or manage the risk management programs, joint self-insurance fund or funds, and related services of the group;

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

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

g. "Commissioner" means the Commissioner of Insurance.

L. 1985, c. 204, s. 1, eff. June 26, 1985.

18A:64A-25.34. Insurance authorized

Insurance authorized. Any county college is authorized to insure, contract or provide for any insurable interest of the college in the manner authorized by section 3 of this act, for the following:

a. Any loss or damage to its property, real or personal, motor vehicles, equipment or apparatus;

b. Any loss or damage from liability resulting from the use or operation of motor vehicles, equipment or apparatus owned or controlled by it;

c. Any loss or damage from liability for its own acts or omissions and for acts or omissions of its officers, employees or servants arising out of and in the course of the performance of their duties, including, but not limited to, any liability established by the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq., or by any federal or other law;

d. Loss or damage from liability as established by chapter 15 of Title 34 of the Revised Statutes (R.S. 34:15-1 et seq.);

e. Expenses of defending any claim against the county college, officer, employee or servant arising out of and in the course of the performance of their duties, whether or not liability exists on the claim.

L. 1985, c. 204, s. 2, eff. June 26, 1985.

18A:64A-25.35. County college insurance group

County college insurance group.

a. Any two or more county colleges may form and become members of a county college insurance group. A county college may take this action by resolution of the board of trustees of the county college. Through membership in a county college insurance group, a county college may participate in any joint self-insurance fund or funds, risk management programs or related services offered or provided by the group. The group shall have the power to establish a fund or funds for coverages authorized in section 2 of this act and to jointly purchase insurance or coverages under a master policy or contract of insurance for participating members. The group shall have the power to take other actions necessary to developing, administering, and providing risk management programs, joint self-insurance funds, joint insurance purchases, and related services.

b. The bylaws of the county college insurance group shall provide that any county college may join the group; provided it agrees to comply with the standards for membership, including risk management programs, which shall be established by the group, and may be a member as long as it complies with the standards for membership.

c. A county college insurance group may sue or be sued and shall appoint a natural person residing in this State or a corporation authorized to do business in this State as its agent for service of process. The group shall notify the commissioner of the appointment.

d. A county college insurance group is not an insurance company or an insurer under the laws of this State and the development, administration or provision by a group of

joint self-insurance fund or funds, risk management programs and related services does not constitute the transaction of insurance or doing an insurance business. A group shall not be subject to the provisions of Title 17, Subtitle 3 of the Revised Statutes.

L. 1985, c. 204, s. 3, eff. June 26, 1985.

18A:64A-25.36. Bylaws of the group; trustees; powers
Bylaws of the group; trustees; powers.

a. The bylaws of any county college insurance group shall:

(1) Set forth a statement of purposes of the group;

(2) Set forth provisions for organization of the group, including governance by a board of trustees;

(3) Provide for the delivery of risk management programs in conjunction with any joint self-insurance fund or funds which the board of trustees shall establish;

(4) Set forth procedures to enforce the collection of any contributions or payments in default;

(5) Set forth membership standards as required in section 3 of this act;

(6) Require that, for each joint self-insurance fund, a contract or contracts of specific and aggregate excess insurance or reinsurance is maintained unless otherwise recommended by the trustees upon the advice and report of an independent actuary;

(7) Set forth procedures for:

(a) Withdrawal from the group and a fund by a member;

(b) Termination of the group or fund and disposition of assets; and

(c) Determining the obligations, if any, of a member in the event that the group is unable to pay indemnification obligations and expenses payable from a fund administered by it;

(8) Require an annual certified audit to be prepared and filed with the commissioner;

(9) Require that any joint self-insurance fund or funds be developed and operated in accordance with accepted and sound actuarial practices;

(10) Provide that any expenditure of moneys in a fund be in furtherance of the purpose of the fund;

(11) Set forth other provisions as desired for operation and governance of the group.

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

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

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

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

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

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

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

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

L. 1985, c. 204, s. 4, eff. June 26, 1985.

18A:64A-25.37. Trustees; number and qualifications

Trustees; number and qualifications. The board of trustees of any county college insurance group shall have no fewer than three nor more than 15 trustees. Each trustee shall be a natural person 18 years of age or older who is a resident of this State. A majority of the trustees of any group shall be members or employees of member county colleges, provided that any trustee who ceases to be a member or employee of a county college may be allowed to serve for not more than 90 days following cessation without violating this provision.

L. 1985, c. 204, s. 5, eff. June 26, 1985.

18A:64A-25.38. Trustees; compensation

Trustees; compensation. No trustee shall be paid a salary, except that the written trust instrument may provide for reimbursement for actual expenses incurred on behalf of the trust fund and for compensation not to exceed \$200.00 for any day or portion of a day spent at a meeting of the trustees. Except as otherwise provided in this act, no trustee shall enter into any contract with the group or receive any moneys or other compensation or thing of value whatsoever from the group for services performed for or on behalf of the group.

L. 1985, c. 204, s. 6, eff. June 26, 1985.

18A:64A-25.39. Review of bylaws; investigations by the Commissioner of Insurance
Review of bylaws; investigations by the Commissioner of Insurance.

a. No county college insurance group, nor any joint self-insurance fund of the group, may begin functioning as a means of providing insurance coverage or protection for or among its members until the group's bylaws have been filed with and approved by the commissioner. If the commissioner fails to approve or disapprove the bylaws within 60 days following filing of the bylaws in his office, the bylaws shall be deemed approved. The commissioner may disapprove the bylaws only if the bylaws do not conform with the provisions of this act. He shall set forth the reasons for his disapproval in writing. The reasonable costs of the commissioner's review of the bylaws shall be chargeable to the county colleges seeking to establish the group.

b. Every county college insurance group shall file an annual report, on a form prescribed by the commissioner, at a time to be fixed by the commissioner. The report shall include a financial statement of the group's assets and liabilities, the claims paid during the preceding 12 months, current reserves, incurred losses, and any other information that the commissioner may require.

c. The commissioner shall have authority to examine the books, records and affairs of any county college insurance group or joint self-insurance fund for the purpose of determining compliance with this act. The reasonable costs of any examination or review shall be chargeable to the county college insurance group.

d. If at any time the commissioner determines that the county college insurance group has experienced a deterioration in its financial condition which adversely affects or will adversely affect its ability to pay expected losses, he may: (1) require an increase in the reserves of the insurer required by section 4 of this act; or (2) require the purchase of excess insurance or reinsurance.

L. 1985, c. 204, s. 7, eff. June 26, 1985.

18A:64A-25.40. Insurance fund participation authorized

In any county which has established an insurance fund pursuant to N.J.S. 40A:10-6 or is a joint member of an insurance fund pursuant to P.L. 1983, c. 372 (C. 40A:10-36 et seq.), the board of trustees of a county college located within that county may, at the option of the board of trustees, enter into a contract with the governing body of the county or joint insurance fund to participate in the county insurance fund or a joint insurance fund.

L. 1988, c. 144, s. 1.

18A:64A-25.41. Contract requirements

Any contract entered into between the board and the county governing body shall, at a minimum, specify the type and scope of coverage to be afforded, the premium basis for all insurance carried, the method of payment by the county college and the terms and conditions for withdrawal by the county college from the insurance fund.

L. 1988, c. 144, s. 2.

18A:64A-25.42. Appropriation of funds

Funds for premiums required by the contract between the board of trustees and the governing body of the fund shall be appropriated and paid as set forth in the contract in the same manner as appropriations are made for other expenses of the county college.

L. 1988, c. 144, s. 3.

18A:64A-26. Council of County Colleges established

18A:64A-26. There is established a body corporate and politic, with succession, to be known as the New Jersey Council of County Colleges. The county colleges and the county college commissions shall be members of the council.

L.1967, c.271; amended 1989,c.141,s.3.

18A:64A-27. Membership; alternates; compensation

18A:64A-27. The council shall consist of the presidents and chairmen of the boards of trustees of the several county community colleges and of the county college commissions. A trustee board chairman may designate another member of the board as an alternate to attend and to vote at council meetings in the chairman's absence.

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

L.1967, c.271; amended 1985,c.173,s.2; 1989,c.141,s.4; 1994,c.48,s.146.

18A:64A-28. Annual organization meeting

18A:64A-28. The council shall organize annually by the election of a chairman, vice chairman and such other officers as the council shall determine. Such officers shall serve until the following annual organizational meeting and until their successors are elected and qualified. Vacancies in such offices shall be filled in the same manner for the unexpired terms only. The council may also meet at such other times and at such places within the State as it shall deem necessary.

L.1967, c.271; amended 1985,c.173,s.3; 1994,c.48,s.147.

18A:64A-28.1. Officers; rules

The council shall select such officers and make such rules as may be necessary for the transaction of business.

L.1989,c.141,s.5.

18A:64A-28.2. Perpetual succession; powers, responsibilities

The council 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 government and guidance, not inconsistent with the purposes of the council;
- 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 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;
- f. To act as an advocate and promote the advancement of the county community colleges of New Jersey; and
- g. To promote diversity of development among the county community colleges in ways which will be responsive to the particular needs of the particular counties, and the State's diverse population and regions.

L.1989,c.141,s.6.

18A:64A-28.3. Executive director

The council shall employ an executive director, who shall be responsible for the administration of all the activities of the council including staff services and shall promote the educational quality of the county community colleges. The executive director shall serve at the pleasure of the council. The salary of the executive director and all other personnel shall be determined by the council.

L.1989,c.141,s.7.

18A:64A-28.4. Improvement of county college education

8. The council shall encourage and aid movements which it deems necessary for the improvement of county college education and shall, from time to time, make recommendations to the Governor, Legislature and Commission on Higher Education regarding the coordination of the county colleges on matters of mutual interest and concern.

L.1989,c.141,s.8; amended 1994,c.48,s.148.

18A:64A-28.5. Expenses; assessment for dues

For the purposes of defraying the expenses of the council, the county colleges and county college commissions shall pay the necessary expenses incurred by the council and shall appropriate annually such sums for dues as may be assessed by the council. The assessment shall be made only upon a two-thirds vote of the membership present at the meeting after written notice of the proposed vote shall be given to each county college and county college commission at least 60 days before the council meeting at which the vote will be taken. Dues shall be on a graduated scale according to the size of the county college and county college commission.

L.1989,c.141,s.9.

18A:64A-29 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.

L.1967, c.271; amended 1994, c.48, s.149; 1999, c.46, s.42.

18A:64A-30. Community college agency; establishment

1. The board of chosen freeholders of any county which has not established a county college may, with the consent of the Commission on Higher Education, establish a community college agency.

L.1974,c.89,s.1; amended 1994,c.48,s.150.

18A:64A-31. Definition

A "community college agency" means an educational institution established or to be established by one or more counties sponsoring programs of instruction similar to those offered by a county college and governed by a community college commission which shall be constituted as provided in section 3 of this act.

L.1974, c. 89, s. 2, eff. Aug. 29, 1974.

18A:64A-32. Community college commission; membership; vacancies; compensation

3. The community college commission shall consist of the county superintendent of schools and nine public members who are residents of the county and have resided therein for a period of four years prior to their appointment having no official connection with educational institutions contracting with the commission. No elected public official shall serve as a voting member of the commission. The president of the commission shall be an ex officio member of the commission without vote.

Seven of the public members shall be appointed by the appointing authority of the county, with the advice and consent of the board of chosen freeholders, and two of the members shall be appointed by the Governor, for such initial terms as shall be established by the board. Members shall be appointed for terms of four years each, except that the initial appointments shall be made in four classes as nearly equal as possible in number, one class to serve for one year, one class to serve for two years, one class to serve for three years, and one class to serve for four years. The term of all members of the commission shall begin on July 1. Members initially appointed to the commission may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of July 1 of the year in which the appointment was made. Each member shall serve until his successor shall have been appointed and qualified. Vacancies shall be filled in the same manner as the original appointments and for the remainder of the unexpired terms. Any appointed member may be removed by the appointing authority of the county for cause upon notice and opportunity to be heard. The members of the commission shall serve without compensation for their services, but shall be entitled to receive reimbursement for all reasonable and necessary expenses incurred by virtue of services as a member of the commission.

A voting member of a community college commission shall not be eligible to accept employment of the college at which he has served as a member of the commission for a period of two years following resignation or expiration of his term as a member.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be residents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of six months after their service on the trustee search committee. The trustee search committee shall nominate persons for consideration by the appointing authority of the county for appointment to the board of trustees.

L.1974,c.89,s.3; amended 1981,c.329,s.7; 1983,c.518,s.2; 1994,c.48,s.151.

18A:64A-33. Additional members; establishment by more than one county

When a community college commission is established by more than one county, the number of public members shall be increased by two for each additional participating county. Each county shall also be represented by the county superintendent of schools.

L.1974, c. 89, s. 4, eff. Aug. 29, 1974. Amended by L.1981, c. 329, s. 8, eff. Dec. 14, 1981.

18A:64A-34. Body corporate; name

A community college commission shall be a body corporate and shall be known as the "Community College Commission of " (here insert the name of the county).

L.1974, c. 89, s. 5, eff. Aug. 29, 1974.

18A:64A-35. Powers, duties and responsibilities

The community college commission shall have all the powers, duties and responsibilities as granted the board of trustees of a county college pursuant to N.J.S. 18A:64A-12 except the power of eminent domain.

L.1974, c. 89, s. 6, eff. Aug. 29, 1974.

18A:64A-36. Annual report

7. The commission shall make an annual report on academic and fiscal affairs to the board of chosen freeholders, and annually recommend the funds necessary to be included in the county budget pursuant to N.J.S.18A:64A-15 through 20 for the purpose of public higher education in accordance with the needs for support and facilities as determined by the commission. The first year's estimate of expenses shall be prepared and delivered pursuant to N.J.S.18A:64A-21.

L.1974,c.89,s.7; amended 1994,c.48,s.152.

18A:64A-37. Eligibility for State and federal support

8. A community college commission shall be eligible to receive State support for operational and capital costs pursuant to N.J.S.18A:64A-22, and to the extent State concurrence may be required, any federal support that may be available under the higher education assistance acts or any other appropriate federal acts. Nothing in this act shall prevent the commission from receiving any other public funds that may be available.

L.1974,c.89,s.8; amended 1994,c.48,s.153.

18A:64A-38. Law applicable to faculty and staff

Faculty and staff directly employed by the commission shall be subject to the provisions of all statutes, regulations and standards governing equivalent positions at a county college.

L.1974, c. 89, s. 9, eff. Aug. 29, 1974.

18A:64A-50. Referendum unnecessary

1. Notwithstanding any provisions of chapter 64A of Title 18A of the New Jersey Statutes to the contrary, any private institution of higher education and any post-secondary institute of a county board of vocational education may, prior to July 1, 1994, combine to form a county college without the need of a referendum.

L.1982,c.42,s.1; amended 1994,c.48,s.154.

18A:64A-51. Conduct of college

Except as otherwise provided in this act, the college shall be conducted pursuant to the provisions of N.J.S. 18A:64A-1 et seq. and the provisions of general law applicable to county colleges which are not inconsistent with this act, and shall be entitled to all benefits and grants provided for thereunder.

L.1982, c. 42, s. 2, eff. July 1, 1982.

18A:64A-52. Board of governors; powers and duties

The board of trustees of any private institution of higher education, which combined with any post-secondary institute of a county board of vocational education to form a county college, is continued and shall be known as the board of governors and it shall have the powers, authority, rights and privileges, and be subject to the fiduciary and other duties, obligations and responsibilities set forth and expressed in this act.

L.1982, c. 42, s. 3, eff. July 1, 1982.

18A:64A-53. Board of trustees; powers and duties

In addition to the board of governors, a board of trustees of the county college shall be established and have the powers, authority, rights and privileges and be subject to the duties, obligations and responsibilities set forth in this act.

L.1982, c. 42, s. 4, eff. July 1, 1982. Amended by L.1982, c. 209, s. 1, eff. Dec. 23, 1982.

18A:64A-54. Board of governors; members; terms; reimbursement for expenses

The board of governors shall consist of not less than 21 nor more than 30 members, including the president of the college, who shall be ex officio without vote, three alumni trustees nominated by the alumni association, three county residents, who are not freeholders, nominated by the board of chosen freeholders, and, at its option, one freeholder nominated by the board of chosen freeholders from among its members. The board of governors shall have the authority to appoint all other members. The members of the present board of trustees serving on the effective date of this act shall continue to serve the college as members of the board of governors for the remainder of their present terms of office. Except for the president of the college, who shall serve as a member only during his term of office, a member shall serve for a term of 3 years beginning July 1 of any year and expiring on June 30, 3 years thereafter or for the remainder of the unexpired term to which he may be elected. Terms of office shall be arranged so that one-third of the terms expire in each calendar year. No two alumni trustees shall serve terms expiring in the same year. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

L.1982, c. 42, s. 5, eff. July 1, 1982.

18A:64A-55 Membership of board of trustees.

6. The board of trustees shall include seven public trustees, consisting of the county superintendent of schools, four members appointed by the board of chosen freeholders, and two citizens of the county appointed by the Governor, and four trustees appointed by the board of governors from among its members. However, no trustee shall be appointed after July 1, 1994 who is an employee of a constituent county. In addition, the student body shall be entitled to elect from the graduating class one representative to serve as a member of the board of trustees for a term of one year commencing at the first meeting of the board in July following graduation of his class. The student representative may be granted voting rights by a majority vote of the members of the board of trustees. If the board of trustees grants the student representative voting rights and all members of the board are present at the board meeting and there is a tie vote, the chairman shall break the tie.

All appointive members shall be residents of the county for a period of four years prior to appointment and no elected public official or employee of the county college shall serve as a voting member of the board. The terms of office of the appointive members shall be four years, except for the first appointment. Terms of those initially appointed by the chairman of the board of chosen freeholders shall expire, respectively, one, two, three and four years after appointment. Of those appointed by the Governor, one person shall be appointed for a term of two years and one for a term of four years. Of the members appointed by the board of governors, one person shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years.

Each member shall serve until his successor is appointed and qualified.

Vacancies shall be filled in the same manner as the original appointment for the unexpired term. Upon notice and opportunity to be heard, an appointee may be removed for cause by the body originally making the appointment. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

L.1982, c.42, s.6; amended 1994, c.48, s.155; 2007, c.147, s.2.

18A:64A-56. Governing body; allocation of powers between boards of trustees and governors

The governance, control, conduct, management and administration of the college shall be vested in and allocated between the board of trustees and the board of governors, pursuant to this act.

L.1982, c. 42, s. 7, eff. July 1, 1982.

18A:64A-57. Authority of board of trustees

8. The board of trustees shall have general supervision over and be vested with the conduct of the college. It shall have the authority and responsibility to:

- a. Adopt and use a corporate seal;
- b. Sue or be sued;

- c. Determine the educational curriculum and program of the college;
- d. With the advice and consent of the board of governors, upon expiration of the term of the current president of the private institution, appoint and fix the compensation and term of office of a president of the college, who shall be the executive officer of the college;
- e. Appoint, upon nomination of the president, members of the administrative and teaching staff and fix their compensation and terms of employment, subject to the provisions of general law;
- f. Employ other officers, agents and employees, as may be required to carry out the provisions of this act and fix and determine their qualifications, duties, compensation, terms of office and all other conditions and terms of employment;
- g. Fix and determine tuition rates and other fees to be paid by students;
- h. Grant diplomas, certificates or degrees;
- i. 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 county, State or United States, or with any individual firm or corporation, which is deemed necessary or advisable by the board for carrying out the provisions of this act;
- j. 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 of trustees may use for its purposes;
- k. Disburse all moneys appropriated to the college by the county and State, moneys received from tuition, fees, auxiliary services and other sources, and from or by the direction of the board of governors;
- l. Direct and control the expenditures of the college as to funds received from the board of governors and other sources in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions;
- m. 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;
- n. Determine that any property owned and controlled by the board of trustees of the county college is no longer necessary for college purposes and sell the same at the price and in the manner and upon the terms and conditions as shall be established by the board;
- o. Make and promulgate rules and regulations not inconsistent with the provisions of general law or of this act or with the rules and regulations promulgated hereunder that are necessary and proper for the administration or operation of the county college;
- p. Exercise all other powers not inconsistent with the provisions of this act or with rules and regulations promulgated hereunder, or with general law, which may be reasonable, necessary or incidental to the establishment, maintenance and operation of a county college; and
- q. 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.

L.1982,c.42,s.8; amended 1994,c.48,s.156.

18A:64A-58. Board of governors; authority and responsibility
The board of governors shall:

- a. Act in an overall advisory capacity;
- b. Control properties, funds and trusts vested as of the effective date of this act in the private institution, in its possession, or remainder, or expectancy, including properties now held and continuing to be held as security by the New Jersey Educational Facilities Authority and properties, funds and trusts received by the private institution on or after the effective date of this act by private gift, donation, bequest or transfer under the terms of any applicable trusts, gifts, bequests or donations dated or delivered prior to the effective date or on or after the effective date of this act, unless otherwise designated and make available to the board of trustees, after meeting all expenses of its administration, the income from funds and the use of or income from property subject to the provisions of section 10 of this act;

c. Have sole authority over the investment of funds under its control;

d. Have the power to maintain administrative staff and incur expenses it deems reasonable and necessary to the effective exercise of its functions and responsibilities under this act or by reason of any other fiduciary responsibilities to which it is subject.

L.1982, c. 42, s. 9, eff. July 1, 1982.

18A:64A-59. Utilization of privately donated properties and funds

10. In consideration of the utilization by the county for purposes of higher education of privately donated properties and funds and the prospect of future private donations, the State and the county by this act agree with the current board of trustees and its successor that:

a. If the property and funds controlled by the current trustees and its successor board of governors is not properly applied in accordance with the provisions of section 8 of this act for the purposes of higher education and in accordance with the terms of any applicable testament or trust or other special provisions; or

b. if the county shall not make provisions sufficient to enable the current board of trustees and its successors to discharge its trust to apply the trust assets as described in section 9 of this act for public higher education through the conduct of a college with high educational standards, then the board of governors, after consideration and on not less than 60 days' prior written notice to the board of trustees and to the Governor, shall have and may exercise the right to withhold or withdraw the use of the properties and funds described in section 9 of this act or any part thereof, subject to adjudication by the courts of the State and subject to their proper application for the purposes of public higher education and in accordance with the terms of any applicable testamentary trust or other special provision.

L.1982,c.42,s.10; amended 1994,c.48,s.157.

18A:64A-60. Joint session of boards

The boards may meet in joint session for the purpose of consultation and discussion or to act upon any matter which requires their joint or concurrent action.

L.1982, c. 42, s. 11, eff. July 1, 1982.

18A:64A-61. Annual report

12. In accordance with law, the board of trustees shall make an annual report to the board of chosen freeholders of the county.

L.1982,c.42,s.12; amended 1994,c.48,s.158.

18A:64A-62. Board of trustees; laws conferring powers and duties

Wherever in any law there is reference to a board of trustees either in conferring powers, rights or responsibilities, the same shall refer to the board of trustees of the college.

L.1982, c. 42, s. 13, eff. July 1, 1982.

18A:64A-63. County coordinating agencies; abolishment

Any county coordinating agency for higher education in a county which establishes a county college pursuant to this act shall be abolished by the board of freeholders within 30 days of the approval of the county college by the State Board of Higher Education.

L.1982, c. 42, s. 14, eff. July 1, 1982.

18A:64A-64. Post-secondary institute; part of county college

The post-secondary institute shall be a part of the county college, upon agreement of the governing body of the institute.

L.1982, c. 42, s. 15, eff. July 1, 1982.

18A:64A-65. Post-secondary institute; general supervision

General supervision of the conduct of the institute shall be vested in the board of trustees of the county college.

L.1982, c. 42, s. 16, eff. July 1, 1982.

18A:64A-66. Assets purchased for post-secondary institute; transfer to county college

All assets purchased by the board of education of the vocational schools of the county on behalf of and for the use of the institute and currently in use by the institute shall be transferred, without any financial obligation being assumed, to the board of trustees of the county college.

In accepting transferred assets, the board of trustees shall be indemnified and held harmless by the grantor against any and all claims, outstanding obligations of any nature, demands, suits or other forms of liability which have attached to or may arise against assets.

L.1982, c. 42, s. 17, eff. July 1, 1982.

18A:64A-67. Transfers; compliance with laws

Any transfer of real or personal property from the institute, the county and its municipalities, the board of education of the vocational schools of the county, or any other public body to the county college shall be accomplished without the necessity of complying with laws relating to the sale of public property.

L.1982, c. 42, s. 18, eff. July 1, 1982.

18A:64A-68. Debt owed to state; satisfaction upon transfer

Any existing debt of the board of education of the vocational schools of a county owed to the State as a result of a certified enrollment audit by the Department of Higher Education shall become satisfied with the transfer of the assets of the institute to the county college. These transferred assets shall consist solely of the facilities and assets agreed to by the institute and the county college and approved by the chancellor, and shall take place within 30 days following the effective date of this act.

L.1982, c. 42, s. 19, eff. July 1, 1982.

18A:64A-69. Initial appointment; boards of governors and trustees

The board of governors and board of trustees shall be appointed as soon as practicable after the effective date of this act.

L.1982, c. 42, s. 20, eff. July 1, 1982.

18A:64A-70. Current governing bodies; continuance

Until such time as appointments have been made, the current governing bodies of each institution shall continue their operations without interruption.

L.1982, c. 42, s. 21, eff. July 1, 1982.

18A:64A-71. Employees; rights; tenure

The employees of the private institution and the full-time employees of the institute shall be employees of the county college and shall be subject to the provisions of P.L.1941, c. 100 (C. 34:13A-1 et seq.). Existing tenure rights, contractual agreements, and all rights or protections provided employees under any pension law or retirement system or any other law of this State shall be fully protected by the board of trustees of the college; however, this shall not apply to any provision in any contractual agreement of employees of the institute which would affect the provision of subsection c. of this section regarding faculty rank.

a. The county college shall employ as many of the shared administrative and clerical employees of the county vocational board of education under the same salary and benefits as are provided by their current employment as the board of trustees may agree is reasonable and necessary.

b. Any nontenured faculty member employed by the private institution as of the effective date of this act may elect to be considered for tenure under the provisions of section 3 of P.L.1973, c. 163 (C. 18A:60-8) or under provisions of the collective bargaining agreement in effect between the private institution and the faculty union as of the effective date of this act.

Any nontenured faculty member employed by the institute as of the effective date of this act may elect to be considered for tenure under the provisions of section 3 of P.L.1973, c. 163 (C. 18A:60-8) or N.J.S. 18A:28-5.

On or before October 1, 1982, each nontenured faculty member shall notify the college president in writing of his choice for tenure consideration. Any faculty member not filing a written notice in the prescribed manner shall be considered for tenure under the provisions of section 3 of P.L.1973, c. 163 (C. 18A:60-8). All faculty initially hired by the county college after the effective date of this act shall be governed by the provisions of "The State and County College Tenure Act," P.L.1973, c. 163 (C. 18A:60-6 et seq.).

The provisions of this or any other law notwithstanding, any faculty member who is not under tenure as of the effective date of this act shall not be tenured until the college board of trustees shall affirmatively act to confer tenure.

c. All faculty members who are presently employed by the institute shall be evaluated through a procedure agreed to by a faculty committee of both institutions and placed in a faculty rank by the board of trustees no later than June 30, 1983.

L.1982, c. 42, s. 22, eff. July 1, 1982.

18A:64A-72. Employee benefit programs

Eligible employees of the county college shall be enrolled in the alternate benefit program pursuant to P.L.1969, c. 242 (C. 18A:66-167 et seq.). The county college shall be responsible for the payment of any additional pension costs which are in excess of the maximum contributions provided by the State.

Employees of the private institution who have previously been enrolled in the TIAA-CREF program at that institution, but are ineligible for membership in the alternate benefit program, may continue in the TIAA-CREF program. All new employees not eligible for enrollment in the alternate benefit program shall enroll in the Public Employees' Retirement System if they are otherwise eligible.

Any faculty member of the institute on the effective date of this act, who is a member of the Teachers' Pension and Annuity Fund and who is otherwise eligible, may participate in the alternate benefit program by declaring his intention to participate in the program in writing within 90 days of the effective date of this act.

L.1982, c. 42, s. 23, eff. July 1, 1982.

18A:64A-73. Administrative officers and teaching personnel; rights and benefits

All administrative officers and teaching personnel shall have the rights and benefits provided by law relating to county colleges.

L.1982, c. 42, s. 24, eff. July 1, 1982.

18A:64A-74. Vested rights and privileges; effect of act

This act shall not impair, annul or affect any vested rights, grants, charter rights, privileges, exemptions, immunities, powers, prerogatives, franchises or advantages heretofore obtained or enjoyed by the college or any constituent unit thereof, under authority of its charter or any act of this State or county or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are ratified and confirmed except insofar as the same may have expired or have been repealed or altered or may be inconsistent with this act.

L.1982, c. 42, s. 25, eff. July 1, 1982.

18A:64A-75. Status of or authorization to take action by officer; effect of act

This act shall not affect the official status of any officer of the college, or any outstanding authorization of any officer, agent or employee to take any specified action, or any outstanding commitment or undertaking of or by the college, except to the extent that it may be inconsistent with this act.

L.1982, c. 42, s. 26, eff. July 1, 1982.

18A:64A-76. Powers of Governor

27. This act shall not abrogate the powers of the Governor to supervise and control the college in accordance with existing law.

L.1982,c.42,s.27; amended 1994,c.48,s.159.

18A:64A-77. Vested rights inuring to benefit of college

Every gift, grant, legacy, bequest, devise, endowment, estate, remainder, or expectancy, contained in any will, deed, declaration of trust, transfer, or other instrument, to or for or inuring to the benefit of the college, or any constituent unit thereof, whenever established or acquired, and every chose in action, to which the college is or shall be entitled, in whatever name and under whatever title, shall continue to be vested or shall vest in and shall inure to the benefit of the college as completely and effectually as though expressly made to it in its name and for its use and benefit; and none of the same shall lapse, terminate or revert by reason of the enactment of this act; subject, however, to the provisions of this act and other applicable laws, and to all of the rights, obligations, relations, conditions, terms, trusts, duties and liabilities to which the same are subject; and may effectually execute and give receipts and discharges and other instruments in the name of the college or in the name in which the same may have been made or given for the use and to the benefit of the college.

L.1982, c. 42, s. 28, eff. July 1, 1982.

18A:64A-78. Adoption of act; resolution

This act shall become operative only after acceptance and adoption by the board of trustees of the private institution, which shall be by resolution which shall:

a. Impress the property and funds remaining under the board of governors with a public trust for the use and benefit of the higher education of the citizens of the county; and

b. Effectuate the changes in the bylaws of the private institution which are necessary to implement the provisions of this act.

L.1982, c. 42, s. 29, eff. July 1, 1982.

18A:64A-79 Findings, declarations relative to award of county college credit to certain firefighters.

1. The Legislature finds and declares that: through programs and courses county fire academies work to enhance the ability of firefighters to deal more effectively with fire and related emergencies; county fire academy courses offer students an opportunity

to grow professionally and to increase their knowledge and skills to provide a safe and effective response to their communities; and certain courses offered by county fire academies are equal in difficulty to those at the college level.

The Legislature, therefore, further finds that it is appropriate for county colleges to award college credits to firefighters for certain courses completed in county fire academies.

L.2005, c.217,s.1.

18A:64A-80 Conditions for receipt of county college credit for course at fire academy.

2. a. Any person who successfully completes a course at a county fire academy shall receive county college credit for the course if: the county college determines after a review of the curriculum of the course offered by the county fire academy that the curriculum is similar to the curriculum of a course offered in the county college's fire science program; and upon completion of the course, the person successfully completes an examination approved by the county college. The county college shall waive any credit-by-exam fee the college may charge.

b. The county fire academy and county college of a county shall work jointly to identify courses at the county fire academy which offer a curriculum similar to that of courses included in the county college's fire science program.

L.2005,c.217,s.2.

18A:64E-12. Short title

1. This act shall be known and may be cited as the "New Jersey Institute of Technology Act of 1995."

L.1995,c.400,s.1.

18A:64E-13. Definitions relative to New Jersey Institute of Technology

2. As used in this act "New Jersey Institute of Technology," hereinafter referred to as "university," shall, unless the context clearly indicates to the contrary, include and mean the public research university herein designated "New Jersey Institute of Technology" as presently and hereafter constituted, including all departments, colleges, schools, centers, branches, educational and other units and extensions thereof, including, but not limited to, Newark College of Engineering, New Jersey School of Architecture, the College of Science and Liberal Arts, the School of Industrial Management, centers, extension and cooperative education programs, continuing education programs and all other departments of higher education maintained by the educational entity of the university.

L.1995,c.400,s.2.

18A:64E-14. New Jersey Institute of Technology established

3. There is hereby established a body corporate and politic to be known as the New Jersey Institute of Technology. The exercise by the university of the powers conferred by this act shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

L.1995,c.400,s.3.

18A:64E-15. Declaration of public policy

4. It is declared to be the public policy of the State that the university shall be given a high degree of self-government and that the governance and conduct of the university shall be free of partisanship.

L.1995,c.400,s.4.

18A:64E-16. Board of trustees continued

5. The board of trustees of the university is continued and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

L.1995,c.400,s.5.

18A:64E-17. Membership of board of trustees; organization

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

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

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

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

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

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

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

L.1995,c.400,s.6.

18A:64E-18. Authority, responsibilities of board trustees

7. The board of trustees of the university shall have general supervision over and be vested with the conduct, control, management and administration of the university. It shall have the authority and responsibility to:

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

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

c. Approve the establishment of new educational programs and the discontinuance of existing educational programs at the university consistent with the university's programmatic mission as authorized by the State Board of Higher Education prior to July 1, 1994, or authorized thereafter in accordance with the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

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 thereafter provided the university and disburse all moneys received from tuition, fees, auxiliary services and other sources;

f. Direct and control expenditures and transfers of funds appropriated and provided by the State through its legislative and executive branches 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. The university shall annually report 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. Appoint and fix the compensation and term of office of a president of the university, who, as the executive officer of the university, shall be assigned that authority and delegated those duties that the board, consistent with law and duly adopted bylaws of the board, determines are in keeping with the purposes of this act and in the best interests of the university;

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

i. Subject to provision for impartial binding dispute resolution through collective bargaining or as provided by university policy and further subject to and

limited by any law to the contrary, have final authority to determine controversies and disputes concerning tenure, personnel matters and other issues involving the university arising under Title 18A of the New Jersey Statutes. Any hearings conducted by the board 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 the board, in any action enabled hereunder, is appealable to the Superior Court, Appellate Division;

j. Borrow money for the needs of the university, as deemed requisite by the board, in such amounts, 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;

k. Purchase, lease, acquire by gifts, condemnation or otherwise, manage, use, control, encumber and dispose of property, or any interest therein, whether real, personal or mixed, including, but not limited to, all buildings and grounds, as necessary or deemed desirable for university purposes.

(1) Employ architects and engineers to plan buildings and other campus facilities; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for the equipment thereof; and supervise that construction;

(2) 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;

(3) Adopt standing operating rules and procedures for the purchase of all properties, whether real, personal or mixed and including all equipment, materials and supplies and for the purchase of all services. These rules and procedures shall include public competitive bidding ,where the sum to be expended exceeds \$17,700 or the amount determined by the Governor as provided herein and the awarding of contracts to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered . This public bidding process 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). Neither shall public bidding be required 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 the State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any products to be supplied or services to be rendered as are filed with that board. Commencing January 1, 1997 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in this paragraph in direct proportion to the rise or fall of the consumer price index for all urban consumers in the New York City and the Philadelphia areas as reported by the United States Department of Labor. The Governor shall notify the university of the adjustment. The adjustment shall become effective on July 1 of the year in which it is reported.

This subsection shall not prevent the university from having any work 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 an affirmative vote of its board of trustees, declare the exigency or emergency to exist, remediate as practicable and maintain appropriate records as to the reason for such awards, reporting as soon as practicable thereafter to its board of trustees on all such purchases, the amounts and the reasons therefor;

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

(5) Invest certain moneys in such obligations, securities and other investments as the board shall deem prudent consistent with the purpose 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 s. 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 overhead grant fund recovery as permitted by federal law as well as other university funds except those specified in paragraph 4 of subsection s. of this section;

(6) 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;

1. Fix and determine tuition rates, and other fees to be paid by students, after reasonable notice and public hearing pursuant to the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

m. Grant diplomas, certificates or degrees;

n. 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 the municipality which initially entered into or approved the contract or agreement, and the obligations and duties so incurred by the municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected members of the governing body of the municipality which initially entered into or approved that contract or agreement, shall have expired.

Pursuant to this subsection, the board of trustees may 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 other jural entity entered into or owned wholly or in part by the university shall maintain insurance or reserves in such amounts as are determined by an actuary to be sufficient to meet its actual or accrued claims;

o. Adopt bylaws and amend the same as deemed necessary from time to time and make, promulgate and modify at its pleasure such rules, regulations and orders, not inconsistent with the provisions of this act, as are deemed necessary and proper for the administration and operation of the university and to implement the provisions of this act;

p. Develop an institutional plan and determine the schools, departments, programs and degree levels to be offered by the university consistent with that plan and the university's programmatic mission as authorized by the State Board of Higher Education prior to July 1, 1994, or authorized thereafter in accordance with the provisions of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.);

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

r. Continue to retain independent counsel;

s. 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 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.

(1) The decision to participate in any of the activities described in this subsection, 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 action was approved. A true copy of the minutes of that meeting shall be delivered to the Governor. No such action shall take effect 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.

(2) Any actions taken by the university pursuant to this subsection shall be in conformity with the university's policy on conflicts of interest and the provisions of P.L.1971, c.182 (C.52:13D-12 et seq.), which shall apply to the university, its employees and officers.

(3) 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.

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

(5) 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.

(6) 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.

(7) 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, reinvested or retained by the board in accordance with the provisions of this act and any other State or federal law for use in furtherance of any of the purposes of this act or of other applicable statutes.

(8) The board shall include in its annual report to the State Treasurer, the operation of all joint ventures, subsidiary corporations, partnerships or other jural entities entered into or owned wholly or in part by the university;

t. Create, operate, or participate in the operation of such auxiliary organizations as permitted by law which the board deems prudent and which are in keeping with the educational and public service mission of the university; and

u. Sue and be sued in its own name.

L.1995,c.400,s.7.

18A:64E-19. Additional powers, duties of board of trustees

8. The board of trustees, in addition to the other powers and duties provided herein, shall be vested with the right of perpetual succession and shall have and exercise all the powers, rights, and privileges that are incident to the proper governance, conduct and management of the university and the control of its properties and funds and such powers granted to the university or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this act.

L.1995,c.400,s.8.

18A:64E-20. Appointment of president

9. The board shall appoint and fix the compensation of a president of the university. The president shall be responsible to the board of trustees and shall have such powers as shall be requisite, for the executive management and conduct of the university in all departments, branches and divisions, and for the execution and enforcement of bylaws, ordinances, rules, regulations, statutes and orders governing the management, conduct and administration of the university.

L.1995,c.400,s.9.

18A:64E-21. Immunity of trustees, officers

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

L.1995,c.400,s.10.

18A:64E-22. Board to advise Governor, Legislature

11. The board of trustees shall advise the Governor and Legislature, in consultation with the Commission on Higher Education and the President's Council and successor bodies, to the end that the facilities and services of the university may be utilized so as to increase the efficiency of the public education system and provide, maintain and improve upon the quality of higher education for the people of the State. The board of trustees shall make recommendations to the Governor and the Legislature respecting the needs for the facilities and services of the university as an educational instrumentality of the State for that purpose.

L.1995,c.400,s.11.

18A:64E-23. University deemed employer

12. Subject to the provisions of P.L.1969, c.242 (C.18A:66-167 et seq.) and except as otherwise provided by law, the university shall be deemed to be an employer for the purposes of the "Public Employees' Retirement System Act," P.L.1954, c.84 (C.43:15A-1 et seq.) and shall also be deemed to be a "public agency or organization" within the meaning of section 71 of that act (C.43:15A-71). Further, the university's commissioned police officers shall be eligible for participation in and subject to the provisions of the "Police and Firemen's Retirement Systems Act" P.L.1944, c.255 (C.43:16A-1 et seq.) and the university shall be deemed an employer within the meaning of that act.

L.1995,c.400,s.12.

18A:64E-24. Construction of act

13. Nothing herein contained shall be construed to impair, annul or affect any vested rights, grants, privileges, exemptions, immunities, powers, prerogatives, franchises or advantages heretofore obtained or enjoyed by the university or any constituent unit thereof, under any authority or any act of this State or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are hereby ratified and confirmed except insofar as the same may have expired, be or have been repealed or

altered, or may be inconsistent with this act or with existing provisions of law; subject however, thereto and to all of the rights, obligations, relations, conditions, terms, trust, duties and liabilities to which the same are subject.

L.1995,c.400,s.13.

18A:64E-25. Official acts preserved

14. The enactment and adoption of this act shall not, of itself, affect the official, operational or organizational status of any officer of the university or any and all outstanding authorizations of any officer, agent or employee, to take specified action, or any and all outstanding commitments or undertakings of or by the university, except and only to the extent that any of the same may be inconsistent with this act.

L.1995,c.400,s.14.

18A:64E-26. Establishment of university; effect on appropriations, employees, etc.

15. Upon the establishment of the body corporate and politic known as the New Jersey Institute of Technology:

a. All appropriations available to the New Jersey Institute of Technology prior to the effective date of this act and to become available shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available to the New Jersey Institute of Technology prior to the effective date of this act and to become available to or for the New Jersey Institute of Technology shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and federal law or otherwise;

c. All employees of the New Jersey Institute of Technology prior to the effective date of this act shall become employees of the university. Nothing in this act shall be construed so as to deprive any person of any right of tenure or under any retirement system or to any pension, disability, social security or similar benefit, to which the person is entitled by law or contractually;

d. All files, papers, records, equipment and other personal property of the New Jersey Institute of Technology shall be transferred to the university; and

e. All orders, rules or regulations theretofore made or promulgated by the New Jersey Institute of Technology shall continue in full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

L.1995,c.400,s.15.

18A:64E-27. Actions, proceedings not affected

16. This act shall not affect actions or proceedings, civil or criminal, brought by or against the New Jersey Institute of Technology, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the university as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, the New Jersey Institute of Technology, and all such matters or proceedings pending before the New Jersey Institute of Technology on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

L.1995,c.400,s.16.

18A:64E-28. References mean New Jersey Institute of Technology

17. Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey Institute of Technology, the same shall mean and refer to the New Jersey Institute of Technology, herein referred to as "university," established as a public institution of higher education pursuant to the provisions of this act.

L.1995,c.400,s.17.

18A:64E-29. Board of trustees continued

18. The board of trustees of the university is continued and the provisions of this act shall not alter the term of any member of the board, not specifically abolished herein, lawfully in office as of the effective date of this act, or require the reappointment thereof.

L.1995,c.400,s.18.

18A:64E-30. Credit of State not pledged

19. No provision of this act shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the State of New Jersey.

L.1995,c.400,s.19.

18A:64E-31. Liberal construction

20. This act, being deemed and declared necessary for the welfare of the State and the people of New Jersey to provide for the development of public higher education in the State and thereby to improve the quality and increase the efficiency of the public system of educational services of the State, shall be liberally construed to effectuate the purposes and intent thereof.

L.1995,c.400,s.20.

18A:64E-32. University allocated to Department of State

21. In accordance with the provisions of section 27 of the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et seq.), the university is allocated to the Department of State for the purposes of complying with the provisions of Article V, Section IV, Paragraph 1 of the New Jersey Constitution. Notwithstanding this allocation, the university shall be independent of any supervision or control of the Department of State or any board, commission or officer thereof and the allocation shall not in any way affect the principles of institutional autonomy established by that act and as otherwise enumerated herein.

L.1995,c.400,s.21.

18A:64G-1. Short title

This act shall be known and may be cited as the "Medical and Dental Education Act of 1970."

L.1970, c. 102, s. 1.

18A:64G-2. Findings

2. The Legislature and Governor of the State of New Jersey hereby find that the establishment and operation of programs of medical, dental, nursing, health related professions and health sciences education is in the best interest of the State to provide greater numbers of trained medical personnel to assist in the staffing of the hospitals and public institutions and agencies of the State and to prepare greater numbers of students for the general practice of medicine, dentistry, nursing and the health related professions, and find, declare and affirm, as a matter of public policy of the State, that it is the responsibility of the State to provide funds necessary to establish and operate such programs of education, in the most economical and efficient manner, and that, in furtherance of such policy, the school of medicine heretofore established by Rutgers, The State University, (hereinafter called the "Rutgers Medical School") and the New Jersey College of Medicine and Dentistry shall be combined into a single entity to be known as the University of Medicine and Dentistry of New Jersey.

The university shall be comprised of the Graduate School of Biomedical Sciences, the School of Health Related Professions, the New Jersey Dental School, the School of Osteopathic Medicine, the New Jersey Medical School and the Robert Wood Johnson Medical School, and all other departments or schools established by the university in accordance with law.

The Legislature and Governor further find and declare that the continuing development of the university as a premier academic health center, able to provide state of the art education, research and patient care services and able to fully participate in today's health-care environment, is in the best interest of the State. Because of the importance of each element of the health-care delivery system, it is the university's obligation to monitor, to identify and to coordinate with the appropriate State agencies and boards to meet the health-care manpower needs of New Jersey as they arise. A key element necessary to the achievement of many of these goals is the structural flexibility to form productive and varied relationships with other health-care organizations, research institutions and private individuals, firms and corporations.

The Legislature and Governor further find that such public-private relationships should be encouraged since these cooperative efforts will enable the university to supplement the resources available from the State and thereby provide the university with an economic and efficient means to develop and offer an appropriate range of health-care services.

L.1970,c.102,s.2; amended 1981,c.325,s.1; 1992,c.84,s.2; 1994,c.48,s.164.

18A:64G-3. "University of Medicine and Dentistry of New Jersey" established

3. There is hereby established a body corporate and politic to be known as the "University of Medicine and Dentistry of New Jersey." The exercise by the university of the powers conferred by this act in the presentation and operation of programs of medical, dental, nursing and health related professions and health sciences education shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

L.1970,c.102,s.3; amended 1981,c.325,s.2; 1992,c.84,s.3; 1994,c.48,s.165.

18A:64G-3.1. Self-government and conduct free of partisanship

It is declared to be the public policy of the State that the university shall be given a high degree of self-government and that the government and conduct of the university shall be free of partisanship.

L.1981, c. 325, s. 3, eff. Dec. 10, 1981.

18A:64G-3.3. Transfer of appropriations, grants, gifts, other moneys and property, employees, personal property of college to university; continuance of orders, rules or regulations

Upon the establishment of the body corporate and politic known as the University of Medicine and Dentistry of New Jersey:

a. All appropriations available and to become available to the College of Medicine and Dentistry of New Jersey shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available and to become available to or for the College of Medicine and Dentistry of New Jersey shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and Federal law or otherwise;

c. All employees of the College of Medicine and Dentistry of New Jersey shall become employees of the university. Nothing in this act shall be considered to deprive any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State;

d. All files, papers, records, equipment and other personal property of the College of Medicine and Dentistry of New Jersey shall be transferred to the university; and

e. All orders, rules or regulations theretofore made or promulgated by the College of Medicine and Dentistry of New Jersey shall continue with full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

L.1981, c. 325, s. 19, eff. Dec. 10, 1981.

18A:64G-3.4. Civil and criminal actions unaffected; matters and proceedings continued

20. This act shall not affect actions or proceedings, civil or criminal, brought by or against the College of Medicine and Dentistry of New Jersey, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the University of Medicine and Dentistry of New Jersey as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, the College of Medicine and Dentistry of New Jersey, and all such matters or proceedings pending before the College of Medicine and Dentistry of New Jersey on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

L.1981,c.325,s.20.

18A:64G-3.5. Reference to college of medicine and dentistry to mean and refer to university

Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the College of Medicine and Dentistry of New Jersey, the same shall mean and refer to the University of Medicine and Dentistry of New Jersey.

L.1981, c. 325, s. 21, eff. Dec. 10, 1981.

18A:64G-3.6. Powers of Chairman of Commission on Higher Education

22. The general powers of supervision and control of the Chairman of the Commission on Higher Education at the request of the Governor over the University of Medicine and Dentistry of New Jersey include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

L.1981,c.325,s.22; amended 1994,c.48,s.166.

18A:64G-3.8. Short title

1. This act shall be known and may be cited as "The University of Medicine and Dentistry of New Jersey Flexibility Act of 1992."

L.1992,c.84,s.1.

18A:64G-3.9. Awarding of degrees

7. a. Except in the case of existing university programs, the university shall award associate degrees only in new programs jointly proposed and implemented with institutions fully authorized and accredited to award degrees at that level.

b. For the awarding of the baccalaureate degree, the university shall develop and maintain joint degree programs for health related professions and new nursing education programs with fully authorized and accredited institutions and shall be limited to offering upper division courses. Exceptions may be made with the approval of the Commission on Higher Education, except as provided in this act. In instances where the university has been authorized to offer a baccalaureate degree program jointly with another institution, it may independently award a second baccalaureate degree for that program for students who enter the program already possessing a baccalaureate degree from a regionally accredited college or university.

L.1992,c.84,s.7; amended 1994,c.48,s.167.

18A:64G-3.10. Contract claims, suits governed by "New Jersey Contractual Liability Act"

8. Notwithstanding any of the provisions of the "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to the contrary, contract claims and suits against the university shall be governed by that act.

L.1992,c.84,s.8.

18A:64G-4 Board of trustees; membership; appointment; terms, vacancies, oath, removal, meetings, officers, committees.

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

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

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

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

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

L.1970, c.102, s.4; amended 1970, c.311; 1981, c.325, s.5; 1992, c.84, s.4; 1994, c.48, s.168; 2006, c.95, s.1.

18A:64G-4.1. Continuation of board of trustees

The board of trustees of the College of Medicine and Dentistry of New Jersey is continued as the board of trustees of the university and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

L.1981, c. 325, s. 6, eff. Dec. 10, 1981.

18A:64G-5. Reimbursement of board members for expenses

Members of the board of trustees shall not receive compensation for their services as such. Each member shall be reimbursed for his actual expenses reasonably incurred in the performance of his duties as a member.

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, except as otherwise provided in section 3 of P.L.2006, c.95 (C.18A:64G-6.1). 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, and appoint and fix the compensation and term of office of a vice-president 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.

This 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 effect 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 for-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);

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

(y) Adopt a code of ethics that complies with the requirements of all statutes applicable to the institution, including, but not limited to the "Higher Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts

of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of the State Ethics Commission, and any applicable executive orders; and

(z) Establish a procedure for the confidential, anonymous submission of employee concerns regarding alleged wrongdoing at the university or its health care facilities.

L.1970,c.102,s.6; amended 1981, c.325, s.7; 1985, c.514; 1992, c.84, s.5; 1994, c.48, s.169; 1999, c.46, s.43; 2006, c.95, s.2.

18A:64G-6.1 Board of directors of University Hospital; appointment; organization; powers.

3. a. The management, supervision and administration of University Hospital shall be vested in a nine-member board of directors of University Hospital. The board shall be comprised of four members of the board of trustees of the University of Medicine and Dentistry of New Jersey who shall serve ex officio and be appointed by the chairman of the board and five members who shall be appointed by the Governor, with the advice and consent of the Senate, for a five-year term; except that in the case of the initial gubernatorial appointments to the board of directors, two shall serve for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. A member of the board of directors shall serve until his successor is appointed and has qualified. Any vacancies in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. Each member of the board of directors before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially, and justly to the best of his ability. A record of the oath shall be filed in the office of the Secretary of State. Each member of the board may be removed from office by the Governor, for cause, after a public hearing.

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

c. The Governor shall designate one of the members as chairman of the board of directors. The board shall select the other officers from among its members as shall be deemed necessary.

d. The board of directors shall have the power to appoint and regulate the duties and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the hospital.

L.2006,c.95,s.3.

18A:64G-6.2 Maintenance of Internet website for board of trustees; public access, postings.

4. The university shall maintain an Internet website for the board of trustees. The purpose of the website shall be to provide increased public access to board operations and activities. The following information shall be posted on the board's website:

- a. the board's rules, regulations, resolutions, and official policy statements;
- b. notice, posted at least five business days prior to a meeting of the board or any of its committees, setting forth the time, date, location, and agenda of the meeting;
- c. the minutes of each meeting of the board and its committees; and
- d. information on any contract entered into by the board that was not competitively bid and the statutory authority for the contracting process.

The website shall be updated on a regular basis.

L.2006, c.95, s.4.

18A:64G-7. Additional powers

7. The board of trustees, in addition to the other powers and duties provided herein, shall have and exercise the powers, rights and privileges that are incident to the proper government, conduct and management of the university and the control of its properties and funds and such powers granted to the university or the board or reasonably implied, may be exercised without recourse or reference to any department or agency of the State, except as otherwise provided by this act.

L.1970,c.102,s.7; amended 1981,c.325,s.8; 1994,c.48,s.170.

18A:64G-8. Investment of funds; finance committee of board

8. All functions, powers and duties relating to the investment or reinvestment of funds other than those funds specified in paragraph (5) of subsection (n) of section 6 of P.L.1970, c.102 (C.18A:64G-6) within the jurisdiction of the board of trustees including the purchase, sale or exchange of any investments or securities may be exercised and performed by the Director of the Division of Investment in accordance with the provisions

of chapter 270 of the laws of 1950 (C.52:18A-79 et seq.) if so authorized by the board. Sections 9 and 10 of P.L.1970, c.102 (C.18A:64G-9 and 18A:64G-10) shall only be applicable in the event of such an election. Before any such investment, reinvestment, purchase, sale or exchange shall be made by the director for or on behalf of the board of trustees, the Director of the Division of Investment shall submit the details thereof to the board, which shall, itself or by its finance committee, within 48 hours, exclusive of Sundays and public holidays, after such submission to it, file with the director its written acceptance or rejection of such proposed investment, reinvestment, purchase, sale or exchange; and the director shall have authority to make such investment, reinvestment, purchase, sale or exchange for or on behalf of the board, unless there shall have been filed with him a written rejection thereof by the board or its finance committee as herein provided. The board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by it and the amount available for investment, all of which shall be certified to the State Treasurer and the Director of the Division of Investment.

The finance committee of the board of trustees shall consist of three members of the board who shall be appointed in the same manner and for the same term as other committees of the board are appointed.

L.1970,c.102,s.8; amended 1992,c.84,s.6; 1994,c.48,s.300.

18A:64G-9. Authorized investments

The Director of the Division of Investment, in addition to other investments, presently or from time to time hereafter authorized by law, shall have authority, subject to any acceptance required, to invest and reinvest such funds in, and to acquire for or on behalf of the board such bonds or other evidence of indebtedness or capital stock or other securities issued by any company incorporated within the United States or within the Dominion of Canada, which shall be authorized or approved for investment by regulation of the State Investment Council and in which life insurance companies organized under the laws of this State may legally invest.

L.1970, c. 102, s. 9.

18A:64G-10. Depositories and custodians

The State Treasurer shall be the custodian of said board's investment funds, shall select all depositories and custodians and shall negotiate and execute custody agreements in connection with the assets or investments of any said funds.

L.1970, c. 102, s. 10.

18A:64G-11. President of university; powers and duties

The president of the university shall be responsible to the board of trustees and shall have such powers as shall be requisite, for the executive management and conduct of the university in all departments, branches and divisions, and for the execution and enforcement of the bylaws, rules, regulations and orders governing the management, conduct and administration of the university.

L.1970, c. 102, s. 11. Amended by L.1981, c. 325, s. 9, eff. Dec. 10, 1981.

18A:64G-12. Employee retirement rights

Subject to the provisions of P.L.1969, c. 242 and except as otherwise provided by law, the university shall be deemed to be an employer for the purposes of P.L.1954, c. 84, the "Public Employees' Retirement System Act" (C. 43:15A-1 et seq.) and shall also be deemed to be a "public agency or organization" within the meaning of section 71 of said act (C. 43:15A-71). Prior service credit shall not be extended to any officer or employee of the university who enrolls in the public employees' retirement system if he is entitled to a pension or an annuity based on such prior service under any other pension act or program.

L.1970, c. 102, s. 12. Amended by L.1981, c. 325, s. 10, eff. Dec. 10, 1981.

18A:64G-14. Personal liability of trustees and officers

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

L.1970, c. 102, s. 14. Amended by L.1981, c. 325, s. 11, eff. Dec. 10, 1981.

18A:64G-15. Debts and liabilities; pledge of credit

No provision in this act contained shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the State of New Jersey.

L.1970, c. 102, s. 15.

18A:64G-16. Acquisition of university site by municipality; sale to university; municipal bond ordinance; gross debt reduction

(a) A municipality in which a site has been selected, under this act for the university is hereby authorized to acquire such site and the governing body thereof is hereby empowered to incur indebtedness, borrow, appropriate and expend money and issue negotiable bonds for such purpose.

(b) The governing body of such municipality is hereby empowered to enter into an agreement, or declaration of intention, with the board of trustees of the university, for the sale of such site to the university without compliance with the laws relating to the sale of public property.

(c) Any bonds of the municipality authorized under this section for the acquisition of such a site (including land, clearance and relocation) shall be authorized by a bond ordinance in form and adopted by the governing body in the manner or mode of procedure prescribed by the local bond law, constituting chapter 2 of Title 40A of the New Jersey Statutes and shall be issued in the manner or mode of procedure prescribed by said law, except that said bond ordinance may be adopted notwithstanding (1) the provisions of section 40A:2-6 of said law or debt or other limit prescribed by any other law, and (2) the provisions of section 40A:2-11 of said law and no down payment shall be required, and (3) the provisions of section 40A:2-8 of said law, may authorize the issuance of bond anticipation notes in anticipation of the issuance of the bonds authorized by the bond ordinance which may mature in not exceeding 1 year and may be renewed from time to time for periods not exceeding 1 year and all such notes, including renewals, shall mature and be payable not later than the third anniversary of the date of the original note, and (4) the provisions of section 40A:2-22 subdivision (d) and the governing body may determine that the period of usefulness for which bonds are authorized pursuant to this section, according to their reasonable life, computed from the date of the bonds, is a period not greater than 40 years.

(d) Any bonds or notes authorized by the municipality pursuant to this section shall constitute a deduction from its gross debt and shall not be considered in determining its net debt for debt incurring purposes.

L.1970, c. 102, s. 16. Amended by L.1981, c. 325, s. 12, eff. Dec. 10, 1981.

18A:64G-17. Sale of municipal hospital to university

The governing body of any municipality in which a site has been selected for the university under this act and wherein a public hospital is located under the control of said governing body pursuant to chapter 9 of Title 30 of the Revised Statutes or any other law, is hereby empowered to enter into an agreement subject to the approval of the State House Commission, or declaration of intention, with the board of trustees of the university for the sale of such hospital to the university and such sale may be made without compliance with the laws relating to the sale of public property.

L.1970, c. 102, s. 17. Amended by L.1981, c. 325, s. 13, eff. Dec. 10, 1981.

18A:64G-18. Retirement rights of former municipal hospital employees

The acquisition of the hospital by the university shall not alter the retirement anticipation of any former municipal employee of the hospital.

a. Upon the effective date of the acquisition of the hospital by the university the former municipal employees of the hospital who continue as employees of the university and who are members of a municipal retirement system established pursuant to P.L.1954, c. 218, as amended and supplemented (C. 43:13-22.3 et seq.), shall continue their membership in such retirement system. Following the year of such acquisition, the university shall pay annually to such retirement system on behalf of such members the amount of the employer's contribution as would have been required of the municipality under the terms of said P.L.1954, c. 218.

b. Upon the effective date of the acquisition of the hospital by the university, the former permanent municipal employees of the hospital who are not members of such municipal employees' retirement system and who anticipated the receipt of a pension from the municipality under the provisions of chapter 4 of Title 43 of the Revised Statutes or the "General Noncontributory Pension Act," P.L.1955, c. 263 (C. 43:8B-1 et seq.) shall continue their eligibility for such pension to be paid by the municipality. When any such pension shall be paid by the municipality on the basis of service rendered with the municipality and subsequently with the university the university shall annually pay to the municipality on account of such pension an amount which shall be in the same proportion as the employee's years of service with the university bear to his total service upon which the pension has been calculated.

L.1970, c. 102, s. 18. Amended by L.1981, c. 325, s. 14, eff. Dec. 10, 1981.

18A:64G-19. Municipal hospital pension obligations; budget request; payment

The comptroller of the university shall include such employer pension obligations in his budget request for inclusion in the annual appropriation paid by the State to the university. Payment of such moneys shall be made to the municipality upon audit and warrant of the comptroller of the university.

L.1970, c. 102, s. 19. Amended by L.1981, c. 325, s. 15, eff. Dec. 10, 1981.

18A:64G-20. Payment of retirement, death or other benefits to former municipal hospital employees

No retirement, death, or other benefits shall be payable by the State or the university to such former municipal employees, except that the board of trustees is hereby authorized and permitted to pay death benefits on behalf of certain former municipal employees of the hospital who continue as employees of the university as

specified below, and to include in the annual budgets of the university such amounts as the board of trustees expects may be required to pay such benefits.

Upon death prior to retirement, the board of trustees may pay death benefits on behalf of former municipal employees of the hospital who, following the acquisition of the hospital by the university, have continued as employees of the university and, with respect to whom, no death benefit is payable either (a) under section 23 of P.L.1954, c. 218, as amended and supplemented (C. 43:13-22.25) or (b) under section 41, 45, 46, 48 or 49 of P.L.1954, c. 84 as amended and supplemented (C. 43:15A-41, 43:15A-45, 43:15A-46, 43:15A-48 and 43:15A-49).

The amount of benefits provided for each person specified above shall not exceed an amount equal to such person's annual salary as the employee of the university received at the time of death. If the Employees' Retirement System of the city of Newark, established pursuant to said P.L.1954, c. 218, as amended and supplemented from time to time, provides any other death benefit with respect to any employee of the university, exclusive of a return of contributions, the amount of death benefit pursuant to this provision shall be reduced by the amount of such other death benefit provided with respect to such employee under said system. Any person on behalf of whom the board of trustees may provide such death benefit may designate a beneficiary and may from time to time change his designation, by filing written notice thereof, over his signature, with the board of trustees. If at the death of a person with respect to whom a death benefit is payable there be no surviving designated beneficiary as to all, or any part of his death benefit then the amount of death benefit payable for which there is no surviving designated beneficiary shall be payable to the person or persons listed below surviving as of the date of his death in the following order of precedence: (1) to the widow or widower of such person; (2) if neither of the aforementioned, to the child or children of the person, in equal shares, and descendants of deceased children by representation; (3) if none of the aforementioned, to the parents of such person, in equal shares or the survivor of them; (4) if none of the aforementioned, to the duly appointed executor or administrator of the estate of such person; (5) if none of the aforementioned, to other next of kin of such person as may be determined by the board of trustees to be entitled under the laws of the domicile of such person at the time of his death.

L.1970, c. 102, s. 20. Amended by L.1973, c. 85, s. 1, eff. April 24, 1973; L.1981, c. 325, s. 16, eff. Dec. 10, 1981.

18A:64G-20.1. Former municipal hospital employees; continuance of health benefits

Notwithstanding the provisions of section 20 of the act to which this act is a supplement (C. 18A:64G-20) and section 8 of P.L.1961, c. 49 (C. 52:14-17.32), any former municipal employee of a hospital which was purchased from a municipality by the College of Medicine and Dentistry of New Jersey pursuant to section 17 of the act to which this act is a supplement (C. 18A:64G-17) who, subsequent to the purchase, continued his employment with the hospital as an employee of the college and who has or shall have retired on or after July 1, 1970 from a municipal retirement system established under P.L.1954, c. 218 (C. 43:13-22.3 et seq.) on a benefit based on 25 years or more of service, shall be entitled to the same continuance of health benefits and the payment of the premium or periodic changes for said benefits by the State as provided in section 8 of P.L.1961, c. 49 (C. 52:14-17.32).

L.1979, c. 1, s. 1, eff. Jan. 11, 1979.

18A:64G-21. Continuance as university employees

Upon the effective date of the acquisition of the hospital by the university, all permanent municipal employees of the hospital in the classified Civil Service, except physicians and dentists, shall continue as employees of the university and in accordance with the provisions of Title 11 of the Revised Statutes, Civil Service, shall not suffer loss of position or be removed, suspended or demoted except for cause.

L.1970, c. 102, s. 21. Amended by L.1981, c. 325, s. 17, eff. Dec. 10, 1981.

18A:64G-22. Transfer of appropriations and other moneys

All appropriations, grants, and other moneys available and to become available to the New Jersey College of Medicine and Dentistry are hereby transferred to the College of Medicine and Dentistry of New Jersey established hereunder, and shall be available for the objects and purposes for which appropriated subject to any terms, restrictions, limitations or other requirements imposed by the State budget or by State and Federal law.

L.1970, c. 102, s. 22.

18A:64G-23. Transfer of employees

All employees of the New Jersey College of Medicine and Dentistry are hereby transferred to the College of Medicine and Dentistry of New Jersey. Nothing in this act shall be considered to deprive any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State.

L.1970, c. 102, s. 23.

18A:64G-24. Transfer of files, records, etc.

All files, books, papers, records, equipment and other property of the New Jersey College of Medicine and Dentistry, are hereby transferred to the College of Medicine and Dentistry of New Jersey.

L.1970, c. 102, s. 24.

18A:64G-25. Effect of former orders, rules, regulations

This act shall not affect the orders, rules or regulations heretofore made or promulgated by the New Jersey College of Medicine and Dentistry, but such orders, rules and regulations shall continue with full force and effect as the orders, rules and regulations of the College of Medicine and Dentistry of New Jersey until amended or repealed pursuant to law.

L.1970, c. 102, s. 25.

18A:64G-26. Effect upon pending actions or proceedings

This act shall not affect actions or proceedings, civil or criminal, brought by or against the New Jersey College of Medicine and Dentistry, but such actions, or proceedings may be prosecuted or defended in the same manner and to the same effect by the College of Medicine and Dentistry of New Jersey, as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, the New Jersey College of Medicine and Dentistry, and all such matters or proceedings pending before the New Jersey College of Medicine and Dentistry on the effective date of this act shall be continued by the College of Medicine and Dentistry of New Jersey, as if the foregoing provisions had not taken effect.

L.1970, c. 102, s. 26.

18A:64G-27. Reports, certifications, etc.; filing

Whenever, pursuant to any existing law, reports, certifications, applications or requests are required or permitted to be made to the New Jersey College of Medicine and Dentistry, such reports and certifications shall hereafter be required to be filed with and such applications and requests are hereafter to be made to the College of Medicine and Dentistry of New Jersey.

L.1970, c. 102, s. 27.

18A:64G-28. Reference in law, rule, document, etc., to former college

Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the New Jersey College of Medicine and Dentistry, the same shall mean and refer to the College of Medicine and Dentistry of New Jersey.

L.1970, c. 102, s. 28.

18A:64G-29. Rights of state in former medical school; transfer

In order to carry out the purposes of this act and to provide the program of medical and dental education required for the benefit of the State and the people of New Jersey, all rights of the State of New Jersey in the Rutgers Medical School are hereby transferred to the College of Medicine and Dentistry of New Jersey. The college is hereby authorized to acquire the facilities of Rutgers Medical School and devote the same to the purposes of public higher education in the State in accordance with section 2 of this act and with the terms of any gift, grant, trust, contract or other agreement with the State or any of its political subdivisions or with the United States or with any public body, department or any agency of the State or the United States or with any individual, firm or corporation.

L.1970, c. 102, s. 29.

18A:64G-30. Acquisition of interest in Rutgers Medical School facilities; transfers to University of Medicine and Dentistry

Upon acquisition by the college of such interest in the facilities of Rutgers Medical School as will permit the college to carry out the purposes set forth in section 2 of this act:

(a) All appropriations available and to become available to the Rutgers Medical School and Rutgers, The State University for the purposes of the Rutgers Medical School shall be transferred to the College of Medicine and Dentistry of New Jersey by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

(b) All other grants, gifts, other moneys and property available and to become available to or for the Rutgers Medical School shall be transferred to the College of Medicine and Dentistry of New Jersey and shall be available for the objects and purposes of the college, subject to any terms, restrictions, limitations or other requirements imposed by State and Federal law or otherwise;

(c) All employees of the Rutgers Medical School shall become employees of the College of Medicine and Dentistry of New Jersey. Nothing in this act shall be considered to

deprive any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State;

(d) All files, books, papers, records, equipment and other personal property of Rutgers Medical School shall be transferred to the College of Medicine and Dentistry of New Jersey; and

(e) All orders, rules or regulations theretofore made or promulgated by Rutgers Medical School shall continue with full force and effect as the orders, rules and regulations of the College of Medicine and Dentistry of New Jersey until amended or repealed by the college.

L.1970, c. 102, s. 30.

18A:64G-31. Repealer

N.J.S. 18A:64C-1 through N.J.S. 18A:64C-3, N.J.S. 18A:64C-5 through N.J.S. 18A:64C-25, N.J.S. 18A:65-68 through N.J.S. 18A:65-72 and all other acts and parts of acts inconsistent with any of the provisions of this act, to the extent of such inconsistency, are superseded and repealed.

L.1970, c. 102, s. 31.

18A:64G-35 "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities."

1. There is established a "Physician-Dentist Fellowship and Education Program to Provide Health Care to Persons with Developmental Disabilities" within the University of Medicine and Dentistry of New Jersey. The purpose of the program is to provide physicians and dentists with graduate and fellowship training through academic institutions in the State and continuing medical and dental education on a Statewide basis, in the provision of medical and dental services to persons with developmental disabilities to ensure that these services are accessible and adequately available to persons with developmental disabilities in the State.

L.1999,c.353,s.1.

18A:64G-36 Establishment of consortium to advise director.

2. There is established a 17-member Consortium on Physician and Dentist Training in Health Care for Persons with Developmental Disabilities to advise the director of the program on the implementation of this act.

a. The members of the consortium shall include: one representative each from the pediatric medicine, family medicine, internal medicine, neurology and psychiatry programs at the University of Medicine and Dentistry of New Jersey, one representative from the New Jersey Dental School, and one representative of the University Affiliated Program, to be appointed by the President of the University of Medicine and Dentistry of New Jersey; the director of the Mainstreaming Medical Care program of The Arc of New Jersey, who shall serve ex officio; the Director of the Division of Developmental Disabilities in the Department of Human Services, who shall serve ex officio; the Director of the Division of Medical Assistance and Health Services in the Department of Human Services, who shall serve ex officio; the Commissioner of Health and Senior Services or the commissioner's designee, who shall serve ex officio; three health care provider public members appointed by the Commissioner of Human Services, one each upon the recommendation of the Medical Society of New Jersey, the New Jersey Association of Osteopathic Physicians and Surgeons and the New Jersey Dental Association; and three public members appointed by the Commissioner of Human Services, two of whom shall represent community organizations that advocate for persons with developmental disabilities and one of whom shall be a family member of a person with a developmental disability or a person with a developmental disability who is a self advocate.

The President of the University of Medicine and Dentistry of New Jersey and the Commissioner of Human Services shall make the appointments to the consortium within 60 days of the effective date of this act.

Members of the consortium shall serve for a term of three years and are eligible for reappointment, but of the members first appointed, five shall serve for a term of one year, four for a term of two years and four for a term of three years. Vacancies shall be filled in the same manner as the original appointments were made.

b. Members shall serve without compensation, but the public members shall be entitled to reimbursement for necessary expenses incurred in the performance of their duties and within the limits of funds appropriated to the program.

c. The consortium shall organize as soon as may be practicable after the appointment of its members. The Director of the Division of Developmental Disabilities shall serve as the chairman of the consortium. The members of the consortium shall elect a vice-chairman from among the members. All members, including ex officio members, shall be eligible to vote on all matters before the consortium. The director of the program, appointed pursuant to section 5 of this act, shall serve as secretary to the consortium.

d. The consortium shall assist the director of the program in establishing policies and procedures for the nomination and selection of physicians and dentists as program fellows. The consortium shall otherwise advise the director on the operation of the program as the director deems necessary, and as specified in this act.

L.1999,c.353,s.2.

18A:64G-37 Purpose of program.

3. The program shall:

a. Create training sites in each of the northern, central and southern regions of the State; b. Establish cooperative agreements with managed care organizations, community health centers and other health care facilities in the State, in which the program participants can provide medical and dental care to persons with developmental disabilities;

c. Establish standards for one to two year fellowships, which shall include clinical, didactic and research components, as appropriate, and provide stipends to the program fellows which are comparable to other post-graduate medical and dental fellowships offered in the State;

d. Establish collaborative, working relationships with Department of Human Services programs for the developmentally disabled, programs that deliver health care services to the disabled community and accredited residency programs in the State to provide training to medical and dental residents in the provision of health care to persons with developmental disabilities; and

e. Ensure the development and provision of continuing medical education and continuing dental education for physicians and dentists, respectively, on a Statewide basis, in the care of persons with developmental disabilities.

L.1999,c.353,s.3.

18A:64G-38 Qualifications for fellowship applicants.

4. A fellowship applicant shall:

a. 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 program in the case of a physician, or 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 program in the case of a dentist;

b. In the case of a physician, have completed a professional residency training program and have received a recommendation from the medical staff of the residency training program concerning participation in the program established pursuant to this act; and

c. Agree to provide medical or dental care to persons with developmental disabilities, as appropriate, in the State following completion of the fellowship for a time period equal to the length of the applicant's fellowship training.

L.1999,c.353,s.4.

18A:64G-39 Appointment of director.

5. The President of the University of Medicine and Dentistry of New Jersey shall, in consultation with the consortium, appoint a director for the program who shall be a State licensed physician. The director of the program need not be solely responsible for the program and may continue to have other duties. The director may, in consultation with the consortium, appoint regional chairmen or chairmen of medical or dental practice specialties, as the director deems necessary for the operation of the program.

L.1999,c.353,s.5.

18A:64G-40 Annual report to legislative committees.

6. The Commissioner of Human Services, in consultation with the consortium and the director of the program, shall report one year after the effective date of this act, and annually thereafter, to the Senate and General Assembly standing reference committees on health on the status of the program. The report shall include information about the design of the program, the number of medical and dental participants in the fellowship, residency training and continuing education components of the program, respectively, the fellowship participants' training locations and their practice specialties, and follow-up information about where the fellowship participants have chosen to practice after completion of their fellowship.

L.1999,c.353,s.6.

18A:64H-1. Legislative findings and declarations

The Legislature hereby finds and declares that:

a. There is need to establish State support for a system of graduate medical education;

b. There is at present a serious deficiency in the number of practicing primary-care (family practice, general internal medicine, general pediatrics) physicians in certain geographic areas and among certain specialty-care physicians in the State;

c. In recognition of the need to provide educational programs to provide more trained physicians for the State, the State, through the passage of the "Medical and Dental Education Act of 1970," P.L.1970, c. 102 (C. 18:64G-1 et seq.) has created and supports medical schools under the College of Medicine and Dentistry of New Jersey as a matter of public policy of the State;

d. In recognition of the State's concern with respect to health care needs, the State, through the passage of the "Health Care Facilities Planning Act," P.L.1971, c. 136 (C. 26:2H-1 et seq.) has mandated health planning, hospital and health related services in all public and private institutions as a matter of public policy;

e. The mechanism to provide programs and facilities for graduate medical education is intimately related to the provision of training programs by private nonprofit and public hospitals throughout the State. Thus, while the methodology for financing undergraduate medical education has been provided, the equally important methodology for financing programs of graduate medical education is lacking;

f. Increasing financial limitations have made it extremely difficult for such private nonprofit and public hospitals to provide educational programs of high quality to attract graduates of the College of Medicine and Dentistry of New Jersey and other American medical schools. New Jersey residents are also forced to seek graduate medical education in out-of-state medical schools, such individuals rarely returning to practice their profession within the State; and

g. Financial aid to private nonprofit and public hospitals providing graduate medical education programs would additionally provide improvement of such institutions as high quality medical education centers and thereby serve to improve the retention rate of physicians within the State, and attract graduate physicians to nationally accredited graduate medical training programs, as well as to the practice of their professions within the communities served by such institutions.

L.1977, c. 390, s. 1, eff. Feb. 23, 1978.

18A:64H-2. Advisory graduate medical education council; establishment; purpose and functions

2. There is hereby established the Advisory Graduate Medical Education Council of New Jersey, which shall be responsible to the Commission on Higher Education. The purpose of this council shall be to make recommendations for the support, through federal, State and private funds, of graduate medical education programs in private nonprofit and public hospitals in the State, and to make recommendations for the development and implementation of new graduate medical education programs which will meet the needs of the citizens of the State. The functions of the council shall include, but not be limited to:

a. Obtaining and evaluating information concerning the graduate medical manpower needs of the citizens of the State;

b. Recommending standards and criteria for participation by private nonprofit and public hospitals in the State;

c. Reviewing individual institutional applications and recommending awards of support to particular institutions based on conformance with the identified needs of the citizens of the State and the standards and criteria recommended by the council;

d. Annually reviewing the educational programs provided by participating hospitals;

e. Annually reporting to the Governor and the Education Committees of the New Jersey Legislature on the council's activities pursuant to the provisions of this act.

L.1977,c.390,s.2; amended 1994,c.48,s.171.

18A:64H-3. Definitions

3. As used in this act:

a. "Council" means the Advisory Graduate Medical Education Council of New Jersey.

b. (Deleted by amendment, P.L.1994, c.48).

c. "Graduate medical education" means internship and residency programs fully or provisionally approved by either the Council on Medical Education of the American Medical Association and the appropriate physicians specialty board or the Office of Education of the American Osteopathic Association.

d. "Medical" and "physician" refer to doctors of medicine and doctors of osteopathy.

L.1977,c.390,s.3; amended 1994,c.48,s.172.

18A:64H-4 Council membership; appointment; terms; vacancies; advisory committees; executive director and employees; compensation.

4. The council shall consist of 15 members, 12 voting members and three nonvoting members; four members of the council shall be appointed by the Governor and 11 shall be ex officio members. The appointments shall consist of three representatives of the public and one student currently enrolled in a graduate medical training program; the appointed members shall be voting members of the council. The president of the University of Medicine and Dentistry of New Jersey, who shall serve as chairperson; a dean from one of the medical schools of the University of Medicine and Dentistry of New Jersey, to be selected by the president of the University of Medicine and Dentistry of New Jersey; the dean of the School of Graduate Medical Education of Seton Hall University; the president of the New Jersey Hospital Association; the president of the Association of Hospital Directors of Medical Education of New Jersey; the president of the New Jersey Association of Osteopathic Physicians and Surgeons; the president of the Medical Society of New Jersey; and the president of the New Jersey Council of Teaching Hospitals or their designated representatives shall be ex officio, voting members of the council. The Commissioner of Health and Senior Services; the president of the State Board of Medical Examiners and the Commissioner of Human Services or their designated representatives shall be ex officio, nonvoting members. The appointed members shall serve for a three-year term or until a successor is appointed. For those first appointed, two shall be appointed for a one-year term; one shall be appointed for a two-year term; and one shall be appointed for a three-year term. Any vacancies in the voting membership other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only. To assist the council in carrying out the intent of this act:

a. The council may appoint advisory committees representative of the medical and health care professions, educators, and students, representatives of medical and health care facilities and consumers. The advisory committees shall provide advice and assistance to the council for the council's performance of its designated functions.

b. The council may employ an executive director and additional staff to provide expertise in the gathering and analysis of data and administration. The executive director shall have the right to speak on all matters at meetings of the council but shall have no vote. The council and the advisory committees shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

L.1977, c.390, s.4; amended 1990, c.49; 1994, c.48, s.173; 2008, c.5.

18A:64H-5. Powers and duties of Commission on Higher Education

5. The Commission on Higher Education, upon the advice of the Advisory Council, with the concurrence of the Commissioner of Health, shall:

a. Plan for the development and implementation of graduate medical education programs in the State;

b. Set standards for qualification for participation by public and private nonprofit hospitals in the State;

c. Establish standards for the use and expenditures of funds appropriated pursuant to this act;

d. Determine the number and type of graduate medical education programs which should be supported in particular hospitals in relation to total State needs.

L.1977,c.390,s.5; amended 1994,c.48,s.174.

18A:64H-6. Standards for qualification for participation by private nonprofit and public hospitals

The standards established for qualification for participation by private nonprofit and public hospitals in the State under the provisions of the act, shall include, but not be limited to the following:

a. An educational plan and a training schedule by each hospital for each program for which it desires assistance under this act at the time of its application to the council, including definition of its affiliation relationship with a medical school.

b. The educational program of the hospital shall be determined to be one that will provide a high degree of academic excellence. The graduate medical training programs shall be approved fully or provisionally by either the Council on Medical Education of the American Medical Association and the appropriate physician specialty board or the Office of Education of the American Osteopathic Association.

c. The chief executive officer of each hospital or his designee shall be charged with the responsibility for coordinating and implementing the educational programs of the

hospital with the council. One person whose qualifications shall be subject to the review of the council, and who must qualify for a medical school faculty appointment, shall be charged with directing each educational program in order for such program to receive funds provided by this act.

L.1977, c. 390, s. 6, eff. Feb. 23, 1978.

18A:64H-7. Standards for expenditure of funds

The standards for the expenditure of funds by private nonprofit and public hospitals pursuant to this act shall include, but shall not be limited to:

- a. The relationship of the program to the graduate and undergraduate teaching programs of the College of Medicine and Dentistry of New Jersey and other United States accredited medical and osteopathic schools;
- b. The hospital's need for added support for full-time hospital physicians in charge of services or departments maintaining approved graduate medical education programs;
- c. The need for support of costs related to the training of graduate medical students;
- d. The need for support of costs related to salaries of students enrolled in graduate medical training programs;
- e. The need for support of traditional medical and audiovisual libraries necessary for graduate training programs at the hospital;
- f. The need to encourage graduate training in those specialties demonstrated to have critical manpower shortages relative to the needs of New Jersey (for example, the current shortage of family physicians).

L.1977, c. 390, s. 7, eff. Feb. 23, 1978.

18A:64H-8. Rules

8. The Commission on Higher Education shall promulgate such rules as are necessary to carry out the purpose of this act.

L.1977,c.390,s.8; amended 1994,c.48,s.175.

18A:64H-9. "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships"

1. a. There is created, within the Commission on Higher Education, the "Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships."

The advisory committee shall consist of 11 members as follows: the Commissioner of Health and Senior Services or his designee, who shall serve ex officio; four members appointed by the Governor who include one representative of the Medical Society of New Jersey, one representative of the New Jersey Association of Osteopathic Physicians and Surgeons, one representative of the New Jersey Hospital Association and one representative of an alternatively accredited medical school; two members appointed by the President of the Senate who include one representative of the New Jersey Council of Teaching Hospitals and one representative of a teaching hospital in New Jersey that has students from an alternatively accredited medical school participating in a clinical clerkship program; two members appointed by the Speaker of the General Assembly who include one representative of an alternatively accredited medical school and one representative of a teaching hospital in New Jersey that has students from a medical school of the University of Medicine and Dentistry of New Jersey in a clinical clerkship program; one member appointed by the State Board of Medical Examiners; and one member appointed by the President of the University of Medicine and Dentistry of New Jersey. No two members of the advisory committee shall be representatives of the same medical school or hospital.

b. Members shall serve for a term of three years from the date of their appointment and until their successors are appointed and qualified, except that of the members first appointed, four members shall serve for a term of one year, three members shall serve for a term of two years and three members shall serve for a term of three years. Vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointments were made. A member of the advisory committee shall be eligible for reappointment.

c. The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses actually incurred in the performance of their duties, within the limits of funds appropriated or otherwise made available to the advisory committee for this purpose.

d. The advisory committee shall select a chairman from among its members, who shall serve a one-year term but may serve successive terms. The advisory committee shall meet upon the call of the chairman or of a majority of its members. A majority of the members of the advisory committee shall constitute a quorum, and no action of the advisory committee shall be taken except upon the affirmative vote of a majority of the members of the entire advisory committee.

e. As used in this act, "alternatively accredited medical school" means a medical school located outside the United States: (1) in a country that applies accreditation standards that have been determined by the National Committee on Foreign Medical Education and Accreditation within the United States Department of Education to be comparable to the accreditation standards applied to medical schools located within the United States; (2) that continues to meet the accreditation standards of that country; and (3) has medical school students participating in a clinical clerkship program in New Jersey prior to the effective date of this act, or is approved by the Advisory Graduate Medical Education Council of New Jersey pursuant to section 4 of this act to operate a clinical clerkship program in this State.

L.2003,c.133,s.1.

18A:64H-10. Duties of committee

2. The Advisory Committee on Alternatively Accredited Medical School Clinical Clerkships shall:

a. Recommend standards for appropriate facilities to be used in clinical clerkship programs operated by an alternatively accredited medical school;

b. Make recommendations as to the number and type of clinical clerkship programs that may be directed by an alternatively accredited medical school at a teaching hospital in this State, based upon the capacity of that hospital and the health care needs of the community in which the hospital is located;

c. Review the clinical clerkship programs operated by alternatively accredited medical schools in this State, and prepare a report which shall include, but not be limited to, a description and analysis of:

(1) the teacher to student ratio, the resident to clinical clerkship student ratio and the capacity of each teaching hospital operating a clinical clerkship program;

(2) the number and type of clerkship positions that are filled and the number and type of clerkship positions that are requested by alternatively accredited medical schools;

(3) the number of alternatively accredited medical school graduates who participated in clinical clerkships in the State and have attained residencies in New Jersey;

(4) the types and locations of residencies accepted by clinical clerkship students, identifying types and locations of residencies accepted by students of alternatively accredited medical schools and of medical schools located within the United States;

(5) the degree of success of the clinical clerkship programs operated by alternatively accredited medical schools as measured by the use of the same criteria as published in the Journal of the American Medical Association annual education report; and

(6) any recommendations to the Legislature, including any proposed legislation, which it may desire to recommend for enactment; and

d. Make recommendations to the Advisory Graduate Medical Education Council of New Jersey with respect to the operation of clinical clerkship programs operated by alternatively accredited medical schools at teaching hospitals in this State.

L.2003,c.133,s.2.

18A:64H-11. Existing clinical clerkship programs continued

3. An alternatively accredited medical school that is operating a clinical clerkship program on the effective date of this act is authorized to continue its existing clinical clerkship program, provided it maintains its accreditation status as provided in subsection e. of section 1 of this act.

L.2003,c.133,s.3.

18A:64H-12. Regulations relative to medical schools located outside the U.S.

4. a. A medical school located outside of the United States: (1) in a country that applies accreditation standards that have been determined by the National Committee on Foreign Medical Education and Accreditation within the United States Department of Education to be comparable to the accreditation standards applied to medical schools located within the United States; and (2) that continues to meet the accreditation standards of that country, but is not an alternatively accredited medical school on the effective date of this act, as that term is defined in this act, may apply to the Advisory Graduate Medical Education Council of New Jersey, pursuant to this section, to be approved to operate a clinical clerkship program in this State.

b. The council shall adopt regulations specifying the criteria for approval of a foreign medical school to operate a clinical clerkship program in the State. The criteria shall include, but not be limited to, satisfactory evaluation, pursuant to a site visit,

of the applicant's institution, including both its main campus and any clinical facilities in locations other than the main campus.

c. The applicant shall be responsible for all costs incurred by persons designated by the council, who are experienced in medical education program evaluation, for conducting the site visit, and by the council for reviewing and processing the application.

d. After a medical school is approved by the council to operate a clinical clerkship program, it may apply to the council for authorization to operate a specific clinical clerkship program in this State, in accordance with standards adopted by the council. The standards shall include, but not be limited to, those standards listed in paragraphs (1) through (9) of subsection b. of section 5 of this act.

e. A medical school that has been approved by the council, pursuant to this act, to operate a specific clinical clerkship program in this State shall be deemed an alternatively accredited medical school for the purposes of this act, provided it maintains its accreditation status as provided in subsection e. of section 1 of this act.

f. A medical school authorized to operate a specific clinical clerkship program pursuant to this section may apply to the council to increase the number of students participating in the clinical clerkships or to increase the number of programs operated by the school, pursuant to the requirements of section 5 of this act.

L.2003,c.133,s.4.

18A:64H-13. Review of applications, conditions for approval

5. The Advisory Graduate Medical Education Council of New Jersey shall review each application made by an alternatively accredited medical school to increase the number of students participating in clinical clerkships or to increase the number of programs operated by the school. The application shall be made in a form and manner prescribed by the council.

a. The council shall notify the applicant, in writing, of the approval or disapproval of an application within 90 days; except that, if the council determines that the application is not complete or additional information is required before the council can make a determination, the council shall notify the applicant in writing and shall have an additional 90 days after receipt of the requested information to approve or disapprove the application. If the council does not affirmatively approve or disapprove the application, or request additional information concerning the application, within 90 days of its submission, the application shall be deemed approved.

b. The council shall approve an application if the applicant demonstrates that it meets the registration standards comparable to those promulgated by the Liaison Committee on Medical Education, which include, but are not limited to: (1) a requirement that a medical student who will participate in a clinical clerkship program shall have successfully completed the United States Medical Licensing Examination - Step 1; (2) the hospital is accredited by the Joint Commission on Accreditation of HealthCare Organizations; (3) the clinical clerkship program shall take place in a hospital with an approved Accreditation Council for Graduate Medical Education or American Osteopathic Association residency training program in the clinical area of instruction for which credit is sought; (4) clinical instruction shall be supervised by a Director of Medical Education; (5) clinical instruction shall be provided pursuant to a written agreement that includes a written curriculum for each individual clinical subject; (6) the hospital shall insure that there is a minimum daily census in each clerkship area that will meet the instructional needs of the clinical subject; (7) the hospital shall have on the premises a library facility that has adequate resources to support clinical clerkships in each core area; (8) each department chair shall be board certified in the specialty area in his department; and (9) the hospital shall ensure a ratio of no less than one medical resident for every two clinical clerkship students.

c. If the council disapproves the application, the notification of disapproval shall specify each deficiency, including the reason the applicant failed to meet the registration standards, and shall provide information on remedial steps that applicant must take to meet the standard. An applicant shall be provided the opportunity to submit evidence of remediation, within a time period specified by the council.

d. The applicant shall be responsible for all costs incurred by the council for reviewing and processing the application.

L.2003,c.133,s.5.

18A:64H-14. Procedures when clinical clerkship student rejected by teaching hospital

6. Notwithstanding the provisions of this act to the contrary, if a State-funded institution of higher education and an alternatively accredited medical school both operate clinical clerkship programs at a teaching hospital with an institutional academic clinical clerkship agreement with that State-funded institution of higher education:

a. Upon a showing by a State-funded institution of higher education that one or more of its clinical clerkship students has been rejected by that teaching hospital because the hospital's clinical clerkship positions were filled to capacity, the

alternatively accredited medical school shall take immediate steps to withdraw a corresponding number of its students from its clinical clerkship program at the hospital so that the students at the State-funded institution are able to secure clerkship positions at that hospital.

In the event that its students have been rejected by a hospital pursuant to this subsection, the State-funded institution of higher education shall provide the Advisory Graduate Medical Education Council of New Jersey with a letter from the hospital, which states that the hospital's clinical clerkship program is filled to capacity; or

b. If a State-funded institution of higher education receives notice from the Liaison Committee on Medical Education, in the course of its standard four-year review, that the committee finds that such hospital does not have the capacity to support all of the clinical clerkship positions or programs that are currently operating at the hospital and the accreditation status of the State-funded institution may be in jeopardy because of the lack of capacity at that hospital, the alternatively accredited medical school shall take immediate steps to withdraw its students from its clinical clerkship program at the hospital.

In the event that the committee provides such notice to the State-funded institution, the institution shall provide the Advisory Graduate Medical Education Council of New Jersey with a letter from the committee stating the committee's findings.

c. If an alternatively accredited medical school is required to withdraw any of its students from such hospital pursuant to subsection a. or b. of this section, the school shall not be permitted to increase the number of students participating in the school's clinical clerkship program at that hospital until such time as the school provides a letter from the hospital or the committee, as appropriate, which states that the hospital has sufficient capacity to absorb the increase without jeopardizing existing clinical clerkship programs at that hospital operated by the State-funded institution. Upon providing the letter to the Advisory Graduate Medical Education Council of New Jersey, the school may apply to increase the number of students participating in the clerkship program in accordance with the provisions of this act.

L.2003,c.133,s.6.

18A:64H-15. Regulations

7. The Commission on Higher Education, in consultation with the Advisory Graduate Medical Education Council of New Jersey, shall adopt regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this act.

L.2003,c.133,s.7.

18A:64I-1. Land and buildings for use in perpetuity; subject to direction of board of trustees of Montclair State College

The 240 acre tract of land known as the New Jersey School of Conservation, located in Stokes State Forest, Sussex county, New Jersey, together with all the buildings thereon, and under the management and control of the Division of Parks, Forestry and Recreation in the Department of Environmental Protection, shall be used in perpetuity as a school for environmental field study under the direction of the Board of Trustees of Montclair State College.

L.1981, c. 148, s. 1, eff. May 18, 1981.

18A:64I-2. Expenditure of funds from appropriations

The Board of Trustees of Montclair State College shall expend such sum or sums of money as may be included in any annual appropriations act for the expenses necessary for the educational program of the New Jersey School of Conservation, including the maintenance of the buildings and grounds necessary for that program.

L.1981, c. 148, s. 2, eff. May 18, 1981.

18A:64I-3. Funds for maintenance of school

3. The Board of Trustees of Montclair State University shall include in its annual request for appropriations a request for such sums as may be necessary to maintain the New Jersey School of Conservation. Such funding shall be separate from and in addition to the regular formula support provided to Montclair State University and shall not limit the funding provided to higher education as a sector.

L.1981,c.148,s.3; amended 1994,c.48,s.176.

18A:64I-4. Stokes state forest reserve; responsibility of division of parks, forestry and recreation

The Division of Parks, Forestry and Recreation in the Department of Environmental Protection shall retain responsibility for the care, management and preservation of the Stokes State Forest reserve as provided for other State forest reserves by P.L.1966, c. 54, section 2 (C. 13:1B-15.101).

L.1981, c. 148, s. 5, eff. May 18, 1981.

18A:64J-1. Hazardous, toxic substance management center

The Legislature finds and declares that the management of hazardous and toxic substances is one of the most pressing problems confronting the citizens of our State. Progress in this area is expected to produce significant health benefits and an increase in economic growth for our citizenry. The Legislature further finds that the establishment of an advanced technology center in hazardous and toxic substance management is desirable.

L. 1985, c. 103, s. 1.

18A:64J-2. Definitions

For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Consortium" means a cooperative arrangement between two or more institutions of higher education to pursue a program for strengthening academic programs, improving administration or providing for other special needs.

e. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

f. "Private institutions of higher education" means independent colleges, universities or institutes incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

g. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law.

h. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 103, s. 2.

18A:64J-3. Center at New Jersey Institute of Technology

There is established the Advanced Technology Center in Hazardous and Toxic Substance Management, hereinafter referred to as the center, at the New Jersey Institute of Technology in the City of Newark, County of Essex with the cooperation of a research and public policy consortium led by the New Jersey Institute of Technology and including Stevens Institute of Technology, the University of Medicine and Dentistry of New Jersey and Rutgers, The State University. Various other public and private institutions of higher education and their faculties may be considered for participation in the work of the center in the future by the commission.

L. 1985, c. 103, s. 3.

18A:64J-4. Director

As soon as practicable, the participating institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

L. 1985, c. 103, s. 4.

18A:64J-5. Procedures

Under the leadership of the New Jersey Institute of Technology, the participating institutions shall develop procedures to:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to promote the management of hazardous and toxic substances; and
- d. Do all other acts and things necessary and proper for the purposes of the center.

L. 1985, c. 103, s. 5.

18A:64J-6. Annual budget requests

Annual budget requests for the center shall be submitted to and approved by the commission.

L. 1985, c. 103, s. 6.

18A:64J-7. Functions of center

The center, where appropriate, and in consultation with the commission, shall:

- a. Research new techniques for dealing with hazardous and toxic substances;
- b. Serve as a repository for existing knowledge concerning hazardous and toxic substance management;
- c. Make recommendations to the commission concerning innovation partnership grants;
- d. Serve as a forum for the exchange of ideas among industry, government, academia and the public;
- e. Disseminate authoritative and objective information and guidance on the many issues arising concerning hazardous and toxic substance management;
- f. Promote technology extension services to businesses engaged in hazardous and toxic substance management;
- g. Make low-cost business incubation facilities available to new industry working in the field of hazardous and toxic substance management.

L. 1985, c. 103, s. 7.

18A:64J-8. Food technology center establishment

The Legislature finds and declares that food technology, encompassing the study of the chemical, biological, and engineering aspects of food and food processing, packaging, and storing, is an important part of this State's economic base. Located in the heart of the nation's major population center, New Jersey has a good transportation system, and varied and extensive agricultural and aquatic resources. By expanding its role as a major food processing and distribution center, New Jersey can increase employment and benefits from the business opportunities thereby created in related areas such as ingredient supplies, chemical and packaging instrumentation, transportation, warehousing and waste disposal. The Legislature finds that the establishment of an advanced technology center in food technology would assist in promoting food technology and economic growth relating thereto.

L. 1985, c. 104, s. 1.

18A:64J-9. Definitions

For the purposes of this act:

- a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.
- b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.
- c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.
- d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).
- e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees

and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private universities to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 104, s. 2.

18A:64J-10. Center at Cook College

There is established the Advanced Technology Center in Food Technology located at Cook College of Rutgers, The State University, hereinafter referred to as the center. Other public and private institutions of higher education and their faculties may be considered for participation in the center in the future by the commission.

L. 1985, c. 104, s. 3.

18A:64J-11. Appointment of director

As soon as may be practicable, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

L. 1985, c. 104, s. 4.

18A:64J-12. Duties of director

The participating institution or institutions through the director shall:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to promote food technology research and food technology industries; and
- d. Take all action necessary and proper for the operation of the center.

L. 1985, c. 104, s. 5.

18A:64J-13. Annual budget request

The center shall submit its annual budget request to the commission for approval.

L. 1985, c. 104, s. 6.

18A:64J-14. Functions of center

The center, where appropriate, and in consultation with the commission, shall:

- a. Research new food products and develop more efficient and economical food processing and related techniques;
- b. Coordinate personnel and other resources from the departments of food science, biochemistry, microbiology, chemistry, nutrition, plant physiology, horticulture, mechanical engineering, chemical engineering and materials sciences at Rutgers, The State University in programs relating to the promotion of food technology research and industries;
- c. Promote research, especially in the areas of agriculture and food science;
- d. Promote technology extension services to businesses engaged in food science and related fields;
- e. Make low-cost business incubation facilities available to new industry working in the field of food science and related fields; and
- f. Make recommendations to the commission concerning innovation partnership grants.

L. 1985, c. 104, s. 7.

18A:64J-15. Biotechnology center establishment

The Legislature finds and declares that the field of biotechnology, which applies scientific and engineering principles to the processing of materials by biological agents

to produce goods and services, is an important and dynamic addition to the world economy. Progress in biotechnology has included gene splicing, monoclonal antibody technology, protein engineering, and large scale plant and animal cell culture. New Jersey is by all measures a major center for the health care, pharmaceutical, chemical, and food processing industries, all of which now benefit from and will increasingly depend upon advances in biotechnology. In recognition of the economic importance of biotechnology to New Jersey industries, the Legislature further finds and declares that the establishment of an advanced technology center in biotechnology would strengthen the State and serve as a stimulus for technology-based industrial growth.

L. 1985, c. 105, s. 1.

18A:64J-16. Definitions

For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facilities" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 105, s. 2.

18A:64J-17. Joint governance

There is established the Advanced Technology Center in Biotechnology (hereinafter referred to as the center) under the joint governance of Rutgers, The State University and the University of Medicine and Dentistry of New Jersey and with the participation of other public and private institutions of higher education and faculties who may be considered for participation in the work of the center in the future by the commission. The center shall be composed of various units at locations designated by the participating institutions, with the approval of the commission.

L. 1985, c. 105, s. 3.

18A:64J-18. Appointment of director

As soon as may be practicable, the governing institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

L. 1985, c. 105, s. 4.

18A:64J-19. Duties of director

The governing institutions through the director shall:

a. Administer and operate the center;

b. Appoint, remove and transfer personnel;

c. Establish programs in the center to promote biotechnology research and biotechnology industries; and

d. Take all action necessary and proper for the operation of the center.

L. 1985, c. 105, s. 5.

18A:64J-20. Annual budget request

The center shall submit its annual budget request to the commission for approval.

L. 1985, c. 105, s. 6.

18A:64J-21. Functions of center

The center, where appropriate, and in consultation with the commission, shall:

a. Make recommendations to the commission concerning innovation partnership grants;

b. Support and promote existing programs in biotechnology research and industries and ensure that all sectors of the private industry have ready access to the personnel and programs of the center;

c. Make low-cost business incubation facilities available to new industry working in the field of biotechnology; and

d. Promote technological extension services to businesses engaged in biotechnology related applications.

L. 1985, c. 105, s. 7.

18A:64J-22. Industrial ceramics center establishment

The Legislature finds and declares that high technology industrial ceramics is a field in which New Jersey has significant academic and industrial strengths. Progress in this area is expected to produce significant economic growth and increases in productivity in the United States. New Jersey has the ability to capture a part of these economic benefits. To this end, the Legislature finds that the establishment of an advanced technology center in industrial ceramics will generate additional research and technological innovations to promote economic growth.

L. 1985, c. 106, s. 1.

18A:64J-23. Definitions

For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research.

b. "Business incubation facility" means low-cost, short-term occupancy, rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education.

c. "Commission" means the Governor's Commission on Science and Technology as created by Executive Order No. 12 of 1982 or its successor which is established by the Legislature.

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law.

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 106, s. 2.

18A:64J-24. Center at Rutgers

There is established the Advanced Technology Center in Industrial Ceramics at Rutgers, The State University, hereinafter known as the center. Various public and private institutions of higher education and their faculties may be considered for participation in the work of the center in the future by the commission or institution.

L. 1985, c. 106, s. 3.

18A:64J-25. Appointment of director

As soon as may be practicable, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

L. 1985, c. 106, s. 4.

18A:64J-26. Duties of director

The participating institution or institutions through the director shall:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to promote industrial ceramics research and industrial ceramics industries; and
- d. Take all action necessary and proper for the operation of the center.

L. 1985, c. 106, s. 5.

18A:64J-27. Annual budget request

The center shall submit its annual budget request to the commission for approval.

L. 1985, c. 106, s. 6.

18A:64J-28. Functions of center

The center, where appropriate, and in consultation with the commission, shall:

- a. Make recommendations to the commission concerning the awarding of innovation partnership grants;
- b. Make low-cost business incubation facilities available to new industry working in industrial ceramics and related fields;
- c. Provide technological extension services to businesses engaged in the application of industrial ceramics and related fields; and
- d. Promote additional research and technological innovation to generate economic growth in industrial ceramics and related fields.

L. 1985, c. 106, s. 7.

18A:64J-29. Findings, declarations

The Legislature finds and declares that biomolecular research in the agricultural and environmental sciences will provide many advantages to the State of New Jersey. Progress in biomolecular research will increase crop production and animal husbandry, improve the efficiency of animal reproduction, advance research in human nutrition, aid in the development of methods to reduce the dependence of agriculture on chemical fertilizers and pesticides, and develop biological processes for the destruction of toxic wastes. In recognition of the economic importance of these scientific advances to New Jersey industries, the Legislature further finds and declares the establishment of an Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences would strengthen the State and serve as a stimulus for economic growth relating thereto.

L. 1985, c. 366, s. 1.

18A:64J-30. Definitions

For the purposes of this act:

- a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education which are provided substantial and concentrated financial support to promote their development into national level bases for innovative technology research;
- b. "Business incubation facilities" means low cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing

selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L. 1985, c. 102 (C. 52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education which are of strategic importance to the New Jersey economy under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 366, s. 2.

18A:64J-31. Biomolecular research center

There is established the Advanced Technology Center in Biomolecular Research in the Agricultural and Environmental Sciences, hereinafter referred to as the center, to be located in a designated private or public institution of higher education. The establishment of the center shall include a commitment from business and industry in the State to finance a percentage of the center's operating costs.

L. 1985, c. 366, s. 3.

18A:64J-32. Peer review panel

The commission shall, as soon as is practicable, appoint a peer review panel to:

a. Verify the need for the establishment of the center;

b. Recommend the best configuration for the center; and

c. Recommend the appropriate funding levels for the construction and operation of the center.

The peer review panel shall present its report to the commission for its review and consideration.

L. 1985, c. 366, s. 4.

18A:64J-33. Certification of need; designation of location

a. The center shall not be established pursuant to section 3 of this act until such time as the commission formally certifies in writing to the Governor, the Speaker of the General Assembly, and the President of the Senate its conclusion that the establishment of the center should proceed, and that the center will add substantially to the technological, economic, and academic growth of the State of New Jersey.

b. The commission shall designate the location of the center. The designation shall not preclude the participation of other public and private institutions of higher education and their faculties which may be considered for participation in the work of the center in the future by the commission.

L. 1985, c. 366, s. 5.

18A:64J-34. Appointment of director

As soon as may be practicable after the establishment of the center, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center. The participating institutions through the director shall:

a. Administer and operate the center;

b. Appoint, remove and transfer personnel;

c. Establish programs in the center to conduct biomolecular research in the agricultural and environmental sciences; and

d. Take all action necessary and proper for the operation of the center.

L. 1985, c. 366, s. 6.

18A:64J-35. Annual budget request

The director of the center shall submit its annual budget request to the commission for approval.

L. 1985, c. 366, s. 7.

18A:64J-36. Functions of center

The center where appropriate, and in consultation with the commission, shall:

a. Make recommendations to the commission concerning innovation partnership grants;

b. Serve as a forum for the exchange of ideas among industry, government, academia and the public;

c. Disseminate authoritative and objective information and guidance on the many issues arising concerning biomolecular research in the agricultural and environmental sciences;

d. Promote technology extension services to businesses engaged in agriculture and related fields;

e. Make low-cost business incubation facilities available to new industry working in the field of agriculture and related fields; and

f. Support and promote existing biomolecular research in the agricultural and environmental sciences and ensure that all sectors of private industry shall have ready access to the personnel and programs of the center.

L. 1985, c. 366, s. 8.

18A:64J-37. Existing programs continued

Nothing in this act shall be construed or utilized to replace or reduce the programs conducted by Cook College of Rutgers, The State University, the New Jersey Agricultural Experiment Station or the New Jersey Cooperative Extension Service.

L. 1985, c. 366, s. 9.

18A:64J-38. Findings, declarations

The Legislature finds and declares that polymer or plastics processing and surface modification are areas of extreme importance to industry worldwide and that advances in these areas are expected to produce significant economic growth and increases in productivity. New Jersey, because of its strength in petrochemicals as well as the foothold which its institutions of higher education have already gained in polymer processing and surface modification research, is in an excellent position to be a major contributor and participant in this economic growth and development. To this end, the Legislature finds that the establishment of an advanced technology center in polymer processing and surface modification will generate additional research and technological innovations to promote industrial development and economic growth.

L. 1985, c. 397, s. 1.

18A:64J-39. Definitions

For the purposes of this act:

a. "Advanced technology center" means one or more outstanding programs or departments at New Jersey's public and private institutions of higher education, which are provided substantial and concentrated financial support to promote their development into national-level bases for innovative technology research;

b. "Business incubation facilities" means low-cost, short-term occupancy rental spaces wherein assistance is granted to a targeted network of new companies employing selected technologies congruent with the strengths of the State's public and private institutions of higher education;

c. "Commission" means the New Jersey Commission on Science and Technology as created by P.L. 1985, c. 102 (C. 52:9X-1 et seq.);

d. "Innovation partnership grants" means matching grants to academic researchers performing applied research in emerging technologies at any of the State's public and private institutions of higher education, which are of strategic importance to the New Jersey economy, under regulations adopted by the commission pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.);

e. "Private institutions of higher education" means independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license are nonprofit educational institutions authorized to grant academic degrees and provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion;

f. "Public institutions of higher education" means Rutgers, The State University, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by law;

g. "Technology extension services" means programs that not only accelerate the application and transfer of technological innovations by the State's public and private institutions of higher education to existing industry, but also adapt these innovations to the requirements of individual business operations.

L. 1985, c. 397, s. 2.

18A:64J-40. Polymer processing, surface modification center

There is established the Advanced Technology Center in Polymer Processing and Surface Modification, hereinafter referred to as the center, to be located in a private or public institution of higher education as designated by the commission. Other public and private institutions of higher education and their faculties may be considered for participation in the center in the future by the commission.

The establishment of the center shall include a commitment from business and industry in the State to finance a percentage of the center's operating costs.

L. 1985, c. 397, s. 3.

18A:64J-41. Subject to commission certification

The center shall not be established pursuant to section 3 of this act until such time as the commission formally certifies in writing to the Governor, the Speaker of the General Assembly, and the President of the Senate, the amount of funding necessary for the establishment and operation of the center, as well as its conclusion that the establishment of the center should proceed, and that the center will add substantially to the technological, economic, and academic growth of the State of New Jersey.

L. 1985, c. 397, s. 4.

18A:64J-42. Appointment of director

As soon as may be practicable, the participating institution or institutions, in consultation with and under regulations adopted by the commission, shall appoint a director of the center.

L. 1985, c. 397, s. 5.

18A:64J-43. Duties of director

The participating institutions, through the director, shall:

- a. Administer and operate the center;
- b. Appoint, remove and transfer personnel;
- c. Establish programs in the center to promote polymer processing and surface modification research and industries; and
- d. Take all action necessary and proper for the operation of the center.

L. 1985, c. 397, s. 6.

18A:64J-44. Annual budget request

The director of the center shall submit its annual budget request to the commission for approval.

L. 1985, c. 397, s. 7.

18A:64J-45. Functions of center

The center, where appropriate, and in consultation with the commission, shall:

- a. Make recommendations to the commission concerning innovation partnership grants;
- b. Support and promote existing programs in polymer processing and surface modification research and industries and ensure that all sectors of private industry have ready access to the personnel and programs of the center;

c. Make low-cost business incubation facilities available to new industry working in the field of polymer processing and surface modification; and

d. Promote technology extension services to businesses engaged in polymer processing and surface modification related applications.

L. 1985, c. 397, s. 8.

18A:64K-1. Northwest New Jersey Regional Women's Center

There is created at Centenary College in Hackettstown, New Jersey a center to be known as the Northwest New Jersey Regional Women's Center. It shall be the purpose of the center to offer educational programs and counseling, continuing education courses, career planning and placement services and access to cultural programs to women of all ages and all backgrounds who are New Jersey residents.

L. 1987, c. 105, s. 1.

18A:64K-2. Use of funds

Centenary College may utilize funds appropriated for the purposes of this act for the construction of the center, the provision of equipment, supplies, clerical, teaching and support staff salaries and such other appropriate support as is necessary for the establishment and operation of the center.

L. 1987, c. 105, s. 2.

18A:64K-3. Report to Governor, Legislature

Within two years of the effective date of this act Centenary College shall submit a report to the Governor and the Legislature detailing the use of all funds appropriated to it for this purpose.

L. 1987, c. 105, s. 3.

18A:64L-1. Coastal Protection Technical Assistance Service established

1. a. There is established a Coastal Protection Technical Assistance Service (CPTAS) at the Stevens Institute of Technology. The purpose of the CPTAS shall be to provide, upon request, information and advice to counties and municipalities on coastal protection methods in order to assist coastal counties and municipalities in making decisions and undertaking projects to protect, preserve, restore, enhance, and create beaches, dunes, and other coastal area resources and in constructing and maintaining coastal protection structures and devices such as jetties, bulkheads, sea walls, groins, piers, and boardwalks.

b. The establishment of the CPTAS pursuant to subsection a. of this section shall become effective upon the signing of an agreement of acceptance thereof by the Stevens Institute of Technology with the Department of Environmental Protection and Energy.

L.1993,c.176,s.1.

18A:64L-2. Appointment, compensation of director

2. The CPTAS shall be headed by a director to be appointed by the President of the Stevens Institute of Technology, after consultation with the governing bodies of the counties and municipalities in the coastal area of the State. The director shall receive such compensation as shall be determined by the President of the Stevens Institute of Technology.

L.1993,c.176,s.2.

18A:64L-3. Powers of director

3. a. The director of the CPTAS shall appoint, within the limits of funds appropriated or otherwise provided therefor, qualified technical and clerical staff, who shall be employees of the Stevens Institute of Technology, and shall be entitled to all of the rights and benefits of other employees of that institution.

b. The director may, on behalf of the CPTAS, enter into agreements or contracts with the New Jersey Cooperative Extension Service, the New Jersey Sea Grant Extension Service, any public or private institution of higher education, or any other consultant or entity to assist the CPTAS in carrying out its duties pursuant to this act.

L.1993,c.176,s.3.

18A:64L-4. Duties of staff of service

4. The director and staff of the CPTAS shall:

a. Establish a data base of information on available and promising new coastal protection methods and make this information available, upon request, to county and municipal governmental entities;

b. Evaluate, or cause to be evaluated, available and promising new coastal protection methods as to practicability, technical performance, and cost effectiveness;

- c. Promote sharing of information on coastal protection methods between interested and knowledgeable parties and county and municipal governmental entities within the State;
- d. Sponsor or conduct conferences, workshops, and demonstration projects to publicize successful coastal protection methods;
- e. Identify problem areas in developing or implementing coastal protection methods, and encourage academic, corporate, or public efforts for their resolution;
- f. Compile and disseminate, upon request, lists of engineering and other consulting services engaged in coastal protection work;
- g. Promote, in consultation with the Department of Environmental Protection and Energy, demonstration projects for available and promising new coastal protection methods, and disseminate the results of such demonstration projects;
- h. Document and publicize successful coastal protection methods and projects;
- i. Provide information on available public and private funding sources for coastal protection efforts and projects;
- j. Provide general information on federal and State regulations concerning coastal protection efforts and projects;
- k. Collect and disseminate educational and training materials to assist county and municipal governmental employees with respect to undertaking or supervising coastal protection efforts or projects;
- l. Make on-site visits to coastal protection projects upon request of a county or municipal governmental entity, and make on-site assessments thereof;
- m. Provide, in consultation with the Department of Environmental Protection and Energy, extension services to county and municipal governmental entities concerning coastal protection, including, upon request, outreach and technical advice on coastal protection methods and projects; and
- n. Submit annually to the Legislature a review and evaluation of State and federal coastal protection programs and projects.

L.1993,c.176,s.4.

18A:65-1. Short Title

This chapter shall be known as and may be cited as the "Rutgers, the state university law."

L.1967, c.271.

18A:65-2. The term "the corporation" defined; trusts imposed

The term "the corporation," as used in this chapter, shall mean the said body corporate and politic, incorporated under the name of "the trustees of Queen's-College, in New Jersey," by royal charter dated November 10, 1766 (amended March 20, 1770), confirmed and amended by acts of the legislature of the state of New Jersey adopted June 5, 1781, and May 31, 1799, respectively, and having perpetual succession and existence; its name having been changed to "the trustees of Rutgers college in New Jersey" by act of the legislature adopted November 30, 1825 and to "Rutgers, the state university" pursuant to an act of the legislature, approved June 1, 1956; one of the departments maintained by which is and continues to be the land grant college of New Jersey; the property and educational facilities, rights and privileges of which are and shall continue to be impressed with a public trust for higher education of the people of the state of New Jersey; and which is the instrumentality of the state for the purpose of operating the state university. Nothing herein contained shall impress with such trust any property of the state.

L.1967, c.271.

18A:65-3. "The state university" or "the university" defined and described

The term "the state university" or "the university," as used in this chapter, shall, unless the context clearly indicates to the contrary, include and mean the educational entity conducted by the corporation, heretofore designated "the state university of New Jersey," as now and hereafter constituted, including all departments, colleges, schools, centers, branches, educational and other units and extensions thereof, including the state college for the benefit of agriculture and the mechanic arts, the agricultural experiment station, the New Jersey agricultural experiment station managed and directed by the board of managers, Douglass college, the Paterson college, the graduate school of social work, the school of ceramics, the departments of higher education, formerly maintained by the university of Newark, including the college of arts and sciences, the school of business administration and the school of law, and those, formerly maintained by the college of South Jersey, including the junior college and the school of law, and all other departments of higher education maintained by the corporation.

L.1967, c.271

18A:65-4. Vested rights, grants, charter privileges, etc., not affected; exceptions

Nothing herein contained shall be construed to impair, annul or affect any vested rights, grants, charter rights, privileges, exemptions, immunities, powers, prerogatives, franchises or advantages heretofore obtained or enjoyed by the corporation or the university or any constituent unit thereof, under authority of its charter or any act of this state or under any grant, deed, conveyance, transfer, lease, estate, remainder, expectancy, trust, gift, donation, legacy, devise, endowment or fund, all of which are hereby ratified and confirmed except insofar as the same may have expired or have been repealed or altered or may be inconsistent with this chapter or with existing provisions of law; subject, however, thereto and to all of the rights, obligations, relations, conditions, terms, trusts, duties and liabilities to which the same are subject.

L.1967, c.271

18A:65-5. Officers or outstanding commitments not affected

The enactment and adoption of this chapter shall not of itself affect the official status of any officer of the corporation or the university, or any outstanding authorization of any officer, agent or employee to take any specified action, or any outstanding commitment or undertaking of or by the corporation or the university, except to the extent that any of the same may be inconsistent with this chapter.

L.1967, c.271.

18A:65-6. Tenure, civil service and retirement rights

Nothing in this chapter shall be construed so as to deprive any person of any right of tenure, or under civil service, or under any retirement system, or to any pension, disability or social security or similar benefits, to which he is entitled by law or contractually.

L.1967, c.271.

18A:65-8. State's credit not pledged

No provision in this chapter contained shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the state of New Jersey.

L.1967, c.271.

18A:65-9. Chapter liberally construed

This chapter, being deemed and hereby declared necessary for the welfare of the state and the people of New Jersey to provide for the development of public higher education in the state and thereby to increase the efficiency of the public school system of the state, shall be liberally construed to effectuate the purposes and intent thereof.

L.1967, c.271.

18A:65-9.1. Certain repealers saved

Section 36 of chapter 61 of the laws of 1956 entitled "An Act concerning The Trustees of Rutgers College in New Jersey, the State University of New Jersey, changing its name to Rutgers, The State University, reorganizing the Board of Trustees thereof, and creating a Board of Governors having general supervision over and vested with the conduct of the University, amending its Charter, and repealing Section 3 of Chapter 49 of the Laws of 1945, approved March 26, 1945 (P.L.1945, page 115), and all acts and parts of acts inconsistent with this Act," approved June 1, 1956 (P.L.1956, c. 61), is saved from repeal. [This section repeals certain acts and also provisions of the charter and resolutions of the board of trustees of the university inconsistent with the provisions of this chapter.]

L.1967, c.271.

18A:65-10. Name

The name of the body corporate and politic, which operates the state university of the state of New Jersey, is continued as "Rutgers, the state university," hereafter referred to as the "corporation."

L.1967, c.271

18A:65-11. Corporate seal

The seal of the corporation now in use, shall continue to be the common seal of the corporation, unless and until a new or different seal be adopted by joint or concurrent action of the boards.

L.1967, c.271

18A:65-12. Board of governors continued, powers, etc.

The board of governors of the corporation is continued and it shall have and exercise the powers, authority, rights and privileges, and be subject to the duties, obligations and responsibilities set forth and expressed in this chapter.

L.1967, c.271.

18A:65-13. Board of trustees continued, powers, etc.

The board of trustees of the corporation is continued and it shall have and exercise the powers, authority, rights and privileges, and be subject to the fiduciary and other duties, obligations and responsibilities, set forth and expressed in this chapter.

L.1967, c.271.

18A:65-14. Board of governors, membership, classification, terms, succession

18A:65-14. The membership of the board of governors shall be classified as follows and consist of:

a. the president of the corporation, serving as an ex officio non-voting member; and

b. 11 voting members,

i. six of whom shall be appointed by the Governor of the State, with the advice and consent of the Senate, and

ii. five of whom shall be appointed by the board of trustees, from among their members elected and serving under the provisions of subsection I.c. or I.d. of 18A:65-15.

All members shall serve for terms of six years, except that the terms of those initially appointed by the Governor which began on September 1, 1956, shall expire respectively (as designated by him) one, two, three, four, five and six years after June 30, 1956, and terms of those initially appointed by the board of trustees which began on September 1, 1956, shall expire respectively (as designated by the board) two, three, four, five and six years after June 30, 1956; all of whose respective successors shall be appointed to serve six-year terms. Governors may succeed themselves for not more than one additional term after having served one full six-year term (including an initial term beginning on September 1, 1956, and expiring on June 30, 1962).

L.1967, c.271; amended 1994,c.48,s.177.

18A:65-15. Board of trustees, members, classification, terms, etc.

18A:65-15. I. The membership of the board of trustees shall be classified as follows and consist of:

a. the president of the corporation, serving as an ex officio non-voting member;

b. 11 public trustees, appointed and to be appointed by the Governor of the State, with the advice and consent of the Senate, viz.,

i. five public trustees, serving under section 4 of chapter 49 of the Laws of 1945 for five-year terms expiring respectively, one, two, three, four, and five years after June 30, 1956, whose respective successors shall be appointed upon the expiration of such terms and annually thereafter to serve five-year terms; and

ii. six public trustees appointed governors under subsection b.i. of section 18A:65-14 and serving by virtue thereof for and during their respective initial and subsequent terms as governors;

c. not less than 12 nor more than 20 trustees who shall be alumni or alumnae of Rutgers, The State University, as may be determined from time to time by the board of trustees, elected by the board in accordance with such rules, regulations and schedules, and modifications thereof, as may be prepared and adopted from time to time by the board, the terms of such alumni trustees or alumnae trustees to be six years for full terms, with power in the board to provide for shorter or interim terms when deemed by it to be advisable.

d. Charter trustees:

i. in the number of trustees serving as such on August 31, 1956 without definite term, who shall continue to serve indefinitely; provided, that upon the occurrence of any vacancy among such charter trustees, no successor shall be elected to fill such vacancy until such time as the number of such trustees has been reduced below 25, and thereafter vacancies within that number shall be filled by the board subject to the following paragraph II; ii. two women elected by the board of trustees serving six-year terms expiring respectively on June 30, 1963 and 1965 and one woman elected by the board of trustees serving a five-year term expiring June 30, 1961, whose respective successors shall be elected by the board upon the expiration of such terms and thereafter to serve six-year terms.

II. All trustees elected or appointed for terms commencing on or after September 1, 1956, other than those serving ex officio pursuant to subsections I.a. and I.b.i. of this section, shall serve for terms of six years (subject to the provisions of subsection I.c. of this section and of subsection (a) of section 18A:65-16, and may succeed themselves for not more than one additional term after having served one full six-year term.

III. The ex officio members of the board of trustees as constituted on August 31, 1956, pursuant to the charter, statutes, or resolutions of the board from time to time

adopted, ceased to be such members on August 31, 1956, with the exception of the president of the corporation who continued as ex officio trustee and ex officio governor, without voting power as hereinabove provided and the Commissioner of Education who so continued until July 1, 1967.

L.1967, c.271; amended 1994,c.48,s.178.

18A:65-16. Governors and trustees, beginning and ending of terms, vacancies

18A:65-16. (a) The terms of all governors and trustees which are limited shall, unless otherwise expressly provided herein, commence on July 1 in the first year, and end on June 30 in the last year, of such term.

(b) In case a governor or a trustee is elected president and he thereby becomes a nonvoting governor or trustee ex officio, a vacancy in his prior office as governor or trustee shall thereby occur.

(c) In case a trustee is appointed a governor by the Governor of the State, and he thereby becomes a trustee during his term as governor, a vacancy in his prior office as trustee shall thereby occur.

(d) Any vacancy occurring during the term of any governor or trustee (other than by the expiration of his term) shall be filled for the unexpired term only, in the same manner and subject to the same provisions, as in the case of his appointment or election; subject, however, to the provisions of subsection I.d. of section 18A:65-15.

L.1967, c.271; amended 1994,c.48,s.179.

18A:65-17. Restriction on receiving certain remuneration by members of boards

18A:65-17. No person, other than the president, shall be eligible to membership on the board of governors, if he is a salaried official of the State of New Jersey, or shall be eligible to membership on either the board of governors or the board of trustees, if he is receiving remuneration for services from the corporation or the university. If any member of either board shall become ineligible by reason of the foregoing, a vacancy in his prior office as governor or trustee, as the case may be, shall thereby occur.

L.1967, c.271; amended 1994,c.48,s.180.

18A:65-18. Oaths

Each governor and each trustee taking office, before entering on the duties of his office, shall take and subscribe an oath or affirmation to support the constitution of the state of New Jersey and of the United States, to bear allegiance to the government of the state, and to perform the duties of his office faithfully, impartially and justly, to the best of his ability.

L.1967, c.271.

18A:65-19. Procedure for removal of governor or trustee

(a) Any governor shall be subject to removal after hearing, by a majority of the board of governors, for malfeasance or conduct injurious to the interests of the corporation or the university, subject to review and confirmation (i) by the governor of the state in the case of his appointees, and (ii) by the board of trustees in the case of its appointees.

(b) Any trustee other than one serving under the provisions of subsection I.a. of 18A:65-15 shall be subject to removal after hearing for malfeasance or conduct injurious to the interests of the corporation or the university (i) by the governor of the state in the case of a trustee appointed by him or (ii) in the case of a trustee elected by the board of trustees, by a majority of the then membership of the board of trustees.

L.1967, c.271.

18A:65-20. No compensation; expenses paid

The governors and trustees shall not receive compensation for their services as such. Each governor and trustee shall be reimbursed for his actual expenses reasonably incurred in the performance of his duties or in rendering service as a member of or on behalf of either board or any committee of either board.

L.1967, c.271.

18A:65-21. No personal liability

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

L.1967, c.271

18A:65-22. Quorums

a. Six members of the board of governors shall constitute a quorum.

b. Such number, not less than 12, of the board of trustees as shall be determined by the board, and until so determined, 12 members, shall constitute a quorum.

c. A quorum of a joint meeting of the boards shall be present if six governors and not less than a majority of the trustees then in office (other than those who are governors), are present.

L.1967, c.271.

18A:65-23. Chairman of each board to be elected

The board of governors and the board of trustees shall each elect its own chairman from among its respective members.

L.1967, c.271

18A:65-24. Government, control, administration, etc., of corporation and the university
The government, control, conduct, management and administration of the corporation and of the university shall be respectively vested in and allocated between the board of governors and the board of trustees as set forth and expressed in this chapter.

L.1967, c.271.

18A:65-25. Authority and responsibility of board of governors

18A:65-25. The board of governors shall have general supervision over and be vested with the conduct of the university. It shall have the authority and responsibility to:

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

b. Study the educational and financial needs of the university, annually acquaint the Governor and Legislature with the condition of the university, and prepare and present the annual budget to the Governor, the Division of Budget and Accounting in the Department of the Treasury and the Legislature, in accordance with law;

c. Disburse all moneys appropriated to the university by the Legislature, moneys received from tuition, fees, auxiliary services and other sources, and from or by direction of the board of trustees;

d. Direct and control expenditure and transfer of funds appropriated to the corporation and the university by the State in accordance with the provisions of the State budget and appropriation acts of the Legislature; and, as to funds received from the trustees and 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 State Department of the Treasury. All accounts of the university shall be subject to audit by the State at any time;

e. Borrow money for the needs of the corporation and 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, with the consent and advice of the board of trustees; 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;

f. 1. Purchase all lands, buildings, equipment, materials and supplies; and

2. 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;

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

h. In accordance with the provisions of the budget, have the sole power (subject to the provisions of section 18A:65-31) to elect, appoint, remove, promote or transfer all corporate, official, educational and civil administrative personnel, and fix and determine their salaries in accordance with salary schedules adopted by the board of governors. Such salary schedules shall prescribe qualifications for the various classifications and shall limit the percentage of the educational staff that may be appointed or promoted to any given classification;

i. In accordance with the provisions of the budget, appoint, remove, promote and transfer all other officers, agents, or employees, assign their duties, determine their salaries, and prescribe qualifications for all positions, and in accordance with the salary schedules of the State Civil Service Commission wherever possible; and

j. Authorize any new educational department or school consistent with the institution's programmatic mission or approved by the Commission on Higher Education.

L.1967, c.271; amended 1970,c.174; 1994,c.48,s.181.

18A:65-26. Board of trustees; control of properties, funds, trusts, investments, etc.; committee memberships

The board of trustees:

(1) Shall act in an overall advisory capacity;

(2) Shall (a) control (i) properties, funds and trusts vested, as of August 31, 1956, in the corporation in possession or remainder or expectancy (other than and expressly excluding properties and funds owned by or title to which is in the state of New Jersey or which are held upon an express trust for the use of the state, or which have been acquired by the use of moneys appropriated by the state or by the federal government to the use of the corporation or the land grant college of New Jersey, including but not limited to real estate, buildings, improvements, fixtures, and appurtenances thereto, and tangible personal property); and (ii) properties, funds and trusts received by the corporation on or after September 1, 1956, by private gift, donation, bequest or transfer, in any manner, under the terms of any applicable trust, gift, bequest or donation dated or delivered (aa) prior to September 1, 1956, unless otherwise designated, or (bb) on or after September 1, 1956, if so designated; provided, however, that all property, educational facilities, rights and privileges which are impressed with a public trust for higher education of the people of the state of New Jersey shall continue to be so impressed; and (b) make available (after meeting all expenses of its administration) to the board of governors the income from such funds and the use of or income from such properties, subject to the provisions stated hereinafter in section 18A:65-27;

(3) Shall have sole authority over the investment of funds under its control;

(4) Shall have power to maintain such administrative staff and incur and pay such expenses as it deems reasonably necessary to the effective exercise of its functions and responsibilities under this chapter or by reason of any other fiduciary responsibilities to which it is subject; and

(5) Shall be represented on the membership of the committees of the several colleges.

L.1967, c.271

18A:65-27. Public policy of State

18A:65-27. I. It is hereby declared to be the public policy of the State of New Jersey that:

a. the corporation and the university shall be and continue to be given a high degree of self-government and that the government and conduct of the corporation and the university shall be free of partisanship; and

b. resources be and continue to be provided and funds be and continue to be appropriated by the State adequate for the conduct of a State university with high educational standards and to meet the cost of increasing enrollment and the need for proper facilities.

II. In consideration of the utilization by the State for the purposes of public higher education of privately donated properties and funds valued as at September 1, 1956 at approximately \$50,000,000, and the prospect of future private donations, the State by this chapter agrees with the board of trustees and its successors that:

a. if the properties and funds controlled by the trustees shall not be properly applied in accordance with the provisions of subsection d. of section 18A:65-25 for the purpose of higher education and in accordance with the terms of any applicable testamentary, trust, or other special provision; or

b. if, without the consent of the board of trustees,

(1) the university is not continued to be designated and maintained as the State University of New Jersey, or

(2) the name of the university shall be changed, or

(3) a vacancy in the office of the president of the university shall be filled otherwise than by appointment of the board of governors with the advice and consent of the board of trustees, or

(4) the provisions for the essential self-government of the university, viz., the provisions of sections 18A:65-12 to 18A:65-16, inclusive, 18A:65-19, 18A:65-24 to 18A:65-26, inclusive, 18A:65-28, subsection b. of 18A:65-29, 18A:65-30, subsection c. of 18A:65-31, 18A:65-33, 18A:65-6, 18A:65-9 and 18A:65-4, or any of them or of this section 18A:65-27, are amended or altered in any substantial respect or repealed; or

c. if provision shall not be made by the State sufficient to enable the board of trustees to discharge its trust to apply the trust assets described in subsection 2 of section 18A:65-26 for public higher education through the conduct of a university with high educational standards, the board of trustees, after careful consideration and on not less than 60 days' prior written notice to the board of governors and to the Governor, shall have and may exercise the right to withhold or withdraw the use of the properties and funds above described in subsection 2 of section 18A:65-26, or any part of them, (aa) subject to adjudication by the courts of the State, and (bb) subject to their proper

application for the purposes of public higher education and in accordance with the terms of any applicable testamentary, trust or other special provision.

L.1967, c.271; amended 1994,c.48,s.182.

18A:65-28. Boards' powers, rights, etc., incident to their responsibilities

The boards shall have and exercise the powers, rights and privileges that are incident to their respective responsibilities for the government, conduct and management of the corporation, and the control of its properties and funds, and of the university, and the powers granted to the corporation or the boards or reasonably implied, may be exercised without recourse or reference to any department or agency of the state, except as otherwise expressly provided by this chapter or other applicable statutes. The provisions of sections 11 and 13 of chapter 20 of the Laws of 1944 shall not be deemed or construed to be applicable to the corporation or the university.

L.1967, c.271.

18A:65-29. Joint sessions of boards

a. The boards may meet in joint session for the purpose of consultation and discussion, or to act upon any matter which requires joint or concurrent action of both boards.

b. The boards by joint or concurrent action may adopt, and from time to time amend, bylaws, ordinances, statutes, rules, regulations and orders applicable to such matters as require or are subject to the exercise of joint responsibility or action, and each board may adopt, and from time to time amend, bylaws, ordinances, statutes, rules, regulations and orders applicable to such matters as require or are subject to the exercise of its responsibility or its action, subject, in either case, to the provisions of this chapter and other applicable statutes.

L.1967, c.271.

18A:65-30. Each board to appoint and regulate duties, functions, etc., of committees

Each board shall have the power to appoint and regulate the duties, functions, powers and procedures of committees, standing or special, from its members and such advisory committees or bodies, as it may deem necessary or conducive to the efficient management and operation of the corporation and the university, consistent with this chapter and other applicable statutes. The board of governors may appoint trustees who are not governors to membership on its committees, without vote.

L.1967, c.271

18A:65-31. President of corporation; powers; term; filling vacancy

a. There shall be a president of the corporation and of the university.

b. He shall be responsible to the boards, and shall have such powers as shall be requisite, for the executive management and conduct of the corporation and the university in all departments, branches and divisions, and for the execution and enforcement of the bylaws, ordinances, rules, regulations, statutes and orders governing the management, conduct and administration thereof. He shall hold office at the pleasure of the board of governors.

c. In case of a vacancy in the office, the president shall be elected by the board of governors, with the advice and consent of the board of trustees.

L.1967, c.271.

18A:65-32. Annual report; contents; filing

The corporation shall, annually on or before July 31, file in the office of the secretary of state a report (a) of the election and appointment of the, and the names and residences of the, members of the board of governors and of the board of trustees, and (b) of the election and appointment of the executive officers of the corporation, including the president, provost, vice president if any, secretary, assistant secretaries, treasurer and assistant treasurers, and the comptroller and assistant comptroller, at the time in office.

L.1967, c.271.

18A:65-33. Gifts, grants, legacies, endowments, etc.; to vest in and inure to the benefit of the corporation

Every gift, grant, legacy, bequest, devise, endowment, estate, remainder, or expectancy, contained in any will, deed, declaration of trust, transfer, or other instrument, to or for or inuring to the benefit of the corporation or the university, or any constituent unit thereof, whenever established or acquired, and every chose in action, to which the corporation is or shall be entitled, in whatever name and under whatever title, made heretofore or hereafter to become effective or to be made, shall continue to be vested or shall vest in and shall inure to the benefit of the corporation as completely and effectually as though expressly made to it in its name and for its use and benefit; and none of the same shall lapse, terminate or revert by reason of the enactment of this chapter; subject, however, to the provisions of this chapter and other applicable laws, and to all of the rights, obligations, relations, conditions, terms, trusts, duties and liabilities to which the same are subject; and it may effectually

execute and give receipts and discharges therefor and other instruments in its name or in the name in which the same may have been made or given for its use and to its benefit.

L.1967, c.271.

18A:65-33.1. Care, custody and control of State property

18A:65-33.1. The corporation shall have the care, custody and control of such property as the State now has or shall hereafter acquire at the university, subject to the visitorial powers of the Chairman of the Commission on Higher Education at the request of the Governor.

L.1967, c.271; amended 1994,c.48,s.183.

18A:65-33.2. Findings, declarations

The Legislature finds and declares that the land owned or operated by Rutgers, The State University, in central New Jersey represents one of the few significant parcels of undeveloped land in a region experiencing extraordinary development pressures; that Rutgers as the State university bears a special responsibility to the people and the interests of New Jersey; and that it is imperative that public policy decisions that will shape the face of New Jersey for centuries be made with a commitment to the overall interests of the State and its people.

L. 1988, c. 180, s. 1.

18A:65-33.3. Notice of intent

Whenever the Board of Governors of Rutgers, The State University intends to sell, exchange, lease or dispose of, or otherwise convey any interest, legal or equitable, in undeveloped real property held by the university or held by the State and in the custody of the university, the board shall, not less than six months prior to the intended conveyance, provide written notice of intent to the Governor, the Senate Revenue, Finance and Appropriations Committee, or its successor, and the General Assembly Appropriations Committee, or its successor.

L. 1988, c. 180, s. 2.

18A:65-33.4. Public hearing

Within 60 days after providing notification pursuant to section 2 of this act, of the intent to sell, lease or otherwise convey land, the Board of Governors shall conduct a public hearing for the purpose of permitting the public to comment on the proposed conveyance.

L. 1988, c. 180, s. 3.

18A:65-33.5. Subject to local requirements

Notwithstanding any other law to the contrary and except with regard to facilities which are directly related to the provision of educational services, any development of real property held by the Board of Governors of Rutgers, The State University or held by the State and in the custody of the university, shall be subject to local land use planning and zoning requirements.

L. 1988, c. 180, s. 4.

18A:65-34. Visitorial powers of supervision and control

18A:65-34. The visitorial general powers of supervision and control of the Chairman of the Commission on Higher Education at the request of the Governor over Rutgers, The State University, are continued and are defined as the powers to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

L.1967, c.271; amended 1994,c.48,s.184.

18A:65-35. Board of governors, Commission on Higher Education, Presidents' Council; recommendations to the Governor and the Legislature

18A:65-35. The board of governors shall advise, in consultation with the Commission on Higher Education and the Presidents' Council, to the end that the facilities and services of the university may be so utilized as to increase the efficiency of the public school system and provide higher education for the people of the State, and the board of governors shall make recommendations to the Governor and the Legislature, respecting the needs for the facilities and services, of the university, as an instrumentality of the State for said purposes.

L.1967, c.271; amended 1994,c.48,s.185.

18A:65-36. State college for benefit of agriculture and the mechanic arts continued

The state college for the benefit of agriculture and the mechanic arts maintained by the university is continued as part of the university.

L.1967, c.271.

18A:65-37. Payments, in lieu of interest, on proceeds of public land scrip

The sum which is paid by the state annually in semiannual payments pursuant to the certificates of indebtedness which were issued under section 2 of the act entitled "A

supplement to the act entitled "An act appropriating scrip for the public lands granted to the state of New Jersey by the act of congress, approved July 2, 1862," approved April 4, 1864," approved June 13, 1895 (L.1895, c. 417, s. 2, p. 805), together with the amendment thereto approved March 30, 1896 (L.1896, c. 135, p. 192), upon the payment or transfer to the state sinking fund of the fund of \$116,000.00 which arose from the sale of the scrip for public lands granted to the state by the act of congress approved July 2, 1862, shall be paid to the corporation for the special purposes and upon the special conditions set forth in sections 18A:65-38, 18A:65-39 and 18A:65-40 incl.

L.1967, c.271.

18A:65-38. Moneys devoted to courses in agriculture and mechanic arts

The corporation shall devote the moneys paid to it under the provisions of section 18A:65-37 wholly and exclusively to the maintenance of such courses of instruction as shall carry out the intent of the act of congress mentioned in said section, in the manner specially prescribed by section 4 of said act of congress.

L.1967, c.271.

18A:65-39. Free scholarships; number; qualifications and terms

The university shall, in each year, furnish gratuitous education in the courses of instruction described in section 18A:65-38, in such manner as may be prescribed by the legislature, or otherwise, to such number of students of the university as would expend for their instruction in the university a sum equal to one half of the payment, under section 18A:65-37, for said year, if they were required to pay therefor at the regular rates charged therefor to other students.

The students so nominated and received shall be citizens of this state, and shall be admitted into the university upon the same terms, and subject to the same rules and discipline, as apply to all other students of the university, save that they shall not be required to pay for their instruction.

L.1967, c.271.

18A:65-40. Annual reports of board of governors

The board of governors shall annually make and distribute the reports required by paragraph 4 of section 5 of the act of congress cited in section 18A:65-37.

L.1967, c.271.

18A:65-41. Payment for agricultural college; application; courses of instruction

The moneys received and to be received by this state under the act of congress approved August 30, 1890, shall immediately and as soon as received be paid over by the state treasurer, upon the warrant of the director of the division of budget and accounting in the department of the treasury and the order of the corporation, to the treasurer of the corporation, for the more complete endowment and maintenance of the agricultural college or agricultural department of the college, established in accordance with the act of congress approved July 2, 1862, for the benefit of agriculture and the mechanic arts, to be applied only to instruction in agriculture, the mechanic arts, the English language and the various branches of mathematical, physical, natural and economic science, with special reference to their applications in the industries of life and to the facilities of such instruction, in accordance with the acts of congress relating thereto.

L.1967, c.271.

18A:65-42. Maintenance of courses

The corporation shall maintain therein a college or department which shall provide nondegree courses in agriculture, equipped and designed for the practical education of students, in both general and specific lines of farming.

L.1967, c.271.

18A:65-43. Subjects of instruction

The college or department shall offer special instruction in agricultural fields including forestry, horticulture, nutrition and biochemistry, food science, wildlife conservation--conservation biology, environmental science (including air and water pollution), meteorology and climatology, plant and animal pathology, plant and animal physiology, entomology, nematology, soils and crops, agricultural marketing and economics, dairy, poultry, and animal husbandry, turf management, weed control, agricultural crop breeding and genetics, soil microbiology, and agricultural engineering.

L.1967, c.271.

18A:65-44. Buildings, apparatus and machinery

The college or department shall be provided with suitable buildings for stock judging, butter making, milk testing, and lecture rooms. The buildings shall be equipped with the necessary apparatus and machinery for carrying out the specific instruction provided for in section 18A:65-43.

L.1967, c.271.

18A:65-45. Instructors

The corporation shall employ competent instructors of the necessary educational and scientific acquirements, to conduct the college or department. They shall teach the theoretical and practical part of the subjects provided for in section 18A:65-43.

L.1967, c.271.

18A:65-46. Board of managers of agricultural experiment station; number; appointment; terms; vacancies

The board of managers of the New Jersey agricultural experiment station shall consist of the president of the university, the director of the New Jersey agricultural experiment station and the secretary of agriculture ex officio and of one member appointed from the residents in each county in the state, who shall be appointed by the board of governors for terms of three years, beginning on July 1 and ending on June 30, in such manner that so far as practicable the various agricultural and other institutions served by the station shall be represented thereby and vacancies in the appointed membership shall be filled in the same manner but for the unexpired terms only.

L.1967, c.271.

18A:65-47. Appointed members in office, retained

The appointed members of the board of managers in office upon the effective date of this chapter shall continue in office until the expiration of the respective terms for which they were appointed.

L.1967, c.271.

18A:65-48. Members, no compensation except for expenses

The members of the board of managers shall receive no compensation for their services but shall be reimbursed for actual expenditures incurred in the performance of their duties.

L.1967, c.271.

18A:65-49. Board of managers, functions, powers and duties

The board of managers shall act as agent of the board of governors in managing and directing the New Jersey agricultural experiment station.

L.1967, c.271.

18A:65-50. Appropriations

Appropriations for the maintenance of the New Jersey agricultural experiment station and for the utilization of its services shall be separately made by line items.

L.1967, c.271.

18A:65-51. Designation of the corporation to receive federal appropriations

The assent of the state to the grants of moneys for the purposes, upon the terms and in accordance with the several conditions and provisions of the acts of congress hereinafter enumerated having been heretofore signified and expressed, and certified copies of the acts giving such assent having been transmitted to the secretary of the treasury of the United States, the corporation, being the state agricultural college of New Jersey, at which the state agricultural experiment station is established and located, is designated the college to receive the benefit of the said acts of congress, and the corporation is designated as the public educational corporation to which all moneys appropriated by congress under such acts, or supplements thereto, shall be paid for the purposes mentioned therein:

- a. The act approved March 2, 1887;
- b. The act approved March 16, 1906;
- c. The act approved February 24, 1925.

L.1967, c.271.

18A:65-52. Authority of corporation to receive federal appropriations and conduct the work

The assent of the legislature having been heretofore given to the provisions and requirements of the act of congress of May 8, 1914, and May 22, 1928, the corporation is authorized and empowered to receive the grants of money appropriated under said acts and to organize and conduct extension work in agriculture and home economics in connection with the state agricultural college, in accordance with the terms and conditions expressed in said acts of congress.

L.1967, c.271

18A:65-53. Supplemental appropriations by counties or municipalities

In all cases where agricultural extension, home demonstration or boys' and girls' club work receives, or shall receive, funds or aid from the federal government or the state government, the board of chosen freeholders of any county or the governing body of any municipality may appropriate such sums of money as shall seem to it just and proper,

to be expended in the county or municipality making such appropriation under the direction of the corporation in the New Jersey agricultural experiment station, for the purpose of promoting or carrying out such agricultural extension, home demonstration or boys' and girls' club work.

Appropriations made by any county or municipality shall be used only in such county or municipality in addition to the funds appropriated by the federal government or the state government in furtherance of the projects contemplated by this section.

L.1967, c.271.

18A:65-54. School of ceramics continued

The corporation shall maintain a department in the university known as the school of ceramics which shall offer undergraduate and graduate instruction in accordance with recognized standards of engineering education in the fields of ceramics and ceramic engineering. It may also offer campus or extension courses, lectures, conferences, or other formal or informal educational activities for the benefit of the ceramic industry and of persons engaged in it or related fields.

L.1967, c.271.

18A:65-55. Ceramic research station

The corporation shall in the school of ceramics establish programs of research in the field of ceramics to aid in carrying on its programs of instruction and to assist the ceramic industry of the state in the solution of technical problems and in the development of new ceramic products and processes. The research activities of the school may be conducted, as heretofore, under the title of the "New Jersey ceramic research station."

L.1967, c.271.

18A:65-55.1. Legislative findings

The Legislature finds there is need in New Jersey for academic contributions to the administration of criminal justice through teaching, research and leadership, including the training of administrators and those requiring scientific background in this field, by study and searching inquiries into crime causation, juvenile delinquency, law enforcement procedure, criminal rehabilitation, and judicial doctrine relating to the trial of criminal cases, which dictate establishment of a school of criminal justice.

L.1968, c. 280, s. 1, eff. Sept. 4, 1968.

18A:65-55.2. Establishment and maintenance

The President and the Board of Governors of Rutgers, The State University, are authorized and directed to establish and maintain within the University a School of Criminal Justice.

L.1968, c. 280, s. 2, eff. Sept. 4, 1968.

18A:65-56. Graduate school of social work continued

The corporation shall maintain in the university a graduate school of social work to be known as the graduate school of social work.

L.1967, c.271.

18A:65-57. Courses of instruction

The school of social work shall offer courses of instruction in accordance with professional standards in the field of social work for persons preparing to enter this profession. It shall also provide part-time instruction for the benefit of persons already employed as social workers. Its instruction shall be conducted with particular reference to the training of personnel for the public and private social agencies located within the state of New Jersey and serving the people of this state.

L.1967, c.271.

18A:65-58. Advisory committee for school of social work

In order that the school of social work may be responsive to the needs of the New Jersey social agencies, the corporation may appoint an advisory committee for the school of social work which shall be broadly representative of the profession of social work in New Jersey. The advisory committee shall advise the university with respect to any matters affecting the welfare of the school of social work and the conduct of its program. The commissioner of institutions and agencies of the state of New Jersey shall be a member of the advisory committee ex officio.

L.1967, c.271.

18A:65-59. Programs of research

The school of social work shall establish programs of research in the field of social work to aid in carrying on its program of instruction and to improve the standards of social service in New Jersey.

L.1967, c.271.

18A:65-60. Reciprocal use of university and state colleges buildings

The board of trustees of any state college may permit the use, in whole or in part, of any of the buildings or other facilities of the state college, by the university and the corporation may permit the use, by the state college of any part of the buildings or other facilities of the university, in whole or in part, in order to integrate the state colleges and the university in such manner that the training of teachers for the public schools and other branches of higher education conducted in the university shall be conducted cooperatively by the state colleges and the university, to the end that higher educational services may be made more widely available to the people of the state.

L.1967, c.271.

18A:65-61. Care, custody and control of buildings jointly used

18A:65-61. The care, custody and control of any building used jointly by any State college and the corporation shall be vested in the board of trustees of the State college or in the corporation, as the case may be. The care, custody and control of any building of a State college wholly utilized by the corporation shall be exercised by the corporation subject to the visitorial power granted herein and the care, custody and control of any building of the corporation wholly utilized for any State college shall be exercised by the board of trustees of the State college.

L.1967, c.271; amended 1994,c.48,s.186.

18A:65-62. Laws affecting students

Students enrolled in courses conducted by the university in the divisions thereof established in the state colleges pursuant to this article shall not be subject to the provisions of law affecting students enrolled in courses for the training of teachers for the public schools conducted by such colleges.

L.1967, c.271.

18A:65-63. Institute of management and labor relations continued

The corporation shall maintain in the university an institute of management and labor relations.

L.1967, c.271.

18A:65-64. Purpose

The purpose of this article is to promote harmony and cooperation between management and labor, and greater understanding of industrial and labor relations, thereby to enhance the unity and welfare of the people of the state.

L.1967, c.271.

18A:65-65. Advisory council

The corporation shall appoint an advisory council for the institute of management and labor relations consisting of representatives of labor, management and the public, in equal numbers. The advisory council shall advise the corporation as to the manner of carrying out the purposes of this article. Members of the advisory council shall serve without compensation, but shall be reimbursed for their actual and necessary expenses.

L.1967, c.271.

18A:65-66. Programs of research

The corporation shall establish in the institute programs of research in the field of management and labor relations in order to develop new material and techniques to aid in carrying on the educational activities required by this article, and otherwise to carry out its purposes.

L.1967, c.271.

18A:65-67. Programs of instruction

(a) The corporation shall establish in the institute programs of instruction at convenient centers throughout the state designed to achieve the purposes set forth in section 18A:65-64, and to bring about among management, labor and the public better understanding of their mutual problems and obligations.

(b) These programs of instruction may consist of instruction given in classes, or by means of lectures, conferences, institutes, demonstrations, forums or other informal educational services found to be particularly effective in teaching adults.

(c) Tuition for all instruction in the institute of management and labor relations in programs or courses not offered for academic credit to students who are candidates for degrees in the university shall be free to residents of New Jersey, but the corporation may establish a registration fee or other incidental fees in connection with the operation of such educational activities; provided, however, that the corporation may charge its usual tuition fees for courses offered by the institute of management and labor relations for academic credit to students who are candidates for degrees in the university.

L.1967, c.271.

18A:65-72.1. Chronic drunkenness offender problems; conduct of study

The Attorney General is authorized and directed to enter into a contract with Rutgers, The State University for the conduct by the Rutgers Center of Alcohol Studies of a study and pilot facility involving the development of a program or programs to meet the problems of the chronic drunkenness offender.

L.1968, c. 267, s. 1, eff. July 1, 1968.

18A:65-72.2. Assistance of federal funds and private grants

The Attorney General subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury is authorized to apply for Federal funds and to accept private grants in assistance of the purposes of this act.

L.1968, c. 267, s. 2, eff. July 1, 1968.

18A:65-73. Membership in public employees' retirement system of New Jersey

Any person holding office, position or employment in the university who was a member of the public employees' retirement system of New Jersey on April 16, 1945 may continue his membership therein and any person thereafter appointed to any office, position or employment in the university shall be eligible to membership therein on the same terms and conditions as persons holding office, position or employment under the state, except as otherwise provided in this article.

L.1967, c.271.

18A:65-86 Fisheries Information and Development Center.

1. a. There is established the Fisheries Information and Development Center, hereinafter referred to as the center, at the Institute of Marine and Coastal Sciences at Rutgers, The State University. The center shall be administered by the Director of the Institute of Marine and Coastal Sciences in consultation with the coordinating board of the center established in subsection a. of section 2 of this act. The director in consultation with the coordinating board shall administer funding and provide scientific support for the center, and shall coordinate the distribution of funds, program design and research team development, oversight of project accomplishments, and information transfer activities for the center.

b. The purposes and objectives of the center shall be to:

(1) Address the most urgent research and development needs of the commercial and recreational fisheries industries in the State, including all fisheries species landed in the State throughout the geographic range of those fisheries resources ;

(2) Provide critical, unbiased data for the Marine Fisheries Council established pursuant to section 4 of P.L.1979, c.199 (C.23:2B-4), the Department of Environmental Protection, the fishing public, the commercial fishery industry, including shellfish and finfish fisheries in the State and fisheries in State and federal waters, and the recreational fishery industry, including the hook and line and party and charter boat fisheries industries; and

(3) Continue the viability of New Jersey fisheries through research and development concerning the enhancement of fish stocks and the improvement of fish stock management.

For the purposes of this act, "fisheries" means all harvesting of marine fish and aquatic organisms not defined as "aquaculture" pursuant to section 3 of P.L.1997, c.236 (C.4:27-3).

c. The center, at the direction of the coordinating board and with the approval of the Commissioner of the Department of Environmental Protection and in cooperation with any nonprofit groups related to the fisheries industries in the State, shall carry out scientific research programs including, but not limited to, those which :

(1) Provide the scientific basis for improvements in stock assessment methodology and the development of improved stock assessment models;

(2) Develop ways to utilize the most up-to-date satellite and oceanographic data in stock assessment models to analyze and assess the annual fluctuations in stock size and distribution;

(3) Develop new and improved methods of data collection;

(4) Reduce the impact of fishing on the mortality of juvenile fish and aquatic life, and reduce the mortality of non-targeted species and threatened and endangered species by the development and implementation of improvements in fishing technology, by-catch reduction devices, and fishing and processing methods;

(5) Provide the best scientific data available on species population dynamics and processes controlling age structure, sources and rates of mortality, rates of recruitment, catch and release mortality, the relationship of oceanographic variables to fish stock distribution patterns, the degree of reproductive isolation of species

populations and the location of brood stocks, and the relationship of food supply to fish yield;

(6) Enhance understanding of the economic and sociological issues affecting fisheries in the State and evaluate the influence of State and local policies, changes in fishing technology, and variations in demand and supply on jobs, income, and business success or failure; and

(7) Address issues including, but not limited to, horseshoe crab resource questions, incidental catches of marine mammals and their resulting injury or death, hook and line mortality in the recreational fluke fishery, menhaden resource questions, and stock assessments of surf clam and ocean quahog populations.

L.1999,c.419,s.1.

18A:65-87 Coordinating Board; membership; duties.

2. a. The Fisheries Information and Development Center Coordinating Board, hereinafter referred to as the board or the coordinating board , shall consist of seven members, as follows: the Chairman of the Marine Fisheries Council; three representatives of the commercial fishery industry, representing the range of commercial fisheries in the State, including shellfish and finfish fisheries and fisheries in State and federal waters; and three representatives of the recreational fishery industry, representing the range of recreational fisheries in the State, including the hook and line and the party and charter boat fishery industry. The Governor, the President of the Senate and the Speaker of the General Assembly each shall appoint one representative of the commercial fishery industry and one representative of the recreational fishery industry. Other public and private institutions of higher education and their faculties may be considered for participation in the work of the center in the future, as determined by the coordinating board.

b. The coordinating board shall organize as soon as practicable following the enactment of this act. The Chairman of the Marine Fisheries Council shall serve ex officio. Each appointed member of the board shall serve a term of four years. Board members shall be reappointed or replaced in the same manner as the original appointment or selection of the board member being reappointed or replaced. All policies and procedures concerning the hiring of board employees and reimbursement of board member expenses shall be the same as and consistent with the policies and procedures of Rutgers, The State University.

c. The coordinating board shall meet at least quarterly and shall meet as soon as practicable following the appointment of members to choose a chairperson, by a majority vote of the board members. The chairperson shall serve a term of two years and may be re-elected.

The coordinating board shall coordinate communication and information exchange between the center and the private and public sectors of the State.

The coordinating board shall have the authority to approve all expenditures and staffing of the center, except:

(1) expenditures and staffing decisions that may be delegated to the director by the board; and

(2) any administrative, salary or staffing expenditures that would cause the approved administrative, salary and staffing expenditures for the year to exceed 5% of the initial appropriation to the center for the establishment of the center and organization of the board or, after the first year of the board's operation, 5% of the total funding available to the center annually.

The administrative, salary and staffing costs of the center shall not exceed 5% of the total funding available to the center annually. The coordinating board shall review, assess, approve or deny annual statements of work for the research and development program, identify key research and development initiatives, and approve the final design of research programs and the members of research teams, and shall ensure that 95% of the total funding available to the center annually and from the initial appropriation to the center made by this act is used to accomplish the goals of the scientific research programs conducted pursuant to subsection c. of section 1 of this act.

The coordinating board shall convene a peer review committee appropriate to each science initiative which shall include representatives of the management and industry groups expected to be affected by the initiative. The coordinating board shall conduct a yearly assessment of research needs of the fishery, set priorities of work to be accomplished, review and assess the progress of the research and development programs and recommend the continuation or termination of specific projects to the director of the center.

L.1999,c.419,s.2.

18A:65-88 Construction of act relative to DEP.

4. Nothing in this act shall be construed to alter any of the powers or responsibilities of the Department of Environmental Protection related to shellfish or finfish fisheries in federal and State waters as established under federal and State law.

L.1999,c.419,s.4.

18A:65-89. Findings, declarations relative to New Jersey Collaborating Center for Nursing

1. The Legislature finds and declares that:

a. New Jersey Colleagues in Caring collaborative was established in 1996 through a Robert Wood Johnson Foundation grant to assist nursing schools, hospitals and other nursing service institutions to initiate concerted workforce development systems within the State; b. Under the terms of the grant, New Jersey Colleagues in Caring is responsible for: conducting a comprehensive assessment of the current and projected nursing care needs in the State; developing a dependable system for estimating future needs; analyzing the capacity of the State's nursing workforce to meet these needs and the area's educational infrastructure to produce the numbers and types of nursing professionals required; developing a Statewide nursing workforce consortium among schools, providers and other relevant institutions to plan and implement State models that enhance educational and career mobility for nurses; and establishing a formal mechanism to keep the consortium in place over the long term so that monitoring of nursing care needs and the building of a workforce with corresponding strengths become ongoing components of the State's health care structure;

c. Establishment of an independent nursing center, which will function as a future-oriented research and development organization that will develop and disseminate objective information and provide an ongoing strategy for the allocation of State resources directed toward the nursing work force, will assure the best possible nursing care for the residents of the State; and

d. Therefore, it is appropriate to establish the New Jersey Collaborating Center for Nursing to provide an investment in nursing by ensuring that the strategic work begun by New Jersey Colleagues in Caring continues under a State-supported infrastructure.

L.2002,c.116,s.1.

18A:65-90. New Jersey Collaborating Center for Nursing; establishment, goals

2. There is established the New Jersey Collaborating Center for Nursing at Rutgers, The State University of New Jersey, to address issues of supply and demand of the nursing workforce, including education, recruitment, retention and utilization of adequately prepared nursing personnel. The center shall be administered by an executive director under the direction of the New Jersey Collaborating Center for Nursing board established pursuant to this act.

The primary goals of the center shall be to:

a. develop a strategic plan for the continuing development of an adequate nursing workforce, in number and in education and training, to meet the needs of New Jersey residents by:

(1) collecting and analyzing information about and maintaining a database of the current and projected supply and demand of the nursing workforce, including home health aides, nursing assistants, unlicensed assistive personnel, registered nurses, practical nurses, advanced practice nurses and doctorally prepared faculty; and

(2) determining priorities to be addressed from the plan;

b. continue the collaborative approach originating from New Jersey Colleagues in Caring by convening representative groups of health care stakeholders to:

(1) review and comment on the data analysis conducted by the center;

(2) recommend systemic changes in the State's health care system, including strategies for the implementation of the changes; and

(3) disseminate the results of the reviews and recommendations to the Legislature, health care stakeholders and consumers;

c. acknowledge the valued contribution of the nursing work force to the health of the State by:

(1) promoting positive image-building efforts in nursing;

(2) supporting existing mechanisms for rewarding outstanding nurses; and

(3) reporting with evidence-based data the relationship of nursing care to the positive outcomes of the health of consumers;

d. provide consultation, technical assistance and information related to nursing resources within and outside of the State and serve as a clearinghouse for data related to nursing resources;

e. foster collaboration among members of the health care community to achieve policy consensus, promote diversity and enhance the knowledge of nurses and others in health policy and health services research; and

f. seek competitive funding to support specific research endeavors or model programs to enhance the resources available in supporting innovative projects.

L.2002,c.116,s.2.

18A:65-91. Membership of board

3. The New Jersey Collaborating Center for Nursing shall be governed by a 17-member board. A majority of the members first appointed to the board shall include nurse representatives from among the members of the New Jersey Colleagues in Caring collaborative.

a. The members shall be appointed as follows:

(1) four members appointed by the President of the Senate who include: one representative of acute care facilities recommended by the New Jersey Hospital Association; one representative of long-term care facilities recommended by the Health Care Association of New Jersey; one registered professional nurse recommended by the New Jersey State Nurses Association; and one representative of home health care agencies recommended by the Home Health Assembly of New Jersey;

(2) four members appointed by the Speaker of the General Assembly who include: one registered professional nurse recommended by the New Jersey State Nurses Association; one registered professional nurse recommended by the Organization of Nurse Executives - New Jersey; one representative of acute care facilities recommended by the New Jersey Council of Teaching Hospitals; and one licensed practical nurse recommended by the Licensed Practical Nurse Association of New Jersey; and

(3) nine members appointed by the Governor who include: one registered professional nurse recommended by the New Jersey State Nurses Association; one registered professional nurse recommended by the New Jersey League for Nursing; one health care facility staff nurse providing direct patient care, who is recommended by an organization that represents such nurses; two consumers of health care; one representative of baccalaureate and higher degree university nursing programs recommended by the Council of Baccalaureate and Higher Degree Programs; one representative of associate degree nursing programs recommended by the Council of Associate Degree programs; one representative of diploma nursing programs recommended by the Association of Diploma Schools of Professional Nursing; and one representative of practical nursing programs recommended by the Licensed Practical Nurses Education Council.

b. The term of office of each member shall be two years; except that, of the members first appointed, two members appointed by the Senate President shall serve for a term of one year and two for a term of two years; two members appointed by the Speaker of the General Assembly shall serve for a term of one year and two for a term of two years; and four members appointed by the Governor shall serve for a term of one year and five for a term of two years.

A member shall hold office for the term of his appointment and until his successor has been appointed and qualified. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member of the board is eligible for reappointment, but no member shall serve for more than two consecutive terms.

c. The board shall meet at least quarterly and shall meet as soon as practical following the appointment of its members to choose, from among the members and by a majority vote of the members, a chairperson and such other officers as it deems appropriate. The chairperson and other officers shall serve in their elected office for a term of two years and may not succeed themselves in office.

d. Members shall serve without compensation but shall be reimbursed for the reasonable travel and other out-of-pocket expenses incurred in the performance of their duties in a manner consistent with the policies and procedures of Rutgers, The State University of New Jersey.

L.2002,c.116,s.3.

18A:65-92. Duties of board

4. The board shall:

a. determine global policies for the center;

b. implement the primary goals of the center as established in this act;

c. appoint a multidisciplinary advisory council to provide input and advice on policy matters. The advisory council shall include representatives from all of the organizations represented in the collaborative of New Jersey Colleagues in Caring;

d. appoint a full-time executive director who shall serve at the pleasure of the board and shall be a person qualified by training and experience to perform the duties of the office. The board shall authorize the executive director to employ such other staff as the executive director deems necessary and within the limits of funds available to the center. All policies and procedures concerning the hiring of center employees shall be the same as and consistent with the applicable policies and procedures of Rutgers, The State University of New Jersey;

e. apply for and accept grants of money available for carrying out the policies and activities of the center from the federal government, and accept gifts, grants and bequests of funds from individuals, foundations, corporations, governmental agencies and other organizations and institutions to carry out the purposes of this act; and

f. submit a report to the Governor and the Legislature one year after the center is established, and every two years thereafter, on its activities and findings. The report may include such recommendations for legislative action as the board deems appropriate. The board shall make its annual report available to members of the public, upon request.

L.2002,c.116,s.4.

18A:65-93. Interim responsibility

5. Until such time as the members of the board are appointed, the New Jersey Colleagues in Caring collaborative shall be responsible for establishing the center and implementing the purposes of this act.

L.2002,c.116,s.5.

18A:66-1. Short title

This article shall be known as the "Teachers' Pension and Annuity Fund Law."

L.1967, c.271; amended by L.1971, c. 121, s. 1, eff. April 29, 1971.

18A:66-2 Definitions.

18A:66-2. As used in this article:

a. "Accumulated deductions" means the sum of all the amounts, deducted from the compensation of a member or contributed by or in behalf of the member, including interest credited to January 1, 1956, standing to the credit of the member's individual account in the annuity savings fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this article.

c. "Beneficiary" means any person receiving a retirement allowance or other benefit as provided in this article.

d. (1) "Compensation" means the contractual salary, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year.

(2) In the case of a person who becomes a member of the retirement system on or after July 1, 2007, "compensation" means the amount of the contractual salary equivalent to the annual maximum wage contribution base for Social Security, pursuant to the Federal Insurance Contributions Act, for services as a teacher as defined in this article, which is in accordance with established salary policies of the member's employer for all employees in the same position but shall not include individual salary adjustments which are granted primarily in anticipation of the member's retirement or additional remuneration for performing temporary or extracurricular duties beyond the regular school day or the regular school year. This paragraph shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to N.J.S.18A:66-15.1, but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to N.J.S.18A:66-53.2 after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

e. "Employer" means the State, the board of education or any educational institution or agency of or within the State by which a teacher is paid.

f. "Final compensation" means the average annual compensation for which contributions are made for the three years of creditable service in New Jersey immediately preceding the member's retirement or death, or it shall mean the average annual compensation for New Jersey service for which contributions are made during any three fiscal years of his or her membership providing the largest possible benefit to the member or the member's beneficiary.

g. "Fiscal year" means any year commencing with July 1, and ending with June 30, next following.

h. "Pension" means payments for life derived from appropriations made by the State or employers to the Teachers' Pension and Annuity Fund.

i. "Annuity reserve" means the present value of all payments to be made on account of any annuity or benefit in lieu of an annuity, granted under the provisions of this article, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments to be made on account of any pension or benefit in lieu of a pension granted to a member from the Teachers' Pension and Annuity Fund, computed on the basis of such mortality tables recommended by the actuary as the board of trustees adopts, with regular interest.

k. "Present-entrant" means any member of the Teachers' Pension and Annuity Fund who had established status as a "present-entrant member" of said fund prior to January 1, 1956.

l. "Rate of contribution initially certified" means the rate of contribution certified by the retirement system in accordance with N.J.S.18A:66-29.

m. "Regular interest" shall mean interest as determined by the State Treasurer, after consultation with the Directors of the Divisions of Investment and Pensions, the board of trustees and the actuary. It shall bear a reasonable relationship to the percentage rate of earnings on investments based on the market value of assets but shall not exceed the assumed percentage rate of increase applied to salaries plus 3%, provided however that the board of trustees shall not set the average percentage rate of increase applied to salaries below 6%.

n. "Retirement allowance" means the pension plus the annuity.

o. "School service" means any service as a "teacher" as defined in this section.

p. "Teacher" means any regular teacher, special teacher, helping teacher, teacher clerk, principal, vice-principal, supervisor, supervising principal, director, superintendent, city superintendent, assistant city superintendent, county superintendent, State Commissioner or Assistant Commissioner of Education, members of the State Department of Education who are certificated, unclassified professional staff and other members of the teaching or professional staff of any class, public school, high school, normal school, model school, training school, vocational school, truant reformatory school, or parental school, and of any and all classes or schools within the State conducted under the order and superintendence, and wholly or partly at the expense of the State Board of Education, of a duly elected or appointed board of education, board of school directors, or board of trustees of the State or of any school district or normal school district thereof, and any persons under contract or engagement to perform one or more of these functions. It shall also mean any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in this subsection. No person shall be deemed a teacher within the meaning of this article who is a substitute teacher. In all cases of doubt the board of trustees shall determine whether any person is a teacher as defined in this article.

q. "Teachers' Pension and Annuity Fund," hereinafter referred to as the "retirement system" or "system," is the corporate name of the arrangement for the payment of retirement allowances and other benefits under the provisions of this article, including the several funds placed under said system. By that name all its business shall be transacted, its funds invested, warrants for money drawn, and payments made and all of its cash and securities and other property held.

r. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any Army, Air Force or Navy of the Allies of the United States in World War I between July 14, 1914, and November 11, 1918, or who served in any Army, Air Force or Navy of the Allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions or emergencies, and who has presented to the retirement system evidence of such record of service in form and content satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods recognized by the War Department of the United States as periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and April 11, 1899;

(3) The Philippine insurrections and expeditions during the periods recognized by the War Department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(4) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(5) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(6) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(7) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(8) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

(10) World War II, between September 16, 1940, and December 31, 1946, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(11) Korean conflict on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided; and provided further that any member classed as a veteran pursuant to this subsection prior to August 1, 1966, shall continue to be classed as a veteran, whether or not that person completed the 90-day service between said dates as herein provided;

(12) Lebanon crisis, on or after July 1, 1958, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 1, 1958 or the date of termination of that conflict, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(13) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period of assignment (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of a civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran, whether or not that person has completed the 90-day service as herein provided;

(14) Lebanon peacekeeping mission, on or after September 26, 1982, who has served in Lebanon or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before December 1, 1987 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(15) Grenada peacekeeping mission, on or after October 23, 1983, who has served in Grenada or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before November 21, 1983 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(16) Panama peacekeeping mission, on or after December 20, 1989 or the date of inception of that mission, as proclaimed by the President of the United States or

Congress, whichever date of inception is earliest, who has served in Panama or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuous or in the aggregate, of at least 14 days commencing on or before January 31, 1990 or the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(17) Operation "Desert Shield/Desert Storm" mission in the Arabian peninsula and the Persian Gulf, on or after August 2, 1990 or the date of inception of that operation, as proclaimed by the President of the United States or Congress, whichever date of inception is earliest, who has served in the Arabian peninsula or on board any ship actively engaged in patrolling the Persian Gulf for a period, continuous or in the aggregate, of at least 14 days commencing on or before the date of termination of that mission, as proclaimed by the President of the United States or Congress, whichever date of termination is the latest, in such active service; provided, that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(18) Operation Northern Watch and Operation Southern Watch, on or after August 27, 1992, or the date of inception of that operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of inception is earliest, who served in the theater of operation, including in the Arabian peninsula and the Persian Gulf, and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service, commencing on or before the date of termination of the operation, as proclaimed by the President of the United States, Congress or United States Secretary of Defense, whichever date of termination is latest; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided;

(19) Operation "Restore Hope" in Somalia, on or after December 5, 1992, or the date of inception of that operation as proclaimed by the President of the United States or Congress, whichever date is earliest, who has served in Somalia or on board any ship actively engaged in patrolling the territorial waters of that nation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before March 31, 1994; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person has completed the 14-day service as herein provided;

(20) Operations "Joint Endeavor" and "Joint Guard" in the Republic of Bosnia and Herzegovina, on or after November 20, 1995, who served in such active service in direct support of one or both of the operations for at least 14 days, continuously or in the aggregate, commencing on or before June 20, 1998, and (1) was deployed in that nation or in another area in the region, or (2) was on board a United States naval vessel operating in the Adriatic Sea, or (3) operated in airspace above the Republic of Bosnia and Herzegovina; provided that any person receiving an actual service-incurred injury or disability shall be classed as a veteran whether or not that person completed the 14-day service requirement;

(21) Operation "Enduring Freedom", on or after September 11, 2001, who served in a theater of operation and in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided; and

(22) Operation "Iraqi Freedom", on or after the date the President of the United States or the United States Secretary of Defense designates as the inception date of that operation, who served in Iraq or in another area in the region in direct support of that operation for a period, continuously or in the aggregate, of at least 14 days in such active service commencing on or before the date the President of the United States or the United States Secretary of Defense designates as the termination date of that operation; provided, that any person receiving an actual service-incurred injury or disability while engaged in such service shall be classed as a veteran whether or not that person has completed the 14 days' service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and the impairment has lasted or can be expected to last for a continuous period of not less than 12 months, as affirmed by the medical board.

t. (1) "Widower," for employees of the State, means the man to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at

least five years before the date of her death and to whom she continued to be married or a domestic partner until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower will be considered terminated by marriage of, or establishment of a domestic partnership by, the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widower," for employees of public employers other than the State, means the man to whom a member was married at least five years before the date of her death and to whom she continued to be married until the date of her death and who was receiving at least one-half of his support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widower shall be considered terminated by marriage of the widower subsequent to the death of the member. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

u. (1) "Widow," for employees of the State, means the woman to whom a member was married, or a domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before the date of his death and to whom he continued to be married or a domestic partner until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow will be considered terminated by the marriage of, or establishment of a domestic partnership by, the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(2) Subject to the provisions of paragraph (3) of this subsection, "widow," for employees of public employers other than the State, means the woman to whom a member was married at least five years before the date of his death and to whom he continued to be married until the date of his death and who was receiving at least one-half of her support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a widow shall be considered terminated by the marriage of the widow subsequent to the member's death. In the event of the payment of an accidental death benefit, the five-year qualification shall be waived.

(3) A public employer other than the State may adopt a resolution providing that the term "widower" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

v. "Parent" means the parent of a member who was receiving at least one-half of the parent's support from the member in the 12-month period immediately preceding the member's death or the accident which was the direct cause of the member's death. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for in N.J.S.18A:66-56.

x. (1) "Spouse," for employees of the State, means the husband or wife, or domestic partner as defined in section 3 of P.L.2003, c.246 (C.26:8A-3), of a member.

(2) Subject to the provisions of paragraph (1) of this subsection, "spouse," for employees of public employers other than the State, means the husband or wife of a member.

(3) A public employer other than the State may adopt a resolution providing that the term "spouse" as defined in paragraph (2) of this subsection shall include domestic partners as provided in paragraph (1) of this subsection.

Amended 1968, c.228, s.1; 1970, c.57, s.5; 1971, c.119, s.2; 1971, c.121, s.2; 1972, c.166, s.2; 1976, c.53, s.1; 1986, c.24; 1989, c.198, s.1; 1991, c.389, s.4; 1991, c.390, s.2; 1992, c.41, s.1; 1992, c.125, s.1; 1995, c.406, s.2; 2001, c.127, s.2; 2001, c.128, s.1; 2003, c.197, s.2; 2003, c.246, s.45; 2005, c.64, s.2; 2007, c.103, s.9.

18A:66-2.1. Teachers; membership in Teachers' Pension and Annuity Fund

Any individual in the categories specified in section 1 p. of this act, who was a member of the Teachers' Pension and Annuity Fund on December 11, 1975, shall be considered to be in continuous membership in that system.

L.1976, c. 53, s. 2, eff. July 22, 1976.

18A:66-2.2 Veteran status determined for retirement allowance.

4. The Adjutant General of the Department of Military and Veterans' Affairs shall be responsible for determining whether any person seeking to be considered a "veteran" under N.J.S.18A:66-2, for the purpose of eligibility for a veteran's retirement allowance, meets the criteria set forth therein and adjudicating an appeal from any person disputing this determination. The determination of the Adjutant General shall be binding upon the Division of Pensions and Benefits.

L.2000,c.127,s.4.

18A:66-3. Teachers' pension and annuity fund continued

Notwithstanding the repeal of sections 24 to 110, inclusive, of chapter 13 of Title 18 of the Revised Statutes with all amendments and supplements thereto, as of January 1, 1956, by section 3 of chapter 37 of the laws of 1955, saved from repeal in section 18A:66-91 of this article, and the further repeal of all of the other sections of said chapter 13 of Title 18 of the Revised Statutes by section 18A:76-3 of this law, the teachers' pension and annuity fund is continued with its membership and all of its securities, investments and other assets and, except as otherwise provided in this article, all obligations and liabilities existing as of the effective date of this article, shall be hereafter administered in accordance with the provisions of this article and any benefits and allowances granted under the statutes repealed by said section prior to the effective date of this article shall be continued in the same manner and under the same conditions as originally granted.

L.1967, c.271.

18A:66-4 Membership.

18A:66-4. The membership of the retirement system shall consist of:

(a) all members of the teachers' pension and annuity fund enrolled as such as of December 31, 1955;

(b) any person becoming a teacher on or after January 1, 1956, except any person who has attained the age of 60 years prior to becoming a teacher after June 30, 1958 but before July 1, 1968;

(c) every teacher veteran as of January 1, 1956, who is not a member of the "Teachers' Pension and Annuity Fund" as of such date and who shall not have notified the board of trustees within 30 days of such date that he does not desire to become a member;

(d) any teacher employed on January 1, 1956, who is not a member of the Teachers' Pension and Annuity Fund and who elects to become a member under the provisions of N.J.S.18A:66-10.

Before or on the effective date of P.L.2008, c.89, no person in employment, office or position, for which the annual salary or remuneration is fixed at less than \$500.00 shall be eligible to become a member of the retirement system. After the effective date of P.L.2008, c.89, a person who was a member of the retirement system on that effective date and continuously thereafter shall be eligible to be a member of the retirement system in employment, office or position, for which the annual salary or remuneration is fixed at \$500 or more. After the effective date of P.L.2008, c.89, a person who was not a member of the retirement system on that effective date, or who was a member of the retirement system on that effective date but not continuously thereafter, and who is in employment, office or position, for which the annual salary or remuneration is certified by the applicable public entity at \$7,500 or more, shall be eligible to become a member of the retirement system. The \$7,500 minimum annual salary or remuneration amount shall be adjusted annually by the Director of the Division of Pensions and Benefits, by regulation, in accordance with changes in the Consumer Price Index but by no more than 4 percent. "Consumer Price Index" means the average of the annual increase, expressed as a percentage, in the consumer price index for all urban consumers in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor.

Amended 1968, c.229, s.1; 2008, c.89, s.5.

18A:66-4.1 Appeal for person denied membership in TPAF.

13. An appeal by any person who is denied membership in the Teachers' Pension and Annuity Fund shall be transmitted as a contested case, along with all relevant materials and documents, by the State Treasurer to the Office of Administrative Law which shall conduct an adjudicatory proceeding thereon pursuant to the "Administrative Procedure Act," P.L.1968, C.410 (C.52:14B-1 et seq.).

L.2008, c.89, s.13.

18A:66-5. Classes of members

The retirement system shall classify the members in such groups by age as it may determine for actuarial purposes.

The system shall further classify the membership by benefit rates as class A or class B members, as follows:

"Class A" shall include those members who contribute to the annuity savings fund at a per centum salary, computed to be sufficient, with regular interest, to procure for the member, one retirement for service, an annuity equal to 1/140 of his final compensation for each year of service as a member.

"Class B" shall include those members who have elected or who shall hereafter contribute to the annuity savings fund at a higher rate per centum, computed to be sufficient, with regular interest, to procure for the member, on retirement for service, an annuity equal to 1/120 of his final compensation for each year of service as a member.

Any member on December 31, 1955, may by his election contribute to the retirement system at the rate of contribution applicable to class B members of the public employees' retirement system as of January 2, 1955, based upon the member's age when he last became a member. He shall thereafter be classified as a class B member. Any such member may elect to increase his accumulated deductions by the amount deemed necessary by the board of trustees on the advice of the actuary in order to receive credit as a class B member for all or part of his service prior to the date of such election. The board of trustees shall establish the necessary rules governing the election by members of class B credit for all service.

Any member on December 31, 1955, who is not a veteran and who does not elect to receive class B credit for all or any portion of his service shall receive credit as a class A member for all service not credited as class B service. Any such member who does not elect class B membership shall contribute at the rate of contribution initially certified to him upon his last becoming a member; provided, however, that any such person who became a member after June 30, 1946, shall have his contributions on and after January 1, 1955, based on the rates of contribution applicable on June 30, 1946, for his age at the time he last became a member.

L.1967, c.271; amended by L.1968, c. 228, s. 2, eff. July 31, 1968; L.1979, c. 106, s. 5, eff. July 1, 1979.

18A:66-5.1 Increase in TPAF retirement allowance.

15. The retirement allowance of each retiree under N.J.S.18A:66-36, N.J.S.18A:66-37, N.J.S.18A:66-44, and N.J.S.18A:66-71d., or the retiree's beneficiary pursuant to N.J.S.18A:66-47, on the effective date of this act, P.L.2001, c.133, shall be increased by a percentage equivalent to the percentage increase in the fraction of final compensation for each year of credited service for the total retirement allowance under these sections made by this act, P.L.2001, c.133. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not be applicable to the increases in retirement allowances provided by this section.

L.2001,c.133,s.15.

18A:66-6. New members placed in class B

Any person becoming a member on or after January 1, 1956, shall become a class B member as a condition of his employment, and thereafter shall participate in the retirement system under the same conditions and with the same rights and privileges as other members, except as hereinafter provided.

L.1967, c.271.

18A:66-6.1 Membership required as condition of employment; delayed filing; contribution; payment.

39. a. In the case of any person who was required to become a member of the retirement system as a condition of employment, and whose application for enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory enrollment in the system or his transfer within the system, such person shall be required to purchase membership credit for his compulsory coverage by paying into the annuity savings fund the amount required by applying, in accordance with N.J.S.18A:66-29, his rate of contribution on his current base salary subject to the retirement system for each year of previous service during which he was required to have been a member.

b. If more than 1 year has elapsed from the time that contributions would have been required from such person, 1/2 of the employee's cost established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system. The amount certified by the system shall be payable by the employer to the contingent reserve fund and shall be due and owing to the system even if the employee is no longer in the employ of the employer by the date such moneys are to be paid to the system.

c. The employee's obligation may be satisfied by regular installments, equal to at least 1/2 of the normal contribution to the retirement system, over a maximum period of 10 years, but not more than 2 years in the case of any employee who has attained or will attain age 60 within the 2-year period or, for a person who became a member of the

retirement system on or after the effective date of P.L.2008, c.89, has attained or will attain age 62 within the 2-year period.

d. In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid by the employee shall be given upon the payment of at least 1/2 of the total employee's arrearage obligation and the completion of 1 year of membership and the making of such arrears payments, except that in the case of retirement pursuant to N.J.S.18A:66-36, 18A:66-37, 18A:66-44 and 18A:66-71, the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the employee.

L.1971, c.121, s.39; amended 2008, c.89, s.18.

18A:66-7. Cessation of membership

Membership of any person shall cease:

(a) if, except as provided in section 18A:66-8, he shall discontinue his service for more than two consecutive years;

(b) upon the withdrawal by a member of his accumulated deductions as provided in this article;

(c) upon resignation and election to receive, in lieu of the return of his accumulated deductions, the benefits provided in section 18A:66-36 and 18A:66-37;

(d) upon retirement;

(e) at death;

but not otherwise except as provided in this article.

The pension fund shall send written notice in care of the last employer of a member at least 60 days in advance of the date on which his inactive membership shall expire as provided in subsection (a) of this section.

L.1967, c.271.

18A:66-8 Continuance of membership.

18A:66-8. a. If a teacher:

(1) is dismissed by an employer by reason of reduction in number of teachers employed in the school district, institution or department when in the judgment of the employer it is advisable to abolish any office, position or employment for reasons of a reduction in the number of pupils, economy, a change in the administrative or supervisory organization or other good cause; or becomes unemployed by reason of the creation of a regional school district or a consolidated school district; or has been discontinued from service without personal fault or through leave of absence granted by an employer or permitted by any law of this State; and

(2) has not withdrawn the accumulated member's contributions from the retirement system, the teacher's membership may continue, notwithstanding any provisions of this article, if the member returns to service within a period of 10 years from the date of discontinuance from service. No credit for retirement purposes shall be allowed to the member covering the period of discontinuance, except as provided in this section. In computing the service or in computing final compensation, no time after September 1, 1919, during which a member shall have been employed as a teacher at an annual salary or remuneration fixed at less than that which is required for membership pursuant to N.J.S.18A:66-4 as applicable to the member shall be credited, except that in the case of a veteran member credit shall be given for service rendered prior to January 1, 1955, in an employment, office or position if the annual salary or remuneration therefor was fixed at not less than \$300.00 and the service consisted of the performance of the full duties of the employment, office or position.

b. A teacher may purchase credit for time during which the teacher shall have been absent on an official leave without pay. The credit shall be purchased for a period of time equal to:

(1) three months or the duration of the leave, whichever is less; or

(2) if the leave was due to the member's personal illness, two years or the duration of the leave, whichever is less; or

(3) the period of leave that is specifically allowed for retirement purposes by the provisions of any law of this State.

The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

Amended 1971, c.121, s.3; 1991, c.138, s.1; 2008. c.89, s.6.

18A:66-8.1. Discontinuance from teaching service through voluntary service in Peace Corps; continuance of membership; conditions

If a teacher has been or hereafter shall be discontinued from teaching service through voluntary service in the Peace Corps of the United States, his membership in the Teachers' Pension and Annuity Fund shall continue if he has not withdrawn his accumulated deductions, and if he returns to teaching service within a period of 5 years from the date of his discontinuance from service. Any previously held account in the Teachers' Pension and Annuity Fund which has expired as a result of such a discontinuance shall be reconstructed, and credit for retirement purposes shall be allowed to such member covering the period of his service in the Peace Corps. The method of computation, the terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the fund as provided in N.J.S. 18A:66-9.

L.1981, c. 431, s. 1, eff. Jan. 9, 1982.

18A:66-9. Resumption of discontinued membership

18A:66-9. If a teacher who has withdrawn the accumulated member's contributions from the retirement system as provided in N.J.S.18A:66-34 is reenrolled as a member, that teacher may purchase credit for all of the previous membership service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions shall have been made during any fiscal year of membership or to the highest annual compensation for service in this State during any fiscal year for which credit is purchased, whichever is highest. The purchase may be made in regular installments, equal to at least one half the full normal contribution to the retirement system, over a maximum period of 10 years.

Any member electing to purchase service credit hereunder who retires prior to completing the payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump-sum payment required at that time to provide full credit.

L.1967, c.271; amended 1991,c.138,s.2.

18A:66-10. Nonmembers may join

18A:66-10. Any person who was employed as a teacher prior to January 2, 1955 and who did not join the Teachers' Pension and Annuity Fund may join at any time. The person shall have the option of joining the retirement system as a new member upon proper application with no credit for previous service, or of purchasing membership credit for this previous service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

Any person coming under the provisions of this section shall not be allowed any of the death benefits established by N.J.S.18A:66-38, N.J.S.18A:66-41, N.J.S.18A:66-42, N.J.S.18A:66-44, N.J.S.18A:66-46 and N.J.S.18A:66-53 unless he becomes a member within 12 months after January 1, 1956, or furnishes satisfactory evidence of insurability.

L.1967, c.271; amended 1991,c.138,s.3.

18A:66-11. Teachers in military service may enroll

Any teacher who had entered or shall hereafter enter into the active air, military or naval service of the United States before making application for enrollment in the retirement system shall be accepted as a member upon his filing application; provided, such application is made within 3 months after entry into such active air, military or naval service, and his regular salary deduction as provided by section 18A:66-29 shall be paid to the retirement system by the employer as provided by chapter 252 of the laws of 1942, as amended by chapter 326 of the laws of 1942.

L.1967, c.271; amended by L.1971, c. 121, s. 4, eff. April 29, 1971.

18A:66-13 Prior service credit.

18A:66-13. Prior service credit. A member may file a detailed statement of: a. school service and service in a similar capacity in other states and in schools within and outside the United States operated by a department of the United States Government for the instruction of the children of United States Government officers and employees, or b. other public employment in other states or with the United States Government which would be eligible for credit in a State-administered retirement system if the employment was with a public employer in this State, or c. military service in the Armed Forces of the United States, rendered prior to becoming a member, for which the member desires credit, and of such other facts as the retirement system may require. The member may purchase credit for all or a portion of the service evidenced in the statement up to the nearest number of years and months, but not exceeding 10 years, provided however, that a member purchasing that maximum credit may purchase up to five additional years for additional military service qualifying the member as a veteran as defined in N.J.S.18A:66-2. No application shall be accepted for the purchase of credit for such service if, at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon that service.

The member may purchase credit for the service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system, over a maximum period of 10 years. Neither the State nor the employer of a member who applies to purchase credit for public employment with the United States Government pursuant to subsection b. of this section or for military service pursuant to subsection c. of this section shall be liable for any payment to the retirement system on behalf of the member for the purchase of this credit.

Notwithstanding any provision of this act to the contrary, a member shall not be liable for any costs associated with the financing of pension adjustment benefits and health care benefits for retirees when purchasing credit for school service, public employment in other states or with the United States Government, or military service in the Armed Forces of the United States.

Any member electing to purchase the service who retires prior to completing payments as agreed with the retirement system will receive pro rata credit for service purchased prior to the date of retirement, but if the member so elects at the time of retirement, the member may make the additional lump sum payment required at that time to provide full credit.

Notwithstanding any other provision of law to the contrary, service credit established in the retirement system by a member through purchase in accordance with this section, which purchase was made by an application submitted on or after the effective date of P.L.2008, c.89, except a purchase for military service in the Armed Forces of the United States, shall not be eligible for consideration when service is used to determine the qualification of the member for any health care benefits coverage paid, in whole or in part, by a public employer after the member's retirement.

Amended 1985, c.454; 1987, c.247; 1991, c.153, s.1; 2008, c.89, s.3.

18A:66-14. Credit for temporary service

18A:66-14. Any person employed temporarily as a teacher whose temporary employment resulted, without interruption, in permanent employment, and any person who was employed as a substitute immediately prior to permanent employment may purchase credit for the temporary or substitute service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

L.1967, c.271; amended 1971,c.121,s.5; 1991,c.138,s.4.

18A:66-14.1. Credit for military service

Any member of the retirement system, born in 1920, having at least 33 years of service credit as an employee of the same school district, which is coterminous with a municipality that had a population of 7,000 to 8,000 people, according to the 1970 census, and said municipality is designated as the county seat of a county of the third class that had a population of 75,000 to 100,000, according to the 1970 census, and borders both the States of New York and Pennsylvania, and who prior to said service served said district in a temporary capacity for a period of not less than 3 months, following which said member was inducted into the U.S. Army and served therein from July 15, 1942, to December, 1945, and then was recalled and served as an officer in the U.S. Army from September, 1950, to June, 1952, receiving an honorable discharge at the conclusion of his military service, shall be granted credit for said military service during 1942 to 1945 to the same extent that he would have been entitled to credit for said service if his temporary employment with the school district had been on a permanent basis.

L.1983, c. 11, s. 1, eff. Jan. 19, 1983.

18A:66-14.2. Retirement system credit to member on leave of absence

a. Any person who serves, while on an approved leave of absence from regular duties as a teacher, as an officer of a local, county or State labor organization which represents, or is affiliated with an organization which represents, teachers as defined in N.J.S.18A:66-2, shall receive credit in the retirement system for the service. The person receiving the credit shall be liable, with respect to the service to be credited, for payment to the retirement system of both the contributions that would have been required under N.J.S.18A:66-29 and N.J.S.18A:66-31 and the contributions that would have been required under N.J.S.18A:66-33 if that service had been rendered as regular teaching service to the employer granting the leave of absence. The contributions shall be based upon the compensation that would have been received by the person under the locally negotiated salary guide had that person remained in regular teaching service.

b. Any person who, prior to the effective date of this 1989 amendatory and supplementary act, has rendered service as defined in subsection a. and who has not received credit in the retirement system for that service may elect, within one year after that effective date, to purchase credit for the service. The cost of the purchase shall be computed by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase and necessary to provide for the full cost,

as considered in developing the purchase factors for military service, attributable to the purchased credit, to the member's salary at that time for a member in regular teaching service or the salary the member would be receiving at that time on the locally negotiated salary guide for a member serving as an officer of a local, county or State labor organization. All other terms of the purchase and the credit granted shall be as stipulated for the purchase of previous membership service by N.J.S.18A:66-9.

L.1989,c.198,s.2.

18A:66-15 Service credit for retirement.

18A:66-15. In computing for retirement or for purposes of resignation or separation from service under sections 18A:66-36 and 18A:66-37 the total service of a member about to be retired, the retirement system shall credit him with all service rendered by him since he last became a member and in addition, with all the service to which he is entitled and with no other service. Except as otherwise provided in this article, such service credit shall be final and conclusive for retirement purposes, or for purposes of resignation under sections 18A:66-36 and 18A:66-37, unless the member shall discontinue his service for more than two consecutive years. In the case of a member for whom compensation is defined in paragraph (2) of subsection d. of N.J.S.18A:66-2, the retirement system shall credit the member with the time of all service rendered by the member during the part of any year that the member was a participant of the Defined Contribution Retirement Program, pursuant to paragraph (5) of subsection a. of section 2 of P.L.2007, c.92 (C.43:15C-2) as amended by section 12 of P.L.2007, c.103, and making contributions to that program.

For the purpose of computing service for retirement purposes, the board of trustees shall fix and determine by appropriate rules and regulations how much service in any year shall equal a year of service and part of a year of service. Not more than one year shall be credited for all service in a calendar year.

Amended 2007, c.103, s.17.

18A:66-15.1 Transfer or purchase of credit for service in other systems.

18A:66-15.1. a. A member who is a member of another State-administered retirement system or pension fund at the time of enrollment in the Teachers' Pension and Annuity Fund and who does not contribute to the other system or fund after that time may transfer the service credit in the other system or fund to the Teachers' Pension and Annuity Fund upon application and transfer of the member's contributions from the other system or fund to the fund. If the member has withdrawn the contributions to the other retirement system or pension fund, the member may purchase credit for the service in the other system or fund. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

b. A member of the retirement system who had established service credit in a municipal or county retirement system or pension fund, and who was ineligible to transfer the service credit to the retirement system and withdrew contributions from the municipal or county retirement system or pension fund, may purchase credit for all of the member's service in that retirement system or pension fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to the member's age at the time of the purchase, to the member's salary at that time, or to the highest annual compensation for service in this State for which contributions were made during any prior fiscal year of membership, whichever is greater. The terms of the purchase and the credit granted shall be identical, except as otherwise herein provided, to those stipulated for the purchase of previous membership service by members of the retirement system as provided by N.J.S.18A:66-9.

c. A member who is a member of the Public Employees' Retirement System, established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), at the time of enrollment in the Teachers' Pension and Annuity Fund and who within three years of the date of that enrollment ceases to be an active contributing member of the Public Employees' Retirement System may transfer all service credit in the Public Employees' Retirement System to the Teachers' Pension and Annuity Fund upon application and transfer of the member's contributions from the Public Employees' Retirement System to the Teachers' Pension and Annuity Fund. If the member has withdrawn the contributions to the Public Employees' Retirement System, the member may purchase credit for the service. The purchase shall be made in the same manner and be subject to the same terms and conditions provided for the purchase of previous membership service by N.J.S.18A:66-9.

L.1967, c.271; amended 1971, c.121, s.6; 1981, c.479, s.1; 1989, c.101; 1991, c.138, s.5; 2001, c.6, s.1; 2001, c.341, s.1.

18A:66-16 Creation of funds.

18A:66-16. There shall be in the retirement system the contingent reserve fund, annuity savings fund, retirement reserve fund, pension fund, special reserve fund, interest fund, benefit enhancement fund and the members' death benefit fund.

L.1967, c.271; amended 2001, c.133, s.1.

18A:66-17. Expenses paid by state; reimbursement

The expenses of administration of the retirement system shall be paid by the State of New Jersey. Each employing school district shall reimburse the State for a proportionate share of the amount paid by the State for administrative expense. This proportion shall be computed as the number of members under the jurisdiction of such employing school district bears to the total number of members in the system. The pro rata share of the cost of the administrative expense shall be included with the certification by the board of trustees to the Commissioner of Education, the State Treasurer and to each employing school district. The commissioner shall deduct the amount so certified from the certification, to the State Treasurer and the Director of the Division of Budget and Accounting, of State aid payable to such employing school district under the provisions of c. 85, P.L.1954. Similar reimbursement shall be made to the State by institutions and districts to which c. 85, P.L.1954 does not pertain.

L.1967, c.271; amended by L.1971, c. 121, s. 7, eff. April 29, 1971.

18A:66-18 Contingent reserve fund.

18A:66-18. The contingent reserve fund shall be the fund in which shall be credited contributions made by the State and other employers.

a. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall compute annually, beginning as of March 31, 1992, the amount of contribution which shall be the normal cost as computed under the projected unit credit method attributable to service rendered under the retirement system for the year beginning on July 1 immediately succeeding the date of the computation. This shall be known as the "normal contribution."

b. Upon the basis of the tables recommended by the actuary which the board of trustees adopts and regular interest, the actuary of the board shall annually determine if there is an amount of the accrued liability of the retirement system, computed under the projected unit credit method, including the liability for pension adjustment benefits for active employees funded pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), which is not already covered by the assets of the retirement system, valued in accordance with the asset valuation method established in this section. This shall be known as the "unfunded accrued liability." If there was no unfunded accrued liability for the valuation period immediately preceding the current valuation period, the actuary, using the total amount of this unfunded accrued liability, shall compute the initial amount of contribution which, if the contribution is increased at a specific rate and paid annually for a specific period of time, will amortize this liability. The State Treasurer shall determine, upon the advice of the Director of the Division of Pensions and Benefits, the board of trustees and the actuary, the rate of increase for the contribution and the time period for full funding of this liability, which shall not exceed 30 years. This shall be known as the "accrued liability contribution." Thereafter, any increase or decrease in the unfunded accrued liability as a result of actuarial losses or gains for subsequent valuation years shall serve to increase or decrease, respectively, the amortization period for the unfunded accrued liability, unless an increase in the amortization period will cause it to exceed 30 years. If an increase in the amortization period as a result of actuarial losses for a valuation year would exceed 30 years, the accrued liability contribution shall be computed for the valuation year in the same manner provided for the computation of the initial accrued liability contribution under this section. The State may pay all or any portion of its unfunded accrued liability under the retirement system from any source of funds legally available for the purpose, including, without limitation, the proceeds of bonds authorized by law for this purpose.

The value of the assets to be used in the computation of the contributions provided for under this section for valuation periods shall be the value of the assets for the preceding valuation period increased by the regular interest rate, plus the net cash flow for the valuation period (the difference between the benefits and expenses paid by the system and the contributions to the system) increased by one half of the regular interest rate, plus 20% of the difference between this expected value and the full market value of the assets as of the end of the valuation period. This shall be known as the "valuation assets." Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending March 31, 1996 shall be the full market value of the assets as of that date and shall include the proceeds from the bonds issued pursuant to the Pension Bond Financing Act of 1997, P.L.1997, c.114 (C.34:1B-7.45 et seq.), paid to the system by the New Jersey Economic Development Authority to fund the unfunded accrued liability of the system. Notwithstanding the first sentence of this paragraph, the valuation assets for the valuation period ending June 30, 1999 shall be the full market value of the assets as of that date.

"Excess valuation assets" for a valuation period means:

(1) the valuation assets; less

(2) the actuarial accrued liability for basic benefits and pension adjustment benefits, excluding the unfunded accrued liability for early retirement incentive benefits pursuant to P.L.1991, c.231 and P.L.1993, c.163 for employers other than the State; less

(3) the contributory group insurance premium fund created by N.J.S.18A:66-77; less

(4) the post-retirement medical premium fund created pursuant to section 2 of P.L.1987, c.385 (C.18A:66-18.1), as amended by section 3 of P.L.1994, c.62; less

(5) the present value of the projected total normal cost for pension adjustment benefits in excess of the projected total phased-in normal cost for pension adjustment benefits as originally authorized by section 2 of P.L.1987, c.385 (C.18A:66-18.1) over the full phase-in period, determined in the manner prescribed for the determination and amortization of the unfunded accrued liability of the system, if the sum of the foregoing items is greater than zero.

If there are excess valuation assets for the valuation period ending March 31, 1996, the normal contributions for the valuation periods ending March 31, 1996 and March 31, 1997 which have not yet been paid to the retirement system shall be reduced to the extent possible by the excess valuation assets, provided that the General Fund balances that would have been paid to the retirement system except for this provision shall first be allocated as State aid to public schools to the extent that additional sums are required to comply with the May 14, 1997 decision of the New Jersey Supreme Court in *Abbott v. Burke*, and provided further that the normal contribution for the valuation period ending March 31, 1996 shall not be less than \$54,000,000. If there are excess valuation assets for a valuation period ending after March 31, 1996, the State Treasurer may reduce the normal contribution payable for the next valuation period as follows:

(1) for valuation periods ending March 31, 1997 through March 31, 2001, to the extent possible by up to 100% of the excess valuation assets;

(2) for the valuation period ending March 31, 2002, to the extent possible by up to 84% of the excess valuation assets;

(3) for the valuation period ending March 31, 2003, to the extent possible by up to 68% of the excess valuation assets; and

(4) for valuation periods ending March 31, 2004 through June 30, 2007, to the extent possible by up to 50% of the excess valuation assets.

For calendar years 1998 and 1999, the rate of contribution of members of the retirement system under N.J.S.18A:66-29 shall be reduced by 1/2 of 1% from excess valuation assets. For calendar years 2000 and 2001, the rate of contribution of members of the retirement system shall be reduced equally with normal contributions to the extent possible, but not more than 1/2 of 1%, from excess valuation assets. Thereafter, through calendar year 2007, the rate of contribution of members of the retirement system under that section for a calendar year shall be reduced equally with normal contributions to the extent possible, but not by more than 2%, from excess valuation assets if the State Treasurer determines that excess valuation assets shall be used to reduce normal contributions by the State for the fiscal year beginning immediately prior to the calendar year, and excess valuation assets above the amount necessary to fund the reduction for that calendar year in the member contribution rate plus an equal reduction in the normal contribution shall be available for the further reduction of normal contributions, subject to the limitations prescribed by this subsection.

If there are excess valuation assets after reductions in normal contributions and member contributions as authorized in the preceding paragraphs for a valuation period beginning with the valuation period ending June 30, 1999, an amount of excess valuation assets not to exceed the amount of the member contributions for the fiscal year in which the normal contributions are payable shall be credited to the benefit enhancement fund. The amount of excess valuation assets credited to the benefit enhancement fund shall not exceed the present value of the expected additional normal contributions attributable to the provisions of P.L.2001, c.133 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under N.J.S.18A:66-25.

The normal contribution for the increased benefits for active members under P.L.2001, c.133 shall be paid from the benefit enhancement fund. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

c. (Deleted by amendment, P.L.1992, c.125.)

d. The retirement system shall certify annually the aggregate amount payable to the contingent reserve fund in the ensuing year, which amount shall be equal to the sum of the amounts described in this section, and which shall be paid into the contingent reserve fund in the manner provided by section 18A:66-33.

e. Except as provided in sections 18A:66-26 and 18A:66-53, the death benefits payable under the provisions of this article upon the death of an active or retired member shall be paid from the contingent reserve fund.

f. The disbursements for benefits not covered by reserves in the system on account of veterans shall be met by direct contribution of the State.

Amended 1971, c.121, s.8; 1987, c.385, s.1; 1992, c.41, s.2; 1992, c.125, s.2; 1994, c.62, ss.2,1; 1997, c.115, s.1; 2001, c.133, s.2; 2007, c.92, s.24.

18A:66-18.1 Payment of pension adjustment benefits.

2. Pension adjustment benefits for members and beneficiaries of the Teachers' Pension and Annuity Fund as provided by the "Pension Adjustment Act," P.L.1958, c.143 (C.43:3B-1 et seq.), shall be paid by the retirement system and shall be funded as employer obligations by the same method provided by law for the funding of employer obligations for the basic retirement benefits provided by the retirement system.

L.1987, c.385, s.2; amended 1992, c.41, s.3; 1993, c.8, s.1; 1994, c.62, s.3; 1997, c.115, s.2; 2002, c.11, s.1; 2007, c.103, s.43.

18A:66-19. Annuity savings fund

The annuity savings fund shall be the fund in which shall be credited accumulated deductions and contributions by members or on their behalf to provide for their allowances.

A single account shall be established in this fund for each person who is or shall become a member and all contributions deducted from each such member's compensation shall be credited to his account regardless of the number of positions a member might hold or the number of employers he might have.

L.1967, c.271; amended by L.1971, c. 121, s. 9, eff. April 29, 1971.

18A:66-20. Excess contributions returned

(a) Any contributions made by a member in excess of those required shall be refunded with regular interest to January 1, 1956, to the member or his beneficiary or estate or shall, at his request, be used at retirement with regular interest to provide an annuity of equivalent actuarial value which shall be in addition to his retirement allowance as computed in accordance with section 18A:66-44.

(b) Upon the submission of such evidence as the retirement system may require, the system shall refund to any member, that part of his accumulated deductions paid into the retirement system as a result of deductions based on payments to him over and above compensation as defined in this article.

(c) Until July 1, 1974 contributions, made by a member employed by an institution of higher education prior to July 1, 1969, on the basis of compensation earned during summer sessions may be refunded with regular interest to January 1, 1956 to the member at his request or shall be included in the computation of his retirement allowance.

L.1967, c.271; amended by L.1971, c. 121, s. 10, eff. April 29, 1971.

18A:66-21. Retirement reserve fund

The retirement reserve fund shall be the fund from which all retirement allowances shall be paid except those payable from the pension fund as provided in section 18A:66-22. Upon the retirement of a member other than a present-entrant, his accumulated deductions together with regular interest after January 1, 1956, shall be transferred to the retirement reserve fund from the annuity savings fund. The reserve needed to produce the balance of the retirement allowance shall be transferred from the contingent reserve fund. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the annuity savings fund and the contingent reserve fund.

Any surplus or deficit developing in the retirement reserve fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by appropriate action of the retirement system upon the advice of the actuary.

L.1967, c.271; amended by L.1971, c. 121, s. 11, eff. April 29, 1971.

18A:66-22. Pension fund

The pension fund of the retirement system is the fund in which shall be accumulated the reserves for the payment of pensions to present-entrant members other than veterans, and from it shall be paid all retirement allowances of such present-entrant members and of all beneficiaries of the Teachers' Pension and Annuity Fund who, as of January 1, 1956, were receiving pensions from the pension fund. All reserves for the payment of annuities to persons receiving pensions from the pension fund, as of January 1, 1956 are hereby transferred from the former annuity reserve fund to the pension fund. Upon the retirement of a present-entrant member, the accumulated deductions of the member shall be transferred from the annuity savings fund to the pension fund. The retirement system shall annually transfer from the contingent reserve fund to the pension fund the annual State and employer contributions on account of present-entrant members as computed in accordance with section 18A:66-18. Any surplus or deficit developing in the pension fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by the appropriate action of the retirement system upon the advice of the actuary.

L.1967, c.271; amended by L.1971, c. 121, s. 12, eff. April 29, 1971.

18A:66-24. Interest fund

There is hereby created an interest fund in which shall be accumulated interest received on the securities, funds and investments of the retirement system. From this fund the board of trustees shall periodically credit interest to the other funds of the system as provided in this article. Any surplus or deficit developing in the interest fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by appropriate action of the board of trustees. Interest payable to a member or his beneficiary under any provision of this article shall be paid from the interest fund.

L.1967, c.271.

18A:66-25 Interest allowed on funds.

18A:66-25. The board of trustees at the end of each fiscal year shall allow interest on the balance of the contingent reserve fund, the annuity savings fund, the retirement reserve fund, pension fund, benefit enhancement fund and the members' death benefit fund as of the beginning of said fiscal year at the regular interest rate applicable thereto to cover the interest creditable to the respective funds for the year. The amount so allowed shall be due and payable to said funds and shall be credited annually thereto by the board.

L.1967, c.271; amended 2001, c.133, s.3.

18A:66-26. Death benefit fund

The members' death benefit fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their additional death benefits under the provisions of section 18A:66-53. Upon the death of a member electing the additional death benefit, the additional death benefit payable shall be paid from the member's death benefit fund.

L.1967, c.271.

18A:66-27. Special reserve fund

The special reserve fund shall be the fund to which any earnings in excess of the amounts annually allowed under the provisions of section 18A:66-25 shall be transferred. No additional amounts shall be credited to the special reserve fund at any time when the total accumulations in such fund shall equal 1% of the book value of the investments of the retirement system. In this event, any such excess shall be credited to the contingent reserve fund. All losses from the sale of securities shall be charged against the special reserve fund. The special reserve fund shall be considered for valuation purposes by the actuary as an asset of the retirement system.

L.1967, c.271; amended by L.1971, c. 121, s. 13, eff. April 29, 1971.

18A:66-29 Members' contribution rate.

18A:66-29. Members enrolled in the retirement system on or after July 1, 1994 shall contribute 5% of compensation to the system. Members enrolled in the system prior to July 1, 1994 shall contribute 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, provided, however, that any member enrolled before July 1, 1994, whose full contribution rate under the system prior to the revisions by this act was less than 6%, shall pay 4% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1995, and 5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 1996.

Members enrolled in the retirement system on or after July 1, 2007 shall contribute 5.5% of compensation to the system. Members enrolled in the system prior to July 1, 2007 shall contribute 5.5% of compensation to the system effective with the payroll period for which the beginning date is closest to July 1, 2007.

Amended 1979, c.106, s.6; 1994, c.62, s.4; 2007, c.103, s.1.

18A:66-29.1. Shortage in reserves or contributions; non-liability or deduction for retirement allowance

Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any employer under this article, for which reserves have not been previously created from funds contributed by the State, the employer, or teacher for such benefits.

The actuarial equivalent of any shortage in required contributions at the time of retirement on account of misstatement of age, leave of absence, or clerical error, shall be deducted from the retirement allowance otherwise payable.

L.1971, c. 121, s. 40, eff. April 29, 1971.

18A:66-30. Employee's consent to deductions

Every teacher to whom this article applies shall be deemed to consent and agree to any deduction from his compensation required by this article and to all other provisions of this article. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of a person to whom this article applies or shall apply, and notwithstanding that the minimum salary, pay or compensation or other perquisite provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

L.1967, c.271.

18A:66-31. System to certify contributions

The retirement system shall certify to each employer the proportion of each member's compensation to be deducted, and to facilitate the making of deductions the retirement system may modify the deduction required by a member of such amount as shall not exceed 1/10 of 1% of the compensation upon the basis of which the deduction is to be made.

There shall be credited in the annuity savings fund to the individual account of each member any amounts so deducted or contributed by him.

L.1967, c.271; amended by L.1971, c. 121, s. 15, eff. April 29, 1971.

18A:66-32. Employer's duties

Upon the employment of a person to whom this article may apply, his employer shall inform him of his duties and obligations under this article as a condition of his employment; the employer shall notify the retirement system of such appointment within 10 days thereafter; it shall keep such records and from time to time furnish such information as the retirement system may require; deduct the proportion of salary and extra salary deductions as certified by the retirement system, transfer each of the amounts so deducted to the retirement system; and shall transmit to the retirement system monthly or at such intervals as the system designates a detailed statement of all amounts so paid. If payment in full, representing the monthly or biweekly transmittal and report of salary deductions, is not made within 15 days of the due date established by the retirement system, interest at the rate of 6% per annum shall commence to run against the total transmittal of salary deductions for the period on the first day after such fifteenth day. Any failure on the part of the employer to comply with the provisions of this section shall constitute a default, and the State Department of Education may withhold school moneys from the district until the default is made good.

Where an employer fails to notify the retirement system of a teacher's employment and more than one year has elapsed from the compulsory enrollment date of such teacher, the employer shall be liable for the payment, with interest of 6% per annum, to the contingent reserve fund which would otherwise have been required of, and timely paid, by the state.

L.1967, c.271; amended by L.1968, c. 228, s. 3, eff. July 31, 1968.

18A:66-32.1. Periodic benefits payable under Workers' Compensation Law; salary deductions paid by employer; retirement benefits application

18A:66-32.1. a. If any member of the retirement system receives periodic benefits payable under the workers' compensation law during the course of his active service, in lieu of his normal compensation, his regular salary deductions shall be paid to the retirement system by his employer. Such payments shall be computed, in accordance with N.J.S.18A:66-29, at the rate of contribution on the base salary subject to the retirement system, just prior to the receipt of the workers' compensation benefits. The moneys paid by the employer shall be credited to the member's account in the annuity savings fund and shall be treated as employee contributions for all purposes. The employer will terminate the payment of these moneys when the periodic benefits payable under the workers' compensation law are terminated or when the member retires.

The member for whom the employer is making such payments, will be considered as if he were in the active service.

b. An application for retirement benefits may be approved by the board of trustees while the member, applying for such benefits, is in receipt of periodic benefits under the workers' compensation law. If a retirant receiving an accidental disability retirement allowance becomes a recipient of periodic benefits under the workers' compensation law after the date of retirement, the pension portion of the retirement allowance payable to the retirant shall be reduced, during the period of the payment of the periodic benefits, dollar-for-dollar in the amount of the periodic benefits received after the date of retirement, subject to the provisions of N.J.S. 18A:66-69. The reduction provided for herein shall not affect the retirant's pension adjustment benefits or survivor benefits that may be payable upon the death of the retirant.

If an accidental disability retirant receives a retirement allowance without reduction and periodic benefits under the workers' compensation law for any period of time after the date of retirement, the retirant shall repay to the retirement system the amount of the pension portion of the retirement allowance which should have been subject to reduction under this subsection. The repayment may be in the form of a lump sum payment or scheduled as deductions from the retirant's retirement allowance and pension adjustment benefits. If the retirant dies before full repayment of the amount required,

the remaining balance shall be deducted from any death benefits payable on behalf of the retirant.

L.1967, c.271; amended 1971,c.121,s.16; 1995,c.369,s.1.

18A:66-33. State contributions

18A:66-33. Regular interest charges payable, the creation and maintenance of reserves in the contingent reserve fund and the maintenance of retirement allowances and other benefits granted by the board of trustees under the provisions of this article are hereby made obligations of the State. Except as provided in N.J.S.18A:66-27, all income, interest, and dividends derived from deposits and investments authorized by this article shall be used for payment of these obligations of the State.

Upon the basis of each actuarial determination and appraisal provided for in this article, the board of trustees shall prepare and submit to the Governor in each year an itemized estimate of the amounts necessary to be appropriated by the State to provide for the payment in full on June 30 of the ensuing fiscal year of the obligations of the State accruing during the year preceding such payment. The Legislature shall make an appropriation sufficient to provide for the obligations of the State. The amounts so appropriated shall be paid into the contingent reserve fund. The amounts payable into the contingent reserve fund shall be paid by the State Treasurer, upon the certification of the commissioner and the warrant of the Director of the Division of Budget and Accounting, to the contingent reserve fund not later than June 30 of the ensuing fiscal year.

Annually the board of trustees shall report the amount necessary to be appropriated by the State on behalf of each employer pursuant to this section and N.J.S.18A:66-66.

L.1967, c.271; amended 1990,c.52,s.78; 1991,c.62,s.28; 1991,c.246,s.1; 1992,c.41,s.4; 1993,c.7,s.6.

18A:66-34. Withdrawals

A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall, upon the filing of an application therefor, receive all of his accumulated deductions standing to the credit of his individual account in the annuity savings fund, plus regular interest on contributions made after January 1, 1956, less any loan outstanding, and except that for any period after June 30, 1944, the interest payable shall be such proportion of the interest determined at the regular rate as 2% per annum bears to the regular rate of interest; provided, however, that no interest shall be payable if such a member does not have 3 years of membership service at the time of withdrawal from service or cessation of employment.

He shall cease to be a member 2 years from the date he discontinued service as a teacher, or, if prior thereto, upon payment to him of his accumulated deductions. If any such person or member shall die before withdrawing or before endorsing the check constituting the return of his accumulated deductions, such deductions shall be paid to the member's beneficiary. No member shall be entitled to withdraw the amounts contributed by his employer covering his military leave unless he shall have returned to the payroll and contributed to the retirement system for a period of 90 days.

L.1967, c.271; amended by L.1971, c. 121, s. 17, eff. April 29, 1971.

18A:66-35 Loans, interest rates, administrative fees.

18A:66-35. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his accumulated deductions, but not less than \$50.00; provided, that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation, made at the same time compensation is paid to the member. The amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid or in such lump sum amount to repay the balance of the loan but such installment shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this article applies or shall apply, the additional deductions required to repay the loan shall be made.

The rate of interest for a loan requested by a member prior to the effective date of P.L.2007, c.92 (C.43:15C-1 et al.) shall be 4% per annum on any unpaid balance thereof. For a loan requested after the effective date of that act, the rate of interest per annum shall be a commercially reasonable rate as required by the Internal Revenue Code to be determined by the State Treasurer on that effective date, and on January 1 of each calendar year thereafter. An administrative fee in an amount set by the State Treasurer for each calendar year may be charged for any loan requested after the effective date of P.L.2007, c.92 (C.43:15C-1 et al.). Loans shall be made to a member from his accumulated deductions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

Amended 1968, c.228,s.4; 1971, c.121, s.18; 1981, c.212, s.1; 2007, c.92, s.32.

18A:66-35.1 Repayment of loans after retirement of members of TPAF.

2. In the case of any member who retires without paying the full amount so borrowed, the Division of Pensions and Benefits shall deduct from the retirement benefit payments the same monthly amount which was deducted from the compensation of the member immediately preceding retirement until the balance of the amount borrowed together with the interest is repaid. In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefit payable on the account of the pensioner either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

L.1981, c.212, s.2; amended 1988, c.134, s.1; 1999, c.132, s.1; 2007, c.92, s.33.

18A:66-36 Vesting of TPAF members.

18A:66-36. Should a member of the Teachers' Pension and Annuity Fund, after having completed 10 years of service, be separated voluntarily or involuntarily from the service, before reaching service retirement age, and not by removal for conduct unbecoming a teacher or other just cause under the provisions of N.J.S.18A:28-4 to 18A:28-5 and 18A:28-9 to 18A:28-13 inclusive, such person may elect to receive, in lieu of the payment provided in N.J.S.18A:66-34:

a. The payments provided for in N.J.S.18A:66-37, if he so qualified under said section; or

b. A deferred retirement allowance beginning at age 60, or for a person who becomes a member of the retirement system on or after the effective date of P.L.2008, c.89 beginning at age 62, which shall be made up of an annuity derived from the member's accumulated deductions at the time of his severance from the service, and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1/64 of his final compensation for each year of service credited as Class A service and 1/55 of his final compensation for each year of service credited as class B service, calculated in accordance with N.J.S.18A:66-44, with optional privileges provided for in N.J.S.18A:66-47 if he exercises such optional privilege at least 30 days before his attainment of the normal retirement age; provided, that such election is communicated by such member to the retirement system in writing stating at what time subsequent to the execution and filing thereof he desires to be retired; and provided, further, that such member may later elect: (1) to receive the payments provided for in N.J.S.18A:66-37, if he had qualified under that section at the time of leaving service, except that in order to avail himself of the optional privileges pursuant to N.J.S.18A:66-47, he must exercise such optional privilege at least 30 days before the effective date of his retirement; or (2) to withdraw his accumulated deductions with interest as provided in N.J.S.18A:66-34. If such member shall die before attaining service retirement age, then his accumulated deductions, plus regular interest after January 1, 1956, shall be paid in accordance with N.J.S.18A:66-38, and, in addition if such member shall die after attaining service retirement age and has not withdrawn his accumulated deductions, an amount equal to 3/16 of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service shall be paid to such member's beneficiary.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 60 or, if that person became a member of the retirement system on or after the effective date of P.L.2008, c.89, while under the age of 62, shall thereupon be reenrolled. If he had discontinued his service for more than two consecutive years, subsequent contributions shall be at a rate applicable to the age resulting from the subtraction of his years of creditable service at the time of his last discontinuance of contributing membership from his age at the time of his return to service. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

Amended 1968, c.228, s.5; 1981, c.177, s.1; 2001, c.133, s.4; 2008, c.89, s.19.

18A:66-37 Early retirement.

18A:66-37. Should a member resign after having established 25 years of creditable service before reaching age 60, or before reaching the age of 62 if the person became a member of the retirement system on or after the effective date of P.L.2008, c.89, the member may elect "early retirement," provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof the member desires to be retired. The member shall receive, in lieu of the payment provided in N.J.S.18A:66-34, an annuity which is the actuarial equivalent of the member's accumulated deductions and a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1/64 of the member's final compensation for each year of service credited as class A service and 1/55 of the member's final compensation for each year of service credited as class B service, calculated in accordance with N.J.S.18A:66-44, reduced:

(a) by 1/4 of 1% for each month that the member lacks of being age 55; or

(b) for a person who becomes a member of the retirement system on or after July 1, 2007, by 1/4 of 1% for each month that the member lacks of being age 55 and by 1/12 of 1% for each month that the member lacks of being age 60 but over age 55; or

(c) for a person who becomes a member of the retirement system on or after the effective date of P.L.2008, c.89, by 1/4 of 1% for each month that the member lacks of being age 55 and by 1/12 of 1% for each month that the member lacks of being age 62 but over age 55; provided, however, that upon the receipt of proper proofs of the death of such a member there shall be paid to the member's beneficiary an amount equal to 3/16 of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher.

Subparagraph (b) or (c) of this section shall not apply to a person who at the time of enrollment in the retirement system on or after July 1, 2007 transfers service credit from another State-administered retirement system pursuant to N.J.S.18A:66-15.1, but shall apply to a former member of the retirement system who has been granted a retirement allowance and is reenrolled in the retirement system on or after July 1, 2007 pursuant to N.J.S.18A:66-53.2 after becoming employed again in a position that makes the person eligible to be a member of the retirement system.

The board of trustees shall retire the member at the time specified or at such other time within one month after the date so specified as the board finds advisable.

Amended 1971, c.121, s.19; 1973, c.131; 1995, c.410, s.1; 2001, c.133, s.5; 2007, c.103, s.7; 2008, c.89, s.20.

18A:66-38. Death benefits; contribution not required when leave is due to illness

Upon the receipt of proper proofs of the death of a member in service on account of which no accidental death benefit is payable under section 18A:66-46, there shall be paid to such member's beneficiary:

(a) The member's accumulated deductions at the time of death together with regular interest after January 1, 1956; and

(b) An amount equal to 1 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

For the purpose of this section, section 18A:66-46e and section 18A:66-53, a member of the retirement system shall be deemed to be an active member (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a teacher to whom this article applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation and has not retired or terminated his membership; or (2) for a period of no more than two years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to the member's personal illness other than an illness to which (1) above applies. For the purpose of this section, section 18A:66-46e and section 18A:66-53, a member of the retirement system shall be deemed to be an active member for a period of not more than one year in the event of an official leave (1) due to the member's maternity or (2) to fulfill a residency requirement for an advanced degree or (3) as a full-time student at an institution of higher education, and for a period of not more than 93 days while on official leave of absence without pay when such leave of absence is due to any reason other than illness. In order for a member to be covered for the optional death benefits provided by section 18A:66-53, he shall continue to make contributions for same during the period such member is on official leave of absence without pay, except that when such official leave of absence without pay is due to illness, no contributions shall be required of the member during the period he is deemed to be an active member while on such leave of absence.

If a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, a death benefit shall be payable only if he is deemed to be an active member in accordance with this section; provided, however, a member applying for disability benefits shall be deemed an active member if he was covered by the death benefit provisions of the act at the termination of employment, filed the application for disability retirement with the retirement system within 30 days following such termination of employment and dies within 30 days after the date of retirement or the date of board approval, whichever is later.

L.1967, c.271; amended by L.1968, c. 228, s. 6, eff. July 31, 1968; L.1971, c. 121, s. 20, eff. April 29, 1971; L.1984, c. 132, s. 1, eff. Aug. 23, 1984.

18A:66-38.1. Limitation on death benefits

a. Any person entitled to become a member of the Teachers' Pension and Annuity Fund shall not be allowed any of the death benefits established by sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44 and 18A:66-46e. If on the date he files an application for membership he is 60 or more years of age or if he makes application for membership beyond the year after he first became eligible for membership, regardless of age, unless the member furnishes satisfactory evidence of insurability and on the

effective date of his membership is actively at work and performing all his regular duties at his customary place of employment.

The effective date of coverage for such death benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member of the Teachers' Pension and Annuity Fund upon transfer from another State-administered retirement system if such system provided death benefits of a similar nature and the transferring member was covered by such benefits at the time of the transfer. If such transferring member was not covered by such benefits at the time of the transfer, he may be allowed the death benefits of the Teachers' Pension and Annuity Fund subject to the provisions of subsection a. of this section; provided, however, that any such member must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a member of the retirement system without such evidence having been given shall continue to be subject to the same requirement if he subsequently becomes a member.

L.1971, c. 121, s. 38, eff. April 29, 1971.

18A:66-39. Teachers' disability retirement

a. Before June 9, 1971, a member, who shall have been a teacher and a member of the retirement system for each of the 10 years next preceding his retirement, shall, upon the application of his employer or upon his own application or the application of one acting in his behalf, be retired for ordinary disability by the board of trustees, on a regular disability allowance if he is under 60 years of age and on a service allowance if he has reached or passed that age. The physician or physicians designated by the board shall have first made a medical examination of him at his residence or at any other place mutually agreed upon and shall have certified to the board that the member is physically or mentally incapacitated for the performance of duty and should be retired.

b. On and after June 9, 1971, a member, under 60 years of age, who has 10 or more years of credit for New Jersey service, shall, upon the application of his employer or upon his own application or the application of one acting in his behalf, be retired for ordinary disability by the board of trustees. The physician or physicians designated by the board shall have first made a medical examination of him at his residence or at any other place mutually agreed upon and shall have certified to the board that the member is physically or mentally incapacitated for the performance of duty and should be retired.

c. A member, under 65 years of age, shall, upon the application of his employer or upon his own application or the application of one acting in his behalf, be retired by the board of trustees, if said member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties, on an accidental disability allowance. A traumatic event occurring during voluntary performance of regular or assigned duties at a place of employment before or after required hours of employment which is not in violation of any valid work rule of the employer or otherwise prohibited by the employer shall be deemed as occurring during the performance of regular or assigned duties.

The application to accomplish such retirement must be filed within five years of the original traumatic event, but the board of trustees may consider an application filed after the five-year period if it can be factually demonstrated to the satisfaction of the board of trustees that the disability is due to the accident and the filing was not accomplished within the five-year period due to a delayed manifestation of the disability or to circumstances beyond the control of the member.

Permanent and total disability resulting from a cardiovascular, pulmonary or musculo-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Before consideration of an application for accidental disability allowance by the board of trustees, the physician or physicians designated by the board shall have first made a medical examination of the member at his residence or at any other place mutually agreed upon and shall have certified to the board that he is physically or mentally incapacitated for the performance of duty, and should be retired, and the employer shall have certified to the board that the member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular and assigned duties, the time and place where the duty causing the disability was performed, that the disability was not the result of his willful negligence and that the member should be retired.

L.1967, c.271; amended by L. 1986, c. 51, s. 1, eff. July 16, 1986.

18A:66-40. Medical examination; reemployment; subsequent retirement

a. Once each year the retirement system may, and upon his application shall, require any disability beneficiary who is under the age of 60 years to undergo medical examination by a physician or physicians designated by the system for a period of 5 years

following his retirement in order to determine whether or not the disability which existed at the time he was retired has vanished or has materially diminished. If the disability beneficiary is engaged in an occupation, then the amount of his pension shall be reduced to an amount which, when added to the amount then earned by him, shall not exceed the amount of the salary now attributable to his former position.

If his earnings have changed since the date of his last adjustment, then the amount of his pension may be further altered; but the new pension shall not exceed the amount of pension originally granted.

If a disability beneficiary, while under the age of 60 years, refuses to submit to at least one medical examination in any year by a physician or physicians designated by the system, his pension shall be discontinued until withdrawal of his refusal. If the report of the medical board shall show that such beneficiary is able to perform either his former duty or other comparable duty which his former employer is willing to assign to him, the beneficiary shall report for duty; such a beneficiary shall not suffer any loss of benefits while he awaits his restoration to active service. If the beneficiary fails to return to duty within 10 days after being ordered so to do, or within such further time as may be allowed by the board of trustees for valid reason, as the case may be, the pension shall be discontinued during such default.

b. If a disability beneficiary becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of his prior enrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, he shall receive a retirement allowance based on all his service as a member, computed in accordance with applicable provisions of this article, but the total retirement allowance upon subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement.

L.1967, c.271; amended by L.1968, c. 228, s. 7, eff. July 31, 1968; L.1971, c. 121, s. 21, eff. April 29, 1971.

18A:66-41 Ordinary disability allowances.

18A:66-41. A member upon retirement for ordinary disability shall receive a retirement allowance which shall consist of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions at the time of his retirement together with regular interest after January 1, 1956; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1.64% of final compensation multiplied by his number of years of creditable service; and provided further, that in no event shall the allowance be less than 43.6% of final compensation.

Upon the receipt of proper proofs of the death of a member who has retired on an ordinary disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to 1 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal 3/16 of such compensation. The death benefits provided in this section shall apply to any member who has retired or shall retire on or after January 1, 1956.

L.1967, c.271; amended 1971, c.121, s.22; 1995, c.410, s.2; 2001, c.353, s.1.

18A:66-41.1 Increase in retirement allowance for retiree, beneficiary under N.J.S.18A:66-41 or N.J.S.18A:66-47.

2. The retirement allowance of each retiree under N.J.S.18A:66-41, or the retiree's beneficiary pursuant to N.J.S.18A:66-47, on the effective date of P.L.2001, c.353 shall be increased by a percentage equivalent to the percentage increase in the fraction of final compensation for each year of credited service for the total retirement allowance under these sections made by this act, P.L.2001, c.353 (C.18A:66-41.1 et al.). The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not be applicable to the increases in retirement allowances provided by this section.

L.2001,c.353,s.2.

18A:66-42 Accidental disability allowances.

18A:66-42. A member under 65 years of age upon retirement for accidental disability shall receive a retirement allowance which shall consist of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions at the time of his retirement together with regular interest after January 1, 1956; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 72.7% of his actual annual compensation for which contributions were being made at the time of the occurrence of the accident.

Upon the receipt of proper proofs of the death of a member who has retired on an accidental disability retirement allowance, there shall be paid to such member's beneficiary, an amount equal to 1 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher; provided, however, that if such death shall occur after the member shall have attained age 60, the amount payable shall equal 3/16 of such compensation. The death benefits provided in this section shall apply to any member who has retired or shall retire on or after January 1, 1956.

L.1967, c.271; amended 1971, c.121, s.23; 1995, c.410, s.3; 2001, c.353, s.3.

18A:66-42.1 Increase in retirement allowance under N.J.S.18A:66-42 or N.J.S.18A:66-47.

4. The retirement allowance of each retiree under N.J.S.18A:66-42, or the retiree's beneficiary pursuant to N.J.S.18A:66-47, on the effective date of P.L.2001, c.353 shall be increased from 2/3 to 72.7% of the actual annual compensation for which contributions were being made at the time of the occurrence of the accident. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not be applicable to the increases in retirement allowances provided by this section.

L.2001,c.353,s.4.

18A:66-42.2 Payment of normal contribution for increased benefits under N.J.S.18A:66-41 and N.J.S.18A:66-42 for active members.

5. The normal contribution for the increased benefits for active members under N.J.S.18A:66-41 and N.J.S.18A:66-42 as amended by sections 1 and 3 of P.L.2001, c.353 shall be paid from the benefit enhancement fund established pursuant to N.J.S.18A:66-16. If there are excess valuation assets after reductions in normal contributions and member contributions, the amount of excess valuation assets credited to the benefit enhancement fund shall include the present value of the expected additional normal contributions attributable to the provisions of N.J.S.18A:66-41 and N.J.S.18A:66-42 as amended by sections 1 and 3 of P.L.2001, c.353 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under N.J.S.18A:66-25. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

L.2001,c.353,s.5.

18A:66-43 Retirement for service age limits.

18A:66-43. Retirement for service shall be as follows: (a) A person who was a member before the effective date of P.L.2008, c.89 and has attained 60 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof he desires to be retired. The board of trustees shall retire him at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

(b) A person who becomes a member on or after the effective date of P.L.2008, c.89 and has attained 62 years of age may retire on a service retirement allowance by filing with the retirement system a written application, duly attested, stating at which time subsequent to the execution and filing thereof the member desires to be retired. The board of trustees shall retire the member at the time specified or at such other time within 1 month after the date so specified as the board finds advisable.

Amended 1971, c.121, s.24; 2008. c.89, s.21.

18A:66-44 Service retirement allowances.

18A:66-44. A member, upon retirement for service, shall receive a retirement allowance consisting of:

(a) an annuity which shall be the actuarial equivalent of his accumulated deductions, together with interest after January 1, 1956, less any excess contributions as provided in N.J.S.18A:66-20; and

(b) a pension in the amount which, when added to the member's annuity, will provide a total retirement allowance of 1/64 of his final compensation for each year of service credited as class A service and 1/55 of his final compensation for each year of service credited as class B service.

Upon the receipt of proper proofs of the death of a member who has retired on a service retirement allowance, there shall be paid to the member's beneficiary, an amount equal to 3/16 of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service or in the year of the member's highest contractual salary, whichever is higher.

L.1967, c.271; amended 1971, c.121, s.25; 1995, c.410, s.4; 2001, c.133, s.6.

18A:66-45. Thirty-five year present-entrant allowances

Any present-entrant member who has had 35 years of service as a teacher to his credit shall be retired at his request, irrespective of his age, and shall receive a retirement allowance, calculated in accordance with section 18A:66-44, consisting of not less than 1/70 of his final compensation for each year of credited service at retirement.

L.1967, c.271.

18A:66-46. Accidental death benefits

a. Upon the death of a member in active service as a result of an accident met in the actual performance of duty at some definite time and place and not as the result of his willful negligence, an accidental death benefit shall be payable, if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action.

No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

b. Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 50% of the compensation, upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, for the use of herself or himself and the children of the deceased member, to continue during her or his widowhood; if there is no surviving widow or widower or in the case the widow or widower dies or remarries, 20% of such compensation will be payable to one surviving child, 35% of such compensation to two surviving children in equal shares and if there be three or more children, 50% of such compensation will be payable to such children in equal shares. If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving parent or 40% of such compensation will be payable to two surviving parents in equal shares. In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

c. If there is no surviving widow, widower, child or parent, there shall be paid to any other beneficiary of the deceased member his accumulated deductions at the time of death.

d. In no case shall the death benefit provided in subsection b. be less than that provided under subsection c.

e. In addition to the foregoing benefits payable under subsection b. or c., there shall also be paid in one sum to such member's beneficiary an amount equal to 1 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

L.1967, c.271; amended by L.1968, c. 228, s. 8, eff. July 31, 1968; L.1971, c. 121, s. 26, eff. April 29, 1971; L.1984, c. 132, s. 2, eff. Aug. 23, 1984.

18A:66-47. Teachers' retirement allowance options

18A:66-47. At the time of retirement a member shall receive benefits in a retirement allowance payable throughout life, or the member may on retirement elect to receive the actuarial equivalent of the member's retirement allowance, in a lesser retirement allowance payable throughout life, with the provision that:

Option 1. If the member dies before the member has received in payments the present value of the retirement allowance as it was at the time of retirement, the balance shall be paid to a legal representative or to such person as the member shall nominate by written designation acknowledged and filed with the retirement system, either in lump sum or by equal payments over a period of years at the option of the payee. If the member shall have designated a natural person as a payee, said payee may elect to receive such payments in the form of a life annuity.

Option 2. Upon the member's death, the member's retirement allowance shall be continued throughout the life of and paid to such person as the member shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option 3. Upon the member's death, one-half of the member's retirement allowance shall be continued throughout the life of and paid to such person as the member shall nominate by written designation duly acknowledged and filed with the retirement system at the time of retirement.

Option 4. Some other benefit or benefits shall be paid either to the member or to whomever the member nominates, if such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value. In no case, however, shall the lesser retirement allowance be smaller than that provided under Option 2.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid to whomever the member nominates and if that nominee dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

If the total amount of benefits paid to a retirant who does not elect to receive benefits in the form of an optional settlement, or to the retirant and the designated beneficiary in the case of a retirant who does so elect, before the death of the retirant or the retirant and the beneficiary is less than the deductions accumulated in the retirant's account at the time of retirement, including regular interest, the balance shall be paid in one lump sum to the retirant's designated beneficiary or estate in the manner provided in N.J.S.18A:66-48.

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to N.J.S.18A:66-36 or (2) early retirement allowances pursuant to N.J.S.18A:66-37 after separation from service pursuant to N.J.S.18A:66-36, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, the member's retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if the member dies after the date the application for retirement was filed with the system, the retirement will become effective if:

- a. (Deleted by amendment, P.L.1995, c.221);
- b. (Deleted by amendment, P.L.1995, c.221);
- c. The deceased member had designated a beneficiary under an optional settlement provided by this section; and
- d. The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall become irrevocable.

The board may select an Option 3 settlement, on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance, if all of the above conditions, with the exception of c., are met.

L.1967, c.271; amended 1984, c.96, s.2; 1987, c.446, s.1; 1995, c.221, s.1; 2001, c.120, s.1.

18A:66-47.1. Spouse's benefit elimination by teacher

Notwithstanding the provisions of chapter 66 of Title 18A of the New Jersey Statutes or any other law to the contrary, whenever a member of the Teachers' Pension and Annuity Fund elects a retirement benefit which is payable for the life of the member only and terminating at his death, without refund of any kind to the spouse, the member shall be required, before electing that benefit, to sign a form stating that the member has elected that benefit, that the member understands that it is payable during the member's lifetime only and that no benefits will be payable to the member's spouse after death. The Division of Pensions, Department of the Treasury, shall notify the member's spouse if the member identifies the spouse on the form. Notification shall be by certified mail to the spouse's address as provided on the form by the member. If the member has not provided an address for the spouse on the form, the Division of Pensions, Department of the Treasury, shall send the notice, by certified mail, to the spouse at the member's address. The notice shall advise the spouse that the retirement benefit chosen by the member is payable during the member's lifetime only and that no benefits, other than any applicable life insurance benefits, shall be payable to the beneficiary after the member's death.

L. 1985, c. 382, s. 2, eff. May 1, 1986.

18A:66-47.2. Election of death benefit or retirement allowance

Notwithstanding any other law to the contrary, the beneficiary of a member who has more than 37 years of service credit and who dies on or after the 24th day after filing an application for retirement and two days before the effective date of the retirement may elect to receive the death benefit payable to the member's beneficiary if the member had died in active service or the retirement allowance elected by the member and payable to the beneficiary pursuant to section 18A:66-47.

L.1989, c.272, s.1.

18A:66-47.3. Applicability of N.J.S.18A:66-47

3. N.J.S.18A:66-47 as amended by section 1 of P.L.1995, c.221 shall apply to a filing for retirement received by the retirement system on or after January 1, 1992, except it shall not apply in a situation in which benefits were paid prior to the effective date of P.L.1995, c.221 to any beneficiary other than or in addition to the beneficiary who would be eligible for benefits under N.J.S.18A:66-47 as amended by section 1 of P.L.1995, c.221. Benefits payable under N.J.S.18A:66-47 as amended by section 1 of P.L.1995, c.221 on a filing for retirement received by the retirement system prior to the effective date of P.L.1995, c.221 shall be adjusted, if necessary, to account for an insurance benefit or return of contributions paid on behalf of the member prior to the effective date of P.L.1995, c.221, and the amount of a retirement allowance or insurance benefit payable may be reduced, so that the total amount of benefit paid on behalf of the member shall not exceed the value of the benefit to which the member or beneficiary would have been entitled if P.L.1995, c.221 had been in effect on the date of the filing for retirement.

L.1995,c.221,s.3.

18A:66-48. Monthly payments; payment upon death of retirant

18A:66-48. A pension, an annuity or a retirement allowance granted under the provisions of this article shall be effective only on the first day of a month, shall be paid in equal monthly installments, and shall not be decreased, increased, revoked, or repealed, except as otherwise provided in this article; provided, however, that at the time any benefit becomes payable, any unpaid balance of a loan or arrearage outstanding shall be deducted from any benefit otherwise payable.

Upon the death of a retirant, any unpaid benefits due him shall be paid in one lump sum to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the retirant's estate. No pension, annuity or retirement allowance shall be due to a retirant or a beneficiary unless it constitutes a payment for an entire month; provided, however, that a pension, annuity or retirement allowance shall be payable for the entire month in which the retirant or beneficiary dies.

L.1967, c.271; amended 1993,c.335,s.1.

18A:66-49. Benefits of TRF retirants

Any member or beneficiary of the teachers' pension and annuity fund who was a member of the teachers' retirement fund as created by L.1896, c. 32; L.1899, c. 178; L.1900, c. 96; L.1902, c. 36; L.1903 (2nd Sp.Sess.), c. 1; L.1905, c. 95; L.1906, c. 314; L.1907, c. 139; prior to his becoming a member of the teachers' pension and annuity fund, shall receive in addition to his retirement allowance otherwise payable a pension which shall be the actuarial equivalent of the contributions, without interest, which he paid to the teachers' retirement fund prior to September 1, 1919, which he has not otherwise received.

L.1967, c.271.

18A:66-51. Allowances exempt from taxes; assignment of group insurance policy rights and benefits

The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to a person under the provisions of this article, and the moneys in the various funds created under this article, shall be exempt from any State or municipal tax and from levy and sale, garnishment, attachment or any other process arising out of any State or Federal court, and, except as hereafter in this section and as in this article otherwise provided, shall be unassignable.

Nothing in this section shall prohibit any person insured under a group insurance policy, pursuant to an arrangement among the insured, the group policyholder and the insurer, from making to any person other than his employer, a gift assignment of the rights and benefits conferred on him by any provision of such policy or by law including specifically but not by way of limitation the right to exercise the conversion privilege and the right to name a beneficiary. Any such assignment, whether made before or after the effective date of this act, shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment.

L.1967, c.271; amended by L.1969, c. 98, s. 1, eff. June 26, 1969.

18A:66-52. Veterans not covered under R.S. 43:4-1.3

No veteran eligible for membership in the teachers' pension and annuity fund shall be eligible for, or receive, retirement benefits under sections 43:4-1, 43:4-2 and 43:4-3 of the Revised Statutes.

L.1967, c.271.

18A:66-53. Additional death benefit coverage

18A:66-53. a. Each member who is a member on January 1, 1958 and each person who thereafter becomes a member will be eligible to purchase the additional death benefit coverage hereinafter described, provided that he selects such coverage within one year after January 1, 1958 or after the effective date of membership, whichever date is later.

b. Each member who is a member on October 29, 1969, but for whom such additional death benefit coverage is not then in effect, shall, during the period stated below, also be eligible to elect such additional death benefit coverage, provided he (1) furnished satisfactory evidence of insurability, (2) on the date of such election is actively at work and performing all his regular duties at his customary place of employment and (3) agrees to make such additional contribution as may be required by the board of trustees by reason of the commencement of such member's participation in the benefits of this section pursuant to this subsection b. Applications under this subsection shall be filed during the period January 1, 1970 to March 31, 1970, both dates inclusive. Benefits for a member applying under this subsection shall come into effect on the later of (a) July 1, 1970 and (b) the date a required percentage of such members shall have applied for such additional death benefit coverage. This required percentage shall be fixed by the board of trustees. Any such percentage may be made applicable to male or female members only or to other groupings as determined by the board of trustees.

c. No member who enrolls on and after July 1, 1970 for the additional death benefit coverage provided by this section shall be eligible for the benefits described in subsections f. and g. if such member retires with less than 10 years of participation in the program.

d. The board of trustees shall establish schedules of contributions to be made by the members who elect to purchase the additional death benefit coverage. Such contributions shall be so computed that the contributions made by or on behalf of all covered members in the aggregate shall be sufficient to provide for the cost of the benefits established by subsections e. and g. of this section. Such schedules of contributions shall be subject to adjustment from time to time, by the board of trustees, as the need may appear.

e. Upon the receipt of proper proofs of the death in service, occurring on or after July 1, 1968, of any such member while covered for the additional death benefit coverage there shall be paid to such member's beneficiary an amount equal to two times the compensation received by the member in the last year of creditable service.

f. The board of trustees may also provide, effective as of January 1, 1961, for additional death benefit coverage, as described in subsection g. of this section, for former members who are receiving retirement allowances pursuant to the provisions of this article, subject to the provisions hereinafter stated, and the board may terminate such coverage at any time. The additional death benefit coverage to be so provided shall be in accordance with rules as determined by the board from time to time on the basis of dates of retirement or other factors deemed appropriate by it. In no event shall the additional death benefit coverage described in subsection g. of this section apply to any former member receiving a retirement allowance unless such member was covered by the additional death benefit described in subsection e. of this section during the former member's last month of creditable service. No contributions toward the cost of additional death benefit coverage described in subsection g. of this section shall be required of a former member while he is receiving a retirement allowance pursuant to the provisions of this article.

g. Upon receipt of proper proofs of the death, occurring on or after July 1, 1968, of a former member who was covered for the additional death benefit coverage pursuant to subsection f. of this section, there shall be paid to such former member's beneficiary an amount equal to 1/4 of the compensation received by the former member in the last year of creditable service or in the year of the former member's highest contractual salary, whichever is higher.

h. The contributions of a member for the additional death benefit coverage shall be deducted from his compensation, but if there is no compensation from which such contributions may be deducted it shall be the obligation of the member, except as provided in subsection j. of this section, to make such contributions directly to the retirement system or as directed by the system; provided, however, that no contributions shall be required while a member remains in service after attaining age 70 but that his employer shall be required to pay into the fund on his behalf in such case an amount equal to the contributions otherwise required by the board of trustees in accordance with this section.

i. Any other provisions of this article notwithstanding the contributions of a member for the additional death benefit coverage under this section shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

j. For the purpose of this section, a member shall be deemed to be in service (1) while he is disabled due to sickness or injury arising out of or in the course of his employment as a teacher to whom this article applies, is not engaged in any gainful occupation, and is receiving or entitled to receive periodic benefits (including any commutation of, or substitute for, such benefits) for loss of time on account of such disability under or by reason of workmen's compensation law, occupational disease law or similar legislation; or (2) for a period of no more than two years while on official leave of absence without pay if satisfactory evidence is presented to the retirement system that such leave of absence without pay is due to illness other than an illness to which (1) above applies. No contributions for the optional death benefit provided by this section shall be required of a member while he is deemed to be in service pursuant to the above provisions of this subsection j.

k. All other provisions of this section notwithstanding, this section and the benefits provided under this section shall not come into effect until a required percentage of the members shall have applied for the additional death benefit coverage under this section. This required percentage shall be fixed by the board of trustees. Any such percentage may be made applicable to male or female members only or to other groupings as determined by the board of trustees. Applications for such additional death benefit coverage shall be submitted to the system in such manner and upon such forms as the retirement system shall provide.

l. Any person becoming a member of the retirement system after benefits provided under this section shall have come into effect, who is, by sex or other characteristic, within the grouping to which the additional death benefit coverage under this section is applicable, for the first year of his membership in the retirement system shall be covered by the additional death benefit coverage provisions of this section with the benefit in the event of death, in the first year of membership only, being based upon contractual salary instead of compensation actually received and shall make contributions as fixed by the board of trustees during such period. Such member shall have the right to continue to be covered by the benefits of this section and to contribute therefor after his first year of membership has been completed. This subsection shall not apply in the case of such a member who has already attained his sixtieth birthday prior to becoming a member of the retirement system unless he shall furnish satisfactory evidence of insurability at the time of becoming a member.

L.1967, c.271; amended 1968,c.229,s.2; 1969,c.179; 1984,c.132,s.3; 1995,c.410,s.5.

18A:66-53.1. Beneficiary of member or retirant; designation; change; payments; options

The designation of beneficiary by a member or retirant shall be made in writing on a form satisfactory to the retirement system, and filed with the retirement system. The member or retirant may, from time to time and without the consent of his death benefit designee, change the beneficiary by filing written notice of the change with the system on a form satisfactory to it. The new nomination will be effective on the date the notice, in proper form, is received by the system, and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the member or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the member or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the member or retirant, unless the member or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a member, retirant or beneficiary shall be payable to the estate of such member, retirant or beneficiary.

Except with regard to the payment of the member's accumulated deductions with regular interest and the payment, upon the death of (1) a retirant after attaining the age of 60 or receiving an allowance pursuant to section 18A:66-37, or (2) a member after attaining the age of 70 years, of the death benefits provided in sections 18A:66-36, 18A:66-37, 18A:66-41, 18A:66-42, and 18A:66-44, a member may elect, by making written request to the retirement system, that the whole or any part of his death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the member or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee or any fiduciary.

If, at the member's or retirant's death, an amount of death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the member or retirant immediately prior to his death in accordance with the provisions of the immediately preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

L.1967, c.271; amended by L.1971, c. 121, s.27, eff. April 29, 1971; L.1984, c. 132, s. 4, eff. Aug. 23, 1984.

18A:66-53.2 Reemployment of retirant; reenrollment; subsequent retirement.

18A:66-53.2. a. Except as provided in subsection b. of this section, if a former member of the retirement system who has been granted a retirement allowance for any cause other than disability, becomes employed again in a position which makes him eligible to be a member of the retirement system, his retirement allowance and the right to any death benefit as a result of his former membership, shall be canceled until he again retires.

Such person shall be reenrolled in the retirement system and shall contribute thereto at a rate based on his age at the time of reenrollment. Such person shall be treated as an active member for determining disability or death benefits while in service and no benefits pursuant to an optional selection with respect to his former membership shall be paid if his death shall occur during the period of such reenrollment.

Upon subsequent retirement of such member, his former retirement allowance shall be reinstated together with any optional selection, based on his former membership. In addition, he shall receive an additional retirement allowance based on his subsequent service as a member computed in accordance with applicable provisions of this article; provided, however, that his total retirement allowance upon such subsequent retirement shall not be a greater proportion of his final compensation than the proportion to which he would have been entitled had he remained in service during the period of his prior retirement. Any death benefit to which such member shall be eligible shall be based on his latest retirement, but shall not be less than the death benefit that was applicable to his former retirement.

b. The cancellation, reenrollment, and additional retirement allowance provisions of subsection a. of this section shall not apply to a former member of the retirement system who is a certificated superintendent or a certificated administrator and who, after having been granted a retirement allowance, becomes employed by the State Department of Education in a position of critical need as determined by the State Commissioner of Education, or becomes employed by a board of education as a certificated superintendent or a certificated administrator on a contractual basis for a term of not more than one year; except that the cancellation, reenrollment, and additional retirement allowance provisions shall apply if the former member becomes employed within 120 days of retirement with the employer from which the member retired. Nothing herein shall preclude a former member so reemployed with a board of education from renewing a contract for one additional year, provided that the total period of employment with any individual board of education does not exceed a two-year period.

L.1967, c.271; amended 1971, c.121, s.28; 2001, c.355, s.1.

18A:66-53.3. Limitation on additional death benefit coverage

No member who enrolls on or after July 1, 1971 for the additional death benefit coverage provided by section 18A:66-53 shall be eligible for the benefits described in subsections f. and g. of the said section if such member retires with less than 10 years of participation in the program.

L.1971, c. 121, s. 41, eff. April 29, 1971.

18A:66-54 Deductions from retirement allowance for TPAF members.

18A:66-54. If possible, whenever any beneficiary of the teachers' pension and annuity fund shall, in writing, request the Division of Pensions and Benefits to make deductions from the beneficiary's retirement allowance or pension for the payment of premiums for the pensioners' group health or dental insurance plan or the State Health Benefits Program, the division may make such deductions and transmit the sum so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any beneficiary upon filing notice of such withdrawal with the division. Deductions for the payment of the premiums for a group dental insurance plan shall be made by the division only if 1,000 or more beneficiaries covered by that plan have made written requests for deductions.

L.1967, c.271; amended 1971, c.121, s.29; 1997, c.332, s.1.

18A:66-55. Powers and privileges of a public corporation

The teachers' pension and annuity fund shall for purposes of this article possess the powers and privileges of a public corporation, and any real property held by it as an investment and occupied by the state or any agency thereof shall be deemed for all purposes to be equivalent to and to have the same status as real property owned by the state.

L.1967, c.271.

18A:66-56 Board of trustees; duties, appointment or election, terms, vacancies, oaths, voting, expenses.

18A:66-56. Subject to the provisions of chapter 70 of the laws of 1955, the general responsibility for the proper operation of the teachers' pension and annuity fund shall be vested in the board of trustees. Subject to the limitations of the law, the board shall annually establish rules and regulations for the administration and transaction of its business and for the control of the funds created by this article. Such rules and regulations shall be consistent with those adopted by the other pension

funds within the Division of Pensions in order to permit the most economical and uniform administration of all such retirement systems. The membership of the board shall consist of the following:

(a) The State Treasurer or the deputy State Treasurer, when designated for that purpose by the State Treasurer;

(b) Two trustees appointed by the Governor, with the advice and consent of the Senate, who shall serve for a term of office of three years and until their successors are appointed, and who shall be private citizens of the State of New Jersey and who are neither an officer thereof nor active or retired members of the system, except that of the two trustees initially appointed by the Governor pursuant to P.L.1992, c.41 (C.43:6A-33.1 et al.), one shall be appointed for a term of two years and one for a term of three years;

(c) Three trustees from among the active or retired members of the retirement system, elected by the membership or by the delegates elected for this purpose by the membership, one of whom shall be elected each year for a three-year term commencing on January 1, following such election in such manner as the board of trustees may prescribe. If the board of trustees determines that the election of trustees under this subsection is to be made by delegates elected by the membership, it shall prescribe that those delegates shall be chosen from among active and retired members of the retirement system;

(d) One trustee not an active or retired teacher nor an officer of the State, elected by the other trustees, other than the State Treasurer, for a term of three years.

A vacancy occurring in the board of trustees shall be filled in the same manner as provided in this section for regular appointment or election to the position where the vacancy exists, except that a vacancy occurring in the trustees elected from among the active or retired members of the retirement system shall be filled for the unexpired term.

Each member of the board shall, upon appointment or election, take an oath of office that, so far as it devolves upon him, he will diligently and honestly administer the board's affairs, and that he will not knowingly violate or willfully permit to be violated any provision of law applicable to this article. The oath shall be subscribed to by the member making it, certified by the officer before whom it is taken and filed immediately in the office of the Secretary of State.

Each trustee shall be entitled to one vote in the board and a majority of all the votes of the entire board shall be necessary for a decision by the board of trustees at a meeting of the board. The board shall keep a record of all its proceedings, which shall be open to public inspection.

The members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

The State Treasurer shall designate a medical board after consultation with the Director of the Division of Pensions, subject to veto by the board for valid reason. It shall be composed of three physicians who are not eligible to participate in the retirement system. The medical board shall pass upon all medical examinations required under the provisions of this article, shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall report in writing to the retirement system its conclusions and recommendations upon all matters referred to it.

L.1967, c.271; amended 1971, c.121, s.30; 1992, c.41, s.5; 1997, c.63, s.2; 1999, c.230.

18A:66-56.1. Board of trustees, terms staggered

1. Notwithstanding the provisions of N.J.S.18A:66-56 and in order to effect the staggering of the terms of the members of the board of trustees of the retirement system elected from the groups defined in the regulations of the retirement system, the terms of those members shall be as follows:

a. the member elected from Group A for a term commencing January 1, 1997, shall serve a term of three years;

b. the member elected from Group C for a term commencing January 1, 1997, shall serve a term of two years;

c. the member elected from Group B for a term commencing on January 1, 1998, shall serve a term of three years.

Members elected thereafter shall serve three-year terms.

L.1997,c.63,s.1.

18A:66-57. Officers, actuary, legal adviser, secretary

18A:66-57. The board shall elect annually from its membership a chairman and may also elect a vice chairman, who shall have all the power and authority of the chairman in the event of the death, absence or disability of the chairman. The actuary of the fund shall be selected by the Retirement Systems Actuary Selection Committee established by P.L.1992, c.125.

The actuary shall be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of this article and shall perform such other duties as are required in connection therewith.

The Attorney General shall be the legal adviser of the retirement system, except that if the Attorney General determines that a conflict of interest would affect the ability of the Attorney General to represent the board on a matter affecting the retirement system, the board may select and employ legal counsel to advise and represent the board on that matter.

The chief or assistant chief of the office of secretarial services of the Division of Pensions of the State Department of the Treasury, shall be the secretary of the board. The chief and assistant chief of the office of secretarial services shall be in the competitive division of the State classified service. The secretary presently in office shall hold the position as chief of the office of secretarial services subject to all of the provisions of Title 11 of the Revised Statutes and shall not be removed from said office except in the manner provided under the provisions of said title relating to permanent employees in the competitive division of the State classified service. The board of trustees shall select its secretary from among the eligible candidates.

L.1967, c.271; amended 1970,c.57,s.6; 1992,c.41,s.6; 1992,c.125,s.3.

18A:66-58. Actuary's report

The actuary shall recommend, and the Division of Pensions shall keep in convenient form, such data as shall be necessary for actuarial valuation of the various funds created by this article. At least once in every 3-year period the actuary shall make an actuarial investigation into the mortality, service and compensation or salary experience of the members and beneficiaries as defined in this article and shall make a valuation of the assets and liabilities of the various funds created by this article. Upon the basis of such investigation and valuation, with the advice of the actuary, the board shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary; and

(b) Certify the rates of contribution, expressed as a proportion of the compensation of members, which shall be made by the State to the contingent reserve fund.

L.1967, c.271; amended by L.1971, c. 121, s. 31, eff. April 29, 1971; L.1972, c. 157, s. 1; L.1979, c. 106, s. 7, s. eff. July 1, 1979.

18A:66-58.1. Annuity values; determination without reference to sex

Annuity values, including actuarial equivalents under optional selections, for all members of the Teachers' Pension and Annuity Fund shall be determined without reference to sex; provided, however, that this amendatory and supplementary act shall not limit the actuary from using sex as a factor in the actuarial valuation required pursuant to N.J.S. 18A:66-68.

L.1979, c. 106, s. 9, eff. Jan. 1, 1980.

18A:66-59. Annual reports

The retirement system shall publish annually a report showing a valuation of the assets and liabilities of the funds created by this article, certifying as to the accumulated cash and securities of the funds and stating other facts pertaining to the system. The board shall submit the report to the Governor and furnish a copy to every employer for use of the members and the public.

L.1967, c.271; amended by L.1971, c. 121, s. 32, eff. April 29, 1971.

18A:66-60. No interest in fund by trustees or employees

Except as otherwise herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investments of the retirement system; nor shall any trustee or employee of the board directly or indirectly, for himself or as an agent, in any manner use the moneys of the retirement system, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or employee of the board of trustees become an endorser or surety, or in any manner an obligor for moneys loaned to or borrowed from the retirement system.

L.1967, c.271; amended by L.1970, c. 57, s. 7, eff. May 18, 1970.

18A:66-61. Trustees to control funds, investment council member

The board of trustees shall be and are hereby constituted trustees of the various funds and accounts established by this article; provided, however, that all functions, powers and duties relating to the investment or reinvestment of moneys of, and purchase, sale or exchange of any investments or securities, of or for any fund or account

established under this article, shall be exercised and performed by the Director of the Division of Investment in accordance with the provisions of chapter 270, of the laws of 1950. The secretary of the board of trustees shall determine from time to time the cash requirements of the various funds and accounts established by this article and the amount available for investment, all of which shall be certified to the Director of the Division of Investment.

A member of the board of trustees to be designated by a majority vote thereof shall serve on the state investment council as a representative of said board of trustees, for a term of 1 year and until his successor is elected and qualified.

The finance committee of the board of trustees shall be appointed on or before July 1 of each calendar year by the chairman of the board of trustees to serve through June 30 of the ensuing calendar year and until their successors are appointed. The finance committee of the board of trustees shall consist of three members of the board of trustees, one of whom shall be the State Treasurer.

L.1967, c.271; amended by L.1970, c. 57, s. 8, eff. May 18, 1970.

18A:66-62. Treasurer custodian of funds

The state treasurer shall be the custodian of the funds created by this article, shall select all depositories and custodians and shall negotiate and execute custody agreements in connection with the assets or investments of any of said funds.

All payments from the funds shall be made by him only upon voucher signed by the chairman and countersigned by the secretary of the board of trustees. No voucher shall be drawn, except upon the authority of the board duly entered in the record of its proceedings.

L.1967, c.271.

18A:66-63. Correction of errors by trustees

If any change or error in records results in a member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, then on discovery of the error, the board of trustees shall correct it and, so far as practicable, adjust the payments in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

L.1967, c.271.

18A:66-64. False statements to defraud, misdemeanors

A person who knowingly makes a false statement, or falsifies or permits to be falsified any record of the retirement system, in an attempt to defraud the system as a result of such act shall be guilty of a misdemeanor.

L.1967, c.271.

18A:66-65. Agreement on social security

The authorization and direction of the state agency, with the approval of the governor, to enter on behalf of the state into an agreement with the secretary of the United States department of health, education and welfare for the purposes of extending the provisions of the federal old-age and survivors insurance system to service performed by employees in positions covered by the provisions of sections 24 to 110, inclusive, of chapter 13 of Title 18 of the Revised Statutes of New Jersey or by this article; provided, however,

(a) That such employees are members of a retirement system coverage group within the meaning of the social security act as amended;

(b) That the agreement shall not be made applicable to services in such positions so long as said positions are barred from coverage by the provisions of the social security act as amended;

(c) That the agreement shall be consistent with the terms and provisions of this article. It shall cover all employment in positions covered by the teachers' pension and annuity fund on June 1, 1955 and each board of education or other employer in the state shall be deemed to have submitted a plan in accordance with the provisions of section 5 of chapter 253, of the laws of 1951; and

(d) That the effective date of said social security agreement shall be January 1, 1955;

is continued and action heretofore taken pursuant thereto is ratified and confirmed.

L.1967, c.271.

18A:66-66. State, employer share of social security obligations

18A:66-66. The State shall provide the amount of the employer's share of the social security contributions for members by appropriations upon certification by the State Treasurer as to the amounts required; provided, however, that the State's provision for the social security contributions shall be limited to contributions upon compensation

upon which members' contributions to the retirement system are based. The employer shall pay the employer's share of social security contribution upon all other wages.

L.1967, c.271; amended 1990,c.52,s.79; 1991,c.246,s.2; 1993,c.7,s.7.

18A:66-68. Effect of abolition of social security offset

The repeal, by section 11 of chapter 66 of the laws of 1966, saved from repeal in section 18A:66-92 of this article, of section 68 of chapter 37 of the laws of 1955, chapter 218 of the laws of 1956, chapter 123 of the laws of 1960, chapter 108 of the laws of 1962, chapter 190 of the laws of 1964, shall not be construed to provide for any retroactive effect and where a member's retirement allowance was reduced by the amount of the old age insurance benefit under Title II of the social security act, paid or payable to him, whether received or not, such reduction ceased, or if such reduction was to be made upon the member's attainment of 65, no such reduction shall be made, on or after July 1, 1966.

L.1967, c.271.

18A:66-69. Limitations on death benefits or other benefits

Any other provision of this article notwithstanding, (a) any member who is not covered under the old-age and survivors insurance provisions of Title II of the Federal Social Security Act as a teacher shall not be eligible for the death benefit provisions of sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46e, and 18A:66-53, except for the payment of accumulated deductions together with regular interest; (b) no beneficiary of a pensioner who enrolled as a member on or after July 1, 1971 and who retired for any reason other than disability shall be entitled to receive benefits pursuant to the noncontributory death benefit coverages provided by this article if the pensioner had less than 10 years of service credit for retirement purposes at the time of retirement; (c) no member or beneficiary shall be entitled to receive a monthly retirement allowance or other benefit payable pursuant to this article unless the amount of the allowance or benefit would be at least \$25.00 per month.

L.1967, c.271; amended by L.1971, c. 121, s. 33, eff. April 29, 1971.

18A:66-70. Veterans' free membership in fund

a. Each public employee veteran member shall have returned to him his accumulated deductions as of January 1, 1956, less contributions based on his compensation for the year 1955 at the rate of contribution provided in subsection b. All service rendered in office, position, or employment of this state or of a county, municipality, or school district, board of education or other public employer by such veteran member previous to January 1, 1955, for which evidence satisfactory to the retirement system is presented, shall be credited to him as a "class B" member and the accrued liability for such credit shall be paid by the employer as provided in section 18A:66-33; provided, however, that no credit shall be allowed for such service rendered prior to January 1, 1955 unless the member purchases credit for all service rendered on or after such date.

b. Each public employee veteran member as of January 1, 1956, shall make contributions to the retirement system at the rates of contribution applicable to class B members of the public employee's retirement system as of January 2, 1955, as provided in section 18A:66-29. Each public employee veteran member shall pay the proportion of compensation applicable to his age at the commencement of employment, position or office with the State, any county, municipality or school district, board of education or other public employer, except that where such service has not been continuous, the public employee veteran member shall pay the proportion of compensation applicable to the age resulting from the subtraction, as of January 1, 1955, of his years of service from his age. No public employee veteran member shall be required during the continuation of his membership to increase the proportion of compensation certified on January 1, 1956, or at the time of becoming a member, if later, as payable by him, except as provided in section 18A:66-29.

c. In the event that a public employee veteran who prior to January 1, 1956, rendered service in office, position, or employment of this State or of a county, municipality, or school district, board of education or other public employer, but who is not in such office, position or employment on January 1, 1956, shall later become a member of the retirement system, such public employee veteran member shall receive prior service credit for service rendered prior to January 1, 1955, for which evidence satisfactory to the retirement system is presented, and shall pay the proportion of compensation, applicable to the age resulting from the subtraction of his years of such prior service from his age on the date of his becoming a member of the retirement system and as provided in section 18A:66-29. The State shall pay the accrued liability on behalf of such prior service, and such liability shall be paid in such a manner that the total obligation will be met within the period of time fixed for the liquidation of such accrued liabilities under this article.

L.1967, c.271; amended by L.1971, c. 121, s. 34, eff. April 29, 1971.

18A:66-70.1. Permission for member to cancel purchase of credit

7. If, following application by a member of the retirement system to purchase credit therein under any provision of article 1 of chapter 66 of Title 18A of the New Jersey Statutes, as amended and supplemented, the member attains qualification as a veteran member pursuant to the enactment of a law, the adoption of a rule or regulation, the revision of an administrative interpretation or application of such a rule or

regulation, or any other official act, the member shall be permitted, upon written application to the retirement system within two years following the effective date of that law, rule, regulation, revision, or other act or within two years of the effective date of P.L.1995, c.406 (C.43:15A-60.2 et al.), whichever is later, to terminate any remaining obligation to complete the purchase and to receive a return of all contributions deducted or other payments made on or after the effective date of the law, rule, regulation, revision, or other act in connection with the purchase. If any service has been credited under the retirement system to the member in connection with the purchase, the amount of that service so credited shall be reduced in proportion to the return to the member hereunder of any contributions or other payments.

L.1995,c.406,s.7.

18A:66-71 Retirement allowance for veterans.

18A:66-71. a. Any public employee veteran member in office, position or employment of this State or of a county, municipality, or school district, board of education or other employer who (1) has or shall have attained the age of 60 years and has or shall have been for 20 years continuously or in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer, or (2) has or shall have attained the age of 55 years and has or shall have been for 25 years continuously or in the aggregate in that office, position or employment, shall have the privilege of retiring for service and of receiving, instead of the retirement allowance provided under N.J.S.18A:66-44, a retirement allowance of 54.5% of the compensation for which contributions are made during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary.

b. (Deleted by amendment, P.L.1984, c.69.)

c. Any public employee veteran member who has been for 20 years in the aggregate in office, position or employment of this State or of a county, municipality or school district, board of education or other employer as of January 1, 1955, shall have the privilege of retiring for ordinary disability and of receiving, instead of the retirement allowance provided under N.J.S.18A:66-41, a retirement allowance of one-half of the compensation received during the last year of employment upon which contributions to the annuity savings fund or contingent reserve fund are made. Such retirement shall be subject to the provisions governing ordinary disability retirement in N.J.S.18A:66-39 and N.J.S.18A:66-40.

d. Any public employee veteran member who shall be in office, position or employment of this State or of a county, municipality, school district, board of education or other employer and who shall have attained 55 years of age and who has at least 35 years of aggregate service credit in such office, position or employment, shall have the privilege of retiring for service and receiving a retirement allowance of 1/55 of the compensation the member received during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary for each year of creditable service.

e. The death benefit provided in N.J.S.18A:66-44 shall apply in the case of any member retiring under the provisions of subsections a. and d. of this section and in the case of any member who has previously retired under the provisions of subsection b. of this section before said subsection was amended by P.L.1984, c.69. The death benefit provided in N.J.S.18A:66-41 shall apply in the case of any member retired under the provisions of subsection c. of this section.

f. A member who purchases service credit pursuant to any provision of the "Teachers' Pension and Annuity Fund Law" (N.J.S.18A:66-1 et seq.) is entitled to apply the credit for the purpose of satisfying any of the service requirements of that act.

L.1967, c.271; amended 1971, c.121, s.35; 1984, c.69; 1984, c.206; 1987, c.97; 1995, c.332, s.1; 2001, c.133, s.7; 2001, c.353, s.6; 2004, c.177, s.1.

18A:66-71.1. Veterans' retirement allowance

3. a. A retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be eligible to receive the special veterans' retirement allowance pursuant to N.J.S.18A:66-71 in lieu of the retirement allowance that a retiree, or the surviving spouse of a retiree, is receiving on the effective date of this act.

b. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not apply to the benefit increase that results from this 1991 amendatory and supplementary act, and the annual cost of living adjustment received by widows and widowers under P.L.1958, c.143 (C.43:3B-1 et seq) shall be calculated as of the date of retirement of a retiree of the system. The State shall pay the additional costs arising from any increase in the cost of living adjustment received by a retiree of the system who meets the definition of a veteran as a result of this act or the surviving spouse of a retiree.

c. No retiree of the system who meets the definition of a veteran pursuant to this act, or the surviving spouse of a retiree, shall be granted a retroactive payment based upon the difference between the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, would have received if that retiree of the system

had met the definition of a veteran on the date of retirement and the retirement allowance that the retiree of the system, or the surviving spouse of the retiree, has received from the date of retirement to the effective date of this act.

L.1991,c.390,s.3.

18A:66-71.2 Increase in retirement allowance under subsection a. of N.J.S.18A:66-71 and N.J.S.18A:66-47.

7. The retirement allowance of each retiree under subsection a. of N.J.S.18A:66-71, or the retiree's beneficiary pursuant to N.J.S.18A:66-47, on the effective date of P.L.2001, c.353, shall be increased from 50% to 54.5% of the compensation for which contributions were made during the 12-month period of membership providing the largest possible benefit to the member or the member's beneficiary. The provisions of section 7 of P.L.1969, c.169 (C.43:3B-8) shall not be applicable to the increases in retirement allowances provided by this section.

L.2001,c.353,s.7.

18A:66-71.3 Payment of normal contribution for increased benefits under subsection a. of N.J.S.18A:66-71.

8. The normal contribution for the increased benefits for active members under subsection a. of N.J.S.18A:66-71 as amended by section 6 of P.L.2001, c.353 shall be paid from the benefit enhancement fund established pursuant to N.J.S.18A:66-16. If there are excess valuation assets after reductions in normal contributions and member contributions, the amount of excess valuation assets credited to the benefit enhancement fund shall include the present value of the expected additional normal contributions attributable to the provisions of subsection a. of N.J.S.18A:66-71 as amended by section 6 of P.L.2001, c.353 payable on behalf of the active members over the expected working lives of the active members in accordance with the tables of actuarial assumptions for the valuation period. No additional excess valuation assets shall be credited to the benefit enhancement fund after the maximum amount is attained. Interest shall be credited to the benefit enhancement fund as provided under N.J.S.18A:66-25. If assets in the benefit enhancement fund are insufficient to pay the normal contribution for the increased benefits for a valuation period, the State shall pay the amount of normal contribution for the increased benefits not covered by assets from the benefit enhancement fund.

L.2001,c.353,s.8.

18A:66-73. Adoption of social security act, etc., continued

The referendum held, on October 26 and 27, 1955, under which a majority of the active contributing members of the teachers' pension and annuity fund, qualified to vote therein as required by section 218(d)(3) of the social security act, voted to be covered by that act, the official certification on November 9, 1955 by the governor of the result of such referendum and the contract, dated December 29, 1955, entered into by the state for the covering of such members under the social security act, and the results thereof are continued, ratified and confirmed.

L.1967, c.271.

18A:66-74. Authorization to purchase group life insurance

The State Treasurer is hereby authorized and permitted to purchase from one or more life insurance companies, as determined by him, a policy or policies of group life insurance to provide for the benefits specified in sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44 and 18A:66-46e. The Board of Trustees of the Teachers' Pension and Annuity Fund is hereby authorized and permitted to purchase from one or more life insurance companies, as determined by it, a policy or policies of group life insurance to provide for the benefits specified in section 18A:66-53. Such group life insurance coverage may be provided under one or more policies issued to the State Treasurer specifically for this purpose, or in the discretion of the State Treasurer, under one or more policies issued to the State Treasurer which provide group life insurance coverage for members of one or more other retirement systems of the State of New Jersey. Whenever such policy or policies of group insurance shall be in effect, the benefits payable thereunder shall be in lieu of the above mentioned death benefits provided by said sections.

L.1967, c.271; amended by L.1971, c. 121, s. 36, eff. April 29, 1971.

18A:66-75. Requirements for insurance company to qualify

Any life insurance company must meet the following requirements in order to qualify under section 18A:66-74: (a) be licensed under the laws of the state of New Jersey to transact life and accidental death insurance, and (b) the amount of its group life insurance in the state of New Jersey shall at the time said insurance is to be purchased equal at least 1% of the total amount of such group life insurance in the state of New Jersey in all life insurance companies.

L.1967, c.271.

18A:66-76. Discretion in purchase of coverage

The state treasurer may, in his discretion, determine to purchase group insurance coverage for the noncontributory death benefit provisions as provided in this article, or may determine not to purchase any group insurance coverage for the death benefit provisions heretofore mentioned. The board of trustees of the teachers' pension and annuity fund may, in its discretion, determine to purchase group insurance coverage for additional death benefit coverage as provided for in section 18A:66-53 or may also, in its discretion, determine not to purchase any contributory group insurance coverage for the additional death benefit provisions provided in section 18A:66-53.

L.1967, c.271.

18A:66-77. Premiums paid from special funds

In the event the state treasurer shall determine to purchase group insurance coverage for the noncontributory death benefits, premiums for the same shall be paid from a special fund, hereby created, called the "group insurance premium fund." The state treasurer shall estimate annually the amount of premiums which will be required for such benefits for the ensuing fiscal year and shall certify such amounts to the state and other participating employers as due and owing from them. The state and other participating employers shall pay over to the state treasurer the amount for premiums so certified and the state treasurer shall deposit these amounts in the group insurance premium fund. During the period such group insurance policy or policies are in effect the state treasurer shall in no way commingle moneys in this fund with any pension fund established under this article.

In the event that the board of trustees of the teachers' pension and annuity fund shall determine to purchase group coverage for the additional death benefits, premiums for same shall be paid from a special fund hereby created called the "contributory group insurance premium fund." While such group coverage shall be in force, the contributions from the compensation of members to provide such additional death benefits shall be accumulated in said contributory group insurance premium fund. Any dividend or retrospective rate credit allowed by an insurance company shall be credited to the aforesaid funds in an equitable manner.

L.1967, c.271.

18A:66-78. Additional death benefits; contributions; adjustment

In the event that the board of trustees of the teachers' pension and annuity fund shall determine to purchase group insurance coverage for the additional death benefit coverage, each member selecting the additional death benefit coverage shall agree to the deduction of a percentage of his compensation determined from a schedule of contributions to be established by the board of trustees of the teachers' pension and annuity fund. The schedule of contributions shall be established by said board of trustees on a basis it deems appropriate and shall be subject to adjustment by said board of trustees from time to time for the purpose of maintaining the contributory group insurance premium fund at a level sufficient to meet the obligations of the fund for the cost of the insurance.

L.1967, c.271.

18A:66-79. Policy to include conversion privilege; proof of insurability after conversion

Any such group policy or policies shall include, with respect to any insurance terminating or reducing because the member has ceased to be in service or has retired, the conversion privilege available upon termination of employment as prescribed by the law relating to group life insurance; and shall also include, with respect to insurance terminating because of termination of the group policy resulting from a termination of the death benefits for all members established under sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46 and 18A:66-53, the conversion privilege available upon termination of the group policy as prescribed by such law. Any such group policy or policies shall also provide that if a member dies during the 31-day period during which he would be entitled to exercise the conversion privilege, the amount of insurance with respect to which he could have exercised the conversion privilege, shall be paid as a claim under the group policy.

If any member who has exercised the conversion privilege under the group policy or policies again becomes a member of the teachers' pension and annuity fund, and the individual policy obtained pursuant to the conversion privilege is still in force, he shall not again be eligible for any of the death benefits provided by this article unless he furnishes satisfactory evidence of insurability.

When benefits payable upon the death of a member following retirement are determined as though he were an active member at the time of his death, the death benefit payable under the group policy or policies together with the amount of insurance paid under any individual policy obtained under the conversion privilege, shall in no event exceed the amount of insurance for which the member was insured under the group policy or policies immediately prior to the date the right of conversion arose.

L.1967, c.271; amended by L.1968, c. 228, s. 9, eff. July 31, 1968.

18A:66-80. Payment of benefits

Benefits under such group policy or policies shall be paid by the company to such person, if living, as the member shall have nominated by written designation duly

executed and filed with the insurance company through the policyholder, otherwise to the executors or administrators of the member's estate. A member may file with the insurance company through the policyholder and alter from time to time during his lifetime, as desired, a duly attested written nomination of his payee for the death benefit.

L.1967, c.271; amended by L.1971, c. 121, s. 37, eff. April 29, 1971.

18A:66-81. Arrangements for payment of benefits

Any such group policy or policies shall provide that payment of any death benefits which are payable by the insurance company may be made in one sum directly to the beneficiary as hereinafter provided, in equal installments over a period of years or as a life annuity or in such other manner as may be made available by the insurance company. A member may make such arrangements for settlement, and may alter from time to time during his lifetime any arrangement previously made, by making written request to the insurance company through the policyholder. Upon the death of a member, a beneficiary to whom a benefit is payable in one sum by the insurance company may likewise arrange for a settlement as described above. If a member's or beneficiary's request for settlement of any death benefit in equal installments over a period of years or as a life annuity pursuant to the foregoing is approved by the policyholder, the amount of such installments or such life annuity, as the case may be, shall be determined on the basis of such applicable mortality tables and rates of interest as shall have been adopted by the retirement system and are in effect at the member's death. Any arrangement for payment under the group policy to a beneficiary shall be in lieu of that provided by sections 18A:66-36, 18A:66-37, 18A:66-38, 18A:66-41, 18A:66-42, 18A:66-44, 18A:66-46 and 18A:66-53.

L.1967, c.271; amended by L.1968, c. 228, s. 10, eff. July 31, 1968.

18A:66-82. Policyholder credited in form of reduced premiums

Notwithstanding any other provision of law, any insurance company or companies issuing such policy or policies may credit the policyholder, in the form of reduced premiums, with savings by said company or companies in the event that no brokerage commission or commissions are paid by said company or companies on the issuance of such policy or policies.

L.1967, c.271.

18A:66-83. Investment in and acquisition of real property

The director of the division of investment in the department of the treasury, in addition to other investments authorized by law, shall have authority, subject to the approval and acceptance by the board of trustees of the teachers' pension and annuity fund, to invest in and acquire real property in the state of New Jersey on behalf of and in the name of the teachers' pension and annuity fund, and to erect buildings and structures and make other improvements thereon, and to rent, lease, sell and dispose of the same, said lands, buildings, structures and improvements to be initially rented to the state of New Jersey for its use in accordance with the provisions of this article.

L.1967, c.271.

18A:66-84. Limit on investment

Any investment authorized pursuant to this article shall not exceed 2 1/2 % of the book value of the total investments of such fund at the time of the making of the investment or \$11,500,000.00, whichever is the smaller amount.

L.1967, c.271.

18A:66-85. Carried as an asset of the fund

Any real estate investment made pursuant to this article shall at all times during its ownership by the fund be carried as an asset of the fund.

L.1967, c.271.

18A:66-86. Terms of rental or lease; transfer of land to fund

If the property is rented or leased to the state, it shall be on terms calling for level periodic rental payments, not more than one year apart, in such amounts as will amortize the total actual cost of the investment, including cost of land, construction, improvement and supervision of construction, over a period of 20 years from the beginning of the term of its first rental, together with income to be derived therefrom for the benefit of the fund at the rate of 4% per annum on the depreciated value of the asset which shall be its total actual cost to the fund less a depreciation allowance equal in amount to the aggregate sums received toward amortization of the investment. Such portion of the rentals as shall exceed the amounts received toward amortization shall be treated as investment income.

It is the purpose of this section to provide for the accounting basis upon which the real property investment shall be carried and depreciated and for the treatment, as between capital and income, of the amounts received for the use of the property by way of rental, in order to maintain the integrity and actuarial soundness of the funds established by this article.

In order to carry out the purposes of this article such rental arrangement or lease may include, on behalf of the state, permission to construct a building or buildings,

which will constitute the real property in which the investment is made, upon lands owned by the state, and to transfer title to such lands to the said teachers' pension and annuity fund.

L.1967, c.271.

18A:66-87. Purchase provisions during occupancy

Should such real estate investment be sold to the state during its occupancy as tenant, the board of trustees of the fund shall accept, in full payment therefor, as well as for any state lands theretofore conveyed to it in connection therewith, the total actual cost thereof. In the event that any sums shall have been paid to the fund toward amortization of the investment, the aggregate amount thereof at the time of closing of title shall be credited against the purchase price.

L.1967, c.271.

18A:66-88. Rental or lease arrangements; trustees to execute and deliver, etc.

Any rental arrangement or lease to the state for the use of such real property shall provide that all costs and expenses for the operation, maintenance, repair and management of the real property shall be paid for by the state, as tenant, at its sole cost and expense, in addition to the level rental payments; but this shall not preclude the making of enlargements, betterments or other capital improvements on behalf of the fund as a further investment or investments, in like manner and subject to the same requirements and restrictions as are applicable to the initial investment in such real property made under this article.

The board of trustees is authorized to execute and deliver to the appropriate state officers or agencies such leases, contracts or agreements, which may include options to purchase, agreements for appropriate state officers or agencies to act as agent for the fund in connection with the purchase of land, construction of buildings or other improvements, and otherwise as may be necessary or appropriate in order to execute the purposes of this article.

L.1967, c.271.

18A:66-89. Selection of site, and acquisition of land

The director of the division of purchase and property, subject to the approval of the state house commission, shall be responsible for the selection of a site, planning of any building to be constructed on behalf of the teachers' pension and annuity fund as an investment under this article, as well as the acquisition of lands, negotiation and approval of leases, contracts, options and other instruments and agreements, in order that the location of and plans for the building shall be coordinated with the master plan to be developed pursuant to P.L.1959, chapter 5.

L.1967, c.271.

18A:66-90. Federal funds; state to be reimbursed; ascertainment of amount

On or before September 1 of each year, on the basis of the most recent actuarial valuation of the Teachers' Pension and Annuity Fund and on the basis of the appropriate social security rate of contribution, the Director of the Division of Pensions in the State Department of the Treasury, shall certify to the commissioner of education of the State Department of Education the percentage of salaries which the department and each board of education, school district or agency of this State must appropriate in its next fiscal year project budget to cover the amount of the increase and the cost of pension, group life insurance, social security and other benefits provided by this article attributable to carrying out the programs financed by the Federal Government involving members of the Teachers' Pension and Annuity Fund. The commissioner shall promptly notify each public employer of the percentage certified and the public employer shall, within 90 days after the close of such next fiscal year, together with supporting information prescribed by the Director of the Division of Pensions, reimburse the State the amount of such increased cost from funds allocated to the public employer from the Federal Government and involving members of the Teachers' Pension and Annuity Fund.

L.1967, c.271; amended by L.1968, c. 228, s. 11, eff. July 1, 1968; L.1973, c. 105, s. 1, eff. May 2, 1973.

18A:66-91. Repealer of sections 24 through 110 of chapter 13 of Title 18 of the Revised Statutes, with amendments and supplements, but continuing the teachers' pension and annuity fund, saved

Section 3 of chapter 37 of the laws of 1955 is saved from repeal.

[This section repeals sections 24 through 110 of chapter 13 of Title 18 of the Revised Statutes, with all amendments and supplements thereto as of January 1, 1956, but continues the teachers' pension and annuity fund with its membership, securities, investments and other assets and continues any benefits and allowances granted prior thereto under the statutes so repealed.]

L.1967, c.271.

18A:66-92. Social security offset repealer saved

Section 11 of chapter 66 of the laws of 1966 is saved from repeal.

[Under this section the following acts and parts of acts, relating to the social security offset, were repealed, effective July 1, 1966: P.L.1955, c. 37, s. 68; P.L.1956, c. 218; P.L.1960, c. 123; P.L.1962, c. 108; and P.L.1964, c. 190, subject to the following provisions:

"The repeal of the aforesaid section and acts shall not be construed to provide for any retroactive effect. Where a member's retirement allowance was reduced by the amount of the old age insurance benefit under Title II of the social security act, paid or payable to him, whether received or not, or if such reduction is to be made upon the member's attainment of 65, on or after July 1, 1966, such reductions shall cease or no reduction shall be made."]

L.1967, c.271.

18A:66-93. Liabilities created by certain statutes, apportionment and payment saved
Sections 12 and 13 of chapter 66 of the laws of 1966 are saved from repeal.

[These sections provide as follows:

Section 12 provides that the liabilities, established pursuant to subsection a. of section 33 of chapter 37 of the laws of 1955 revised in this law as subsection a. of section 18A:66-33, on account of veteran members employed as teachers on January 1, 1955 shall be proportionately increased for each school district to cover the additional liabilities, created by section 11 of chapter 66 of the laws of 1966 abolishing the social security offset, for all veterans who were employed as teachers on January 1, 1955 and who are employed as teachers on June 30, 1966 and that such increased liabilities shall be paid annually in the manner prescribed by said subsection a. of section 33 over the remainder of the 30-year period established for the liquidation of the liabilities.

Section 13 provides that

(a) in addition to the amounts required of the state and other employers, pursuant to sections 18 and 33 of chapter 37 of the laws of 1955 revised in this law as sections 18A:66-18 and 18A:66-33, the liabilities created by the provisions of chapter 66 of the laws of 1966, except for those provided for under section 12 of said act, shall be computed by the actuary and shall be paid by the state beginning July 1, 1967 through

(1) an increase in the normal rate of contribution, and

(2) an accrued liability contribution, which, if paid in each fiscal year, for a period of 30 years, will provide for this accrued liability, and

(b) the liability created, by chapter 108 of the laws of 1962, shall be recomputed by the actuary and added to the additional liabilities created by the provisions of chapter 66 of the laws of 1966 and the recomputed liability shall be paid by the state as part of the payment established by subsection a. of said section 13 of chapter 66 of the laws of 1966 allowing a credit for the payment already made by the state toward the funding of this liability.]

L.1967, c.271.

18A:66-94. Existing pension funds continued

Every pension fund heretofore organized under the provisions of article 16 of chapter 5 of Title 18 of the Revised Statutes is continued and shall be governed under this article.

L.1967, c.271.

18A:66-95. Employees may organize pension fund

The employees of boards of education in school districts in counties of the first class may associate themselves as a corporation for the purpose of providing and obtaining a fund for their retirement upon pension.

L.1967, c.271.

18A:66-96. Forming corporation to provide and obtain fund

For the purpose of forming such a corporation the county superintendent of schools in each county of the first class shall notify in writing each and every employee of the several boards of education of the school districts in his county, except such as are entitled to benefits under another pension law which may have been enacted prior to April 16, 1929, for the benefit of employees of boards of education, to attend a meeting to be held not less than five days after the giving of the notice, to consider the formation of a corporation in accordance with this article. The notice shall specify the time and place of the meeting of such employees.

If two thirds of the employees present at the meeting adopt a resolution to form the corporation, they shall choose a name for the corporation, and organize by electing four of such employees who, together with the county superintendent as a member ex officio, shall constitute a board of trustees.

The first trustees shall prepare and sign a certificate reciting the adoption of the resolution by the employees, the name adopted, the election of trustees, the organization, the names of officers, and the execution of the certificate, for the purpose of forming a corporation under this article. The certificate shall be recorded in the office of the clerk of the county wherein the corporation is organized, and shall then be filed in the office of the commissioner of banking and insurance. Thereupon such trustees, their associates and successors, shall become a body politic and corporate with all the power incident thereto.

L.1967, c.271.

18A:66-97 Board of trustees, membership, terms, vacancies.

18A:66-97. Until the effective date of P.L.2005, c.328, any pension fund created or to be created as provided in this article shall be under the control and management of the board of seven trustees, no more than three of whom shall be employees of the same board of education. The two trustees of the board added pursuant to this act, P.L.2001, c.454, shall be retirees of the pension fund elected by the retirees of the pension fund, and each such member shall serve for a term of two years. The first board selected as provided in section 18A:66-96 shall serve until the month of January following the incorporation of such association. At such time four members of the association shall be elected as trustees, in place of the four first selected, by a majority vote of the members of the association as follows: one for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years, who shall serve for the respective terms for which they are each chosen. Thereafter in the month of January of each year a member shall be chosen for a full term of four years to serve in place of the trustee whose term shall have expired.

After the effective date of P.L.2005, c.328, any pension fund created as provided in this article shall be under the control and management of the board of seven trustees, at least one of whom shall be an active member until the last active member of the fund retires and one of whom shall be a retiree. The remaining trustees may be either active members or retirees as the number of each may be determined by the bylaws of the board of trustees prior to an election. Commencing with the first January following the enactment of this act, P.L.2005, c.328, and continuing each January thereafter, two individuals shall be elected as trustees in the place of two sitting trustees by a majority vote, for a term of three years. Active member trustees shall be elected by a majority vote of the active members of the association, and retiree trustees shall be elected by a majority vote of the retirees of the pension fund. The transition in trustee terms and the number of trustees elected shall be accomplished as determined by the board.

In any election for a trustee in which there is only one candidate for a position, a vote of retirees or active members shall not be held and the candidate shall be designated a trustee by a majority vote of the sitting board of trustees.

Any vacancy occurring among the board of trustees or in the office of chairperson, vice-chairperson, secretary, treasurer, or other officers of such corporation shall be filled in the manner provided in bylaws, and in the absence of such provision shall be filled by the board of trustees.

L.1967, c.271; amended 1983, c.216, s.1; 2001, c.454, s.1; 2005, c.328, s.1.

18A:66-98 Trustees to elect officers; compensation, reimbursement.

18A:66-98. The board of trustees shall at the first annual meeting thereof, and at each annual meeting, elect a chairperson, vice-chairperson, secretary, and treasurer, and such other officers as they may deem necessary. The secretary and treasurer may be members of the board of trustees. The board of trustees shall fix the compensation of the secretary and treasurer. The members of the board, unless they are serving as secretary or treasurer, shall serve without compensation but shall be reimbursed for any necessary expenditures. No employee shall suffer loss of salary or wages through serving on the board.

Amended 2005, c.328, s.2; 2007, c.71.

18A:66-99. Trustees and officers bonded

The trustees and other officers of the corporation shall give bonds with a duly authorized security company as surety, for the faithful performance of their duties, in the sums fixed by the bylaws of the corporation.

L.1967, c.271.

18A:66-100. Annual report by trustees to boards of education

The board of trustees shall make an annual report of the condition of the fund and the manner in which it is invested, to the boards of education of school districts of the county wherein it is organized, in the month of October of each year, for the prior fiscal year ending June 30 and at such other times as such boards of education may request.

L.1967, c.271; amended by L.1968, c. 364, s.1, eff. Dec. 26, 1968; L.1983, c. 216, s. 2, eff. June 20, 1983.

18A:66-101. Eligibility as members of fund

All employees of boards of education in school districts in any county of the first class wherein a pension fund is established under this article may accept the provisions of said article except such as are entitled to benefits under another pension law enacted for the benefit of employees of boards of education prior to April 16, 1929.

L.1967, c.271.

18A:66-102. Certain veterans not members of system to become members

a. Each veteran holding permanent or provisional office, position or employment on June 26, 1962, not covered by the retirement system established under chapter 37 of the laws of 1955, with a board of education or school district in a county in which there exists a pension fund established under article 16 of chapter 5 of Title 18 of the Revised Statutes, shall become a member of said pension fund as of June 26, 1962; and each veteran thereafter commencing service in such office, position or employment shall become a member of said pension fund as of the date of the commencement of said service.

b. No public employee veteran who is eligible to be a member of such pension fund shall be eligible for or receive retirement benefits under sections 43:4-1, 43:4-2 and 43:4-3 of the Revised Statutes.

L.1967, c.271.

18A:66-103. Withdrawal of contributions by veteran members; service credits required; liquidation of certain service credits

a. Each public employee veteran member of a pension fund in existence and established on June 26, 1962 under article 16 of chapter 5 of Title 18 of the Revised Statutes shall have returned to him the contributions made by him as of July 1, 1962 with simple interest at 2% per annum to such date. All service rendered in office, position or employment of this State or of a county, municipality, school district or board of education or service rendered for the State University of New Jersey, an instrumentality of this State, after April 16, 1945, and the New Jersey State Agricultural Experiment Station established by an act approved March 10, 1880 (P.L.1880, c. 106 and continued pursuant to chapter 16 of Title 4 of the Revised Statutes), an instrumentality of this State, excluding service rendered as county extension service farm and home demonstration agents, by such service of such veteran member previous to June 26, 1962, and excluding credits for prior veteran covering employment which is vested in another governmental body or pension fund, for which evidence satisfactory to the board of trustees was presented prior to June 27, 1963, shall be credited to him as a member and such credit shall be known as prior service credit and the obligation of the board of education employing such veteran member on account of such credit shall be known as the accrued liability on behalf of such veteran member, and the board of education which employed such veteran member as of June 26, 1962 shall liquidate said accrued liability by annual payments for a period of 30 years commencing July 1, 1963, the amount of these payments to be computed by the actuary and certified by the board of trustees.

b. In the event that a public employee veteran who prior to June 26, 1962 rendered service in office, position or employment of this State, including such service rendered for any instrumentality enumerated in subsection a. of this section, or of a county, municipality, or school district or board of education, shall be a member of the pension fund on or after said date, such public employee veteran shall receive prior service credit for such service for which evidence satisfactory to the board of trustees is presented in the same manner as received by other public employee veteran members. The employer of such public employee veteran on the date of his becoming a member shall liquidate the accrued liability for such prior service by annual payments over the remainder of the 30-year period specified in subsection a. of this section, the amount of these payments to be computed by the actuary and certified by the board of trustees.

L.1967, c.271; amended by L.1968, c. 364, s. 2, eff. Dec. 26, 1968.

18A:66-104. Definition of "veteran"

18A:66-104. "Veteran" means any honorably discharged officer, soldier, sailor, airman, marine or nurse who served in any army, air force or navy of the allies of the United States in World War I, between July 14, 1914, and November 11, 1918, or who served in any army, air force or navy of the allies of the United States in World War II, between September 1, 1939, and September 2, 1945, and who was inducted into such service through voluntary enlistment, and was a citizen of the United States at the time of such enlistment, and who did not, during or by reason of such service, renounce or lose his United States citizenship, and any officer, soldier, sailor, marine, airman, nurse or army field clerk, who has served in the active military or naval service of the United States and has or shall be discharged or released therefrom under conditions other than dishonorable, in any of the following wars, uprisings, insurrections, expeditions, or emergencies, and who has presented to the board of trustees evidence of such record of service in form and content satisfactory to said board of trustees:

(a) The Indian wars and uprisings during any of the periods recognized by the war department of the United States as periods of active hostility;

(b) The Spanish-American war between April 20, 1898, and April 11, 1899;

(c) The Philippine insurrections and expeditions during the periods recognized by the war department of the United States as of active hostility from February 4, 1899, to the end of 1913;

(d) The Peking relief expedition between June 20, 1900, and May 27, 1902;

(e) The army of Cuban occupation between July 18, 1898, and May 20, 1902;

(f) The army of Cuban pacification between October 6, 1906, and April 1, 1909;

(g) The Mexican punitive expedition between March 14, 1916, and February 7, 1917;

(h) The Mexican border patrol, having actually participated in engagements against Mexicans between April 12, 1911, and June 16, 1919;

(i) World War I, between April 6, 1917, and November 11, 1918;

(j) World War II, between September 16, 1940, and September 2, 1945, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies any part of which 90 days was served between said dates; provided, that any person receiving an actual service incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided;

(k) Korean conflict, on or after June 23, 1950, and on or prior to January 31, 1955, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; provided, that any person receiving an actual service incurred injury or disability shall be classed as a veteran whether or not he has completed the 90-day service as herein provided; and provided further, that any member classed as a veteran pursuant to this subparagraph prior to August 1, 1966, shall continue to be classed as a veteran whether or not he completed the 90-day service between said dates as herein provided;

(l) Vietnam conflict, on or after December 31, 1960, and on or prior to May 7, 1975, who shall have served at least 90 days in such active service, exclusive of any period he was assigned (1) for a course of education or training under the Army Specialized Training Program or the Navy College Training Program, which course was a continuation of his civilian course and was pursued to completion, or (2) as a cadet or midshipman at one of the service academies, any part of which 90 days was served between said dates; and exclusive of any service performed pursuant to the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the Army National Guard or as a reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided, that any person receiving an actual service incurred injury or disability shall be classed as a veteran whether or not he has completed the 90 days service as herein provided.

"Veteran" also means any honorably discharged member of the American Merchant Marine who served during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits.

L.1967, c.271; amended 1991,c.389,s.5; 1995,c.240,s.1.

18A:66-105. Membership in fund on or subsequent to March 25, 1935; conditions

Persons employed by any such board of education on March 25, 1935 and also on April 29, 1946, who took advantage of the provisions hereof by making application to the board of trustees on or before April 1, 1948, and paying into the fund, with and at the time of such application, such percentage of his salary as provided for in subsections a. and b. of section 18A:66-107, for the period of his employment beginning with the date of the incorporation of such pension association or the date of his employment by said board, whichever is the later date, together with interest at 3% per annum or such other legal rate as shall be determined, from time to time, by the board of trustees; and after such application and payment have been made by the employee the board of education by which the person is employed shall pay into the fund, if it has not already done so, 4% of the employee's salary for the period of his employment beginning with the date of the incorporation of such pension association or the date of the employment of said person by said board of education, whichever is the later date. All persons coming into the employ of any such board as permanent employees subsequent to March 25, 1935, shall become members of such pension fund at the date of said employment or appointment and any such employee shall be required to pay into such fund such percentage of his salary as provided for in subsections a. and b. of section 18A:66-107.

L.1967, c.271.

18A:66-106 Credit purchase for employment in other governmental units in this or other states; certain leaves of absence.

18A:66-106. a. Persons heretofore permanently or provisionally employed by such boards of education who became members of the pension fund at any time prior to June 26, 1962, shall be permitted to purchase credit covering any period of temporary, permanent or provisional service preceding said permanent or provisional employment, by making application therefor, and in such case, the payments to be made by the employee and board of education for such previous service shall be based on appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect at the time of making the application to purchase such credit. Persons becoming members thereafter shall be permitted to purchase credit for any temporary service which immediately precedes their permanent or provisional appointment by making application therefor at the time of becoming members and paying into the fund, the amount determined to be due for such service on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at that time.

Any person coming into the employ of any such board of education as a provisional employee after June 26, 1962, shall become a member of the pension fund as a condition of employment.

A member shall have the right to purchase credit for any period of service in other municipalities or governmental units in this State or in any other State of the United States of America, rendered by the member prior to becoming a member up to the nearest number of years and months but not exceeding 10 years, by making application therefor at the time of becoming a member or for present members within two years of the effective date of this 1968 amendatory act and in such case the payments to be made by the employee and the employing board of education for such service credits shall be on the basis of appropriate tables of factors submitted by the actuary as being applicable to the salary and contribution rate in effect based on the salary at the time of making application.

b. For a period of two years after the effective date of this act, (P.L.1995, c.240), any member who meets the definition of "veteran" as set forth in N.J.S.18A:66-104 may, upon filing an application with the board of trustees of the pension fund, purchase credit for up to five years of military service in the Armed Forces of the United States prior to his enrollment in the retirement system. The member may purchase credit for the service by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable to the member's age at the time of the purchase, to the member's salary at that time or to the highest annual compensation for service in the school district for which contributions were made during any prior fiscal year of membership, whichever is greater. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

c. After the effective date of this act, P.L.2001, c.454, a member of the pension fund may, upon filing an application with the board of trustees of the pension fund, purchase credit for the types of prior service described in subsection a. of this section, or for time during which the member shall have been absent on an official leave without pay. Credit for an official leave without pay shall be purchased for a period of time equal to: (1) three months or the duration of the leave, whichever is less; or (2) if the leave was due to the member's personal illness, including maternity leave and child care, two years or the duration of the leave, whichever is less. The member may purchase credit by paying into the pension fund the amount required by applying the factor, supplied by the actuary as being applicable at the time of the purchase, to the member's salary at that time. Any member electing to purchase this service credit who retires prior to completing payment shall receive credit only for the service purchased, unless at the time of retirement the member makes a lump sum payment necessary to purchase full credit.

L.1967, c.271; amended 1968, c.364, s.3; 1995, c.240, s.2; 2001, c.454, s.2.

18A:66-107 Contributions to pension fund.

18A:66-107. The contributions to the pension fund shall be as follows:

a. There shall be deducted from every payment of salary of all employees who are members of the fund 3% of the amount of such salary.

b. Each board of education shall be obligated for contributions to the fund of a proportionate amount of the total contributions required from all employing boards of education, as determined by the actuary, which shall be sufficient to: (1) provide for the pension credits being accrued by the members, after taking into account contributions being made by the members, and (2) provide for the payment of the unfunded accrued liability in annual payments. Such obligations shall be provided for by each board in its annual appropriation for the support and maintenance of the public schools.

c. The amount to be appropriated by each board under subsection b. of this section shall be determined by applying the percentage certified by the actuary as determined under said subsection.

d. The treasurer or other chief fiscal officer of each board of education shall pay to the fund on the first day of each month: (1) the total of the amounts of

contributions which, during the preceding month, were deducted from the salaries of the employees of that board under subsection a. of this section, and (2) the pro rata portion of the amount of employer contributions of the board, as that amount is determined under subsection b. of this section, which is applicable to that board with respect to the preceding month. If the full payment required under this subsection is not made within 30 days after it becomes due, interest at the rate of 1% for each whole or fractional month of lateness shall begin to run against the unpaid balance of that payment on the first day after that thirtieth day.

L.1967, c.271; amended 1983, c.216, s.3; 1999, c.333, s.1.

18A:66-108. Salary deductions; death benefits

18A:66-108. a. The board of trustees may, in the manner prescribed by the bylaws of the corporation, assess and collect monthly or semimonthly from each member of the pension fund the amount required to be paid by said member into the fund. All moneys so collected shall be paid to the treasurer of the corporation.

The board of trustees may make it a condition of membership that each member sign an order on the treasurer of school moneys, or other disbursing officer, directing the retention from his or her salary or wages of the amount of his or her assessments and the payment of the amount so retained directly to the treasurer of the corporation, and the treasurer of school moneys, or other disbursing officer, shall make such retention and payment, but such right of retention and payment shall become operative only in the event of the same being authorized by the bylaws of the corporation.

b. Whenever any member shall die in service or his or her employment be terminated, for reasons other than retirement, all payments made by such employee to the fund shall be returned to the employee, if alive; or to such person, if living, as he shall have nominated by written designation, duly executed and filed with the board of trustees; otherwise to the executor or administrator of the member's estate, together with simple interest at the rate of 4% per annum.

c. Upon the receipt of proper proof of the death of a member in service, on account of which no accidental death benefit is payable under subsection e. of this section or the death of a member who has been retired for disability but who has not yet attained 60 years of age, there shall be paid to such person, if living, as he shall have nominated by written designation, duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount equal to one and one-half times the compensation upon which his contributions are based or received by the member in the last year of creditable service; provided, however, that if such a member shall have attained 70 years of age or the member who has been retired for disability has attained 60 years of age, the amount payable shall equal three-sixteenths of the compensation received by the member in the last year of creditable service instead of one and one-half times such compensation. Such member may also file, and alter from time to time during his lifetime, as desired, a request with the board of trustees directing payment of said benefit in one sum or in equal installments over a period of years or as a life annuity. Upon the death of such member, a beneficiary to whom a benefit is payable in one sum may elect to receive the amount payable in equal annual installments over a period of years or as a life annuity.

d. Whenever any member who was a member on June 26, 1962, shall die after retirement on pension, not having received in pension payments an amount equal to the total amount of his or her contributions to the fund, including simple interest at 2% per annum, the difference between the amount so received and the amount of contributions, plus interest, shall be paid to the surviving named beneficiary on file with the board of trustees, and if none, then to his or her legal representative; unless said employee has made provision with the board of trustees for optional benefits under the provisions of section 18A:66-110.

e. Upon the death of a member in active service as a result of an accident in the performance of his or her duties as such employee and not as the result of his willful negligence, an accidental death benefit shall be payable, if a report, in a form acceptable to the board of trustees, of the accident is filed with the pension fund within 60 days next following the accident and an application for such benefit is filed with the said board of trustees within two years of the date of the accident, but the board of trustees may waive such time limits for a reasonable period, if in the judgment of the board the circumstances warrant such action. Evidence must be submitted to the board of trustees proving that the natural and proximate cause of death was an accident arising out of and in the course of employment at some definite time and place. Upon application by or on behalf of the dependents of such deceased member, the board of trustees, in addition to the payment of his contributions, as provided in this section, shall grant a pension of one-half of the average annual salary received by him or her during the three years immediately preceding his or her death to the spouse of the deceased member or, if no surviving spouse, then to the child or children of such member under age 18, divided in such manner as the board in its discretion shall determine to continue until the youngest surviving child dies or attains age 18.

L.1967, c.271; amended 1983, c.216, s.4; 1995, c.240, s.3.

18A:66-109 Disbursements; deposits and investments.

18A:66-109. No money shall be paid out of the pension fund except by the treasurer of the corporation upon warrants signed by the chairperson of the board of trustees and countersigned by the secretary thereof. No warrant shall be drawn except by the order of the board upon a ye and nay vote recorded in the minutes of the board.

The board of trustees may deposit the moneys of the fund in any bank or trust company which is a member of the Federal Reserve System, and may invest those moneys in bonds secured by mortgages, or in mortgages guaranteed or insured by agencies or instrumentalities of the United States of America, provided that those mortgages are legal investments for savings banks in this State. The board of trustees may invest and reinvest the moneys in other evidences of indebtedness, or capital stock or other securities issued by any company incorporated within the United States or within the Dominion of Canada, and in the bonds and other evidences of indebtedness of the United States of America, any state, city, county, school district or of the instrumentality of any state or of the United States of America. All income, interest or dividends paid or agreed to be paid on account of any loan or deposit shall constitute a part of the fund.

L.1967, c.271; amended 1983, c.216, s.5; 2005, c.328, s.3.

18A:66-109.1 Loans from retirement system.

10. Any member who has at least three years of service to his credit for which he has contributed as a member may borrow from the retirement system an amount equal to not more than 50% of the amount of his accumulated deductions, but not less than \$50.00; provided that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from compensation, not in excess of 25% of the member's compensation, made at the same time compensation is paid to the member. The amount so borrowed, together with the interest at the rate of 4 % per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid or in such lump sum amount sufficient to repay the balance of the loan, but the rate at which any installment is deducted shall be at least equal to the member's rate of contribution to the retirement system and at least sufficient to repay the amount borrowed, with interest thereon. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made.

Loans shall be made to a member from his accumulated deductions. The interest earned on those loans shall be treated in the same manner as interest earned from investments of the retirement system.

In the event a member retires without having repaid the full amount borrowed, then the retirement benefits to which he would otherwise be entitled shall be paid, less a deduction for the loan repayment. Subject to the approval of the board upon application by the retiree, the deduction from periodic benefits for a loan repayment may be reduced or otherwise adjusted, provided however that this deduction shall equal the lesser of the amount paid prior to the retirement or 20% of the periodic retirement benefit, whichever is less.

In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the pensioner, either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

L.1983,c.216,s.10; amended 1995, c.240, s.4; 1999, c.333, s.2.

18A:66-110 Manner of payment of pensions; options.

18A:66-110. Pensions shall be paid from the fund in the manner following:

a. A member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund for 30 years or more as an employee of a board of education in a county wherein the fund has been established and maintained shall, upon application to the board of trustees of the pension fund, be retired by such board of trustees and shall thereupon receive annually from the fund, for and during the remainder of his or her life, by way of pension, an amount equal to one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board.

b. Upon the retirement of a member who has reached the age of 60 years, the person so retired shall be entitled to receive during his or her life, by way of pension, one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years for which he or she has credit in the pension fund, the amount to be determined by resolution of the board. Upon the receipt of proper proof of death of a member who has retired on a service retirement allowance, there shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate an amount

equal to one-half of the highest annual compensation received by the member in any year of creditable service.

c. A member of the fund who has credit therein for 10 years, who shall become incapacitated, either mentally or physically, and who cannot perform the regular duties of employment, or who is found unfit for the performance of his or her duties, upon the application of his employer or upon his own application or the application of someone acting in his behalf, shall be retired by the board of trustees of the pension fund and thereupon shall receive annually from the fund a retirement allowance as described in subsection b. of this section if he has reached or passed age 60 and if he is under age 60, an amount equal to nine-tenths of one-forty-fifth of the average annual compensation received in any three years of creditable service providing the largest possible benefit multiplied by the number of years of creditable service; provided, however, that in no event shall the pension be based upon less than 17 years nor more than 30 years of service unless the member would have had less than 17 years of service at age 60, in which event he shall be given credit for the years to age 60; however, a member who has not attained age 70 who shall become incapacitated, either mentally or physically, as a direct result of a traumatic event occurring in the performance of his or her duties of such employee, shall, upon the application of his employer or upon his own application or the application of someone acting in his behalf, be retired by the board of trustees of the pension fund, and, thereupon, if a report of the accident, in a form acceptable to the board of trustees of the pension fund, is filed with the said board of trustees within 60 days next following the accident and the application for retirement is filed with the said board of trustees within two years of the date of the accident, shall receive annually from the fund an amount equal to two-thirds of the annual salary being received by such employee on the date of the accident. The board of trustees may waive strict compliance with the time limits within which a report of the accident and an application for retirement must be filed with the board if it is satisfied: (1) that a report of the accident from which the disability is claimed to have resulted was filed with the employing board of education with reasonable promptitude and in no event later than 60 days after the accident, and (2) the applicant shall show that his failure to file a report with the board of trustees or to file his application for retirement within the time limited by law was due to mistake, inadvertence, ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or to a delay in the manifestation of the incapacity, or to any other reasonable cause or excuse, and (3) that the application for retirement was filed in good faith and the circumstances justify its favorable consideration.

The trustees of the pension fund shall have the power to determine whether or not any employee is permanently and totally disabled, and whether or not a disability of an employee is the direct result of a traumatic event occurring at some definite time and place in the performance of his or her duties as such employee. The claimant shall have the right to present physicians, witnesses or other testimony in his or her behalf before the board of trustees. The chairperson, or any other member of the board of trustees, may administer oaths to any physician or other persons called before the trustees regarding the employee's disability. The board of trustees shall decide, by resolution, whether the applicant is entitled to the benefit of this article.

Permanent and total disability resulting from a cardiovascular, pulmonary or muscular-skeletal condition which was not a direct result of a traumatic event occurring in the performance of duty shall be deemed an ordinary disability.

Once in each year, the board of trustees may, and upon the member's application shall, require any member retired for a disability, who is under the age of 60, to undergo medical examination by a physician or physicians designated by the board of trustees. The examination shall be made at the residence of the pensioner or any other place mutually agreed upon. If the physician or physicians thereupon report and certify to the board of trustees that the disabled pensioner is not permanently and totally incapacitated, either mentally or physically, for the performance of duty, and the board finds that said member is engaged in a gainful occupation, or could be engaged in a gainful occupation, and if the board concurs in the report, then the amount of the pension shall be reduced to an amount which, when added to the amount then being earned by him or her or an amount which he or she could earn if gainfully employed, shall not exceed the amount of compensation received by him or her at the time of his or her retirement, including any cost of living adjustment. If subsequent examination of such pensioner shows that his or her earnings have changed since the date of his or her last examination, then the amount of the pension shall be further altered, but the new pension shall not exceed the amount of the pension originally granted, nor shall the new pension, when added to the amount then being earned by the pensioner, exceed the salary or compensation received by him or her at the time of his or her retirement, including any cost of living adjustment.

d. At the time of retirement, any member may elect to receive his or her benefits in a retirement allowance payable throughout life, or he or she may, on retirement, elect to convert the benefits, otherwise payable to him or her, into a retirement allowance of the equivalent actuarial value computed on the basis of such mortality tables as shall be adopted by the board of trustees, in accordance with one of the optional forms following:

Option 1. A reduced retirement allowance, payable during life, with a provision that in the case of death, before the total pension payments have equaled the actuarial value computed as aforesaid, the balance shall be paid to his or her surviving designated

beneficiary, duly acknowledged and filed with the board of trustees; and if none, then to the executor or administrator of his or her estate.

Option 2. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death it will continue during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 3. A reduced retirement allowance, payable during the retired member's life, with the provision that after his or her death, an allowance at one-half of the rate of his or her reduced allowance will be continued during the life of and be paid to his or her designated beneficiary, if such person survives him or her.

Option 4. A reduced retirement allowance, payable during the retired member's life, with some other benefit payable after his or her death, provided the benefit is approved by the board of trustees.

Option 5. Some other benefit, which is equivalent to the full amount, three-quarters, one-half or one-quarter of the member's retirement allowance, shall be paid upon the member's death to the beneficiary designated by the member, and if that beneficiary dies before the member, the member's retirement allowance shall increase to the maximum retirement allowance for the member's lifetime, provided that such other benefit together with the member's lesser and maximum retirement allowances shall be certified by the actuary to be of equivalent actuarial value.

Except in the case of members who have elected to receive (1) a deferred retirement allowance pursuant to N.J.S.18A:66-113 or (2) an early retirement allowance pursuant to section 4 of P.L.1971, c.382 (C.18A:66-113.1) after separation from service pursuant to N.J.S.18A:66-113, if a member dies within 30 days after the date of retirement or the date of board approval, whichever is later, the member's retirement allowance shall not become effective and the member shall be considered an active member at the time of death. However, if the member dies after the date the application for retirement was filed with the system, the retirement will become effective if:

(1) The deceased member had designated a beneficiary under an optional settlement provided by this section; and

(2) The surviving beneficiary requests in writing that the board make such a selection. Upon formal action by the board approving that request, the request shall be irrevocable.

The board may select an Option 3 settlement on behalf of the beneficiary of a member who applied for and was eligible for retirement but who died prior to the effective date of the retirement allowance if all of the above conditions, with the exception of (1), are met.

The board of trustees shall, from time to time and as often as they deem it necessary, employ an actuary, who shall recommend, and the board shall keep in convenient form, such data as shall be necessary for actuarial valuations of the various funds created by this article. At least once in every five-year period, or more frequently as determined by the board of trustees, the actuary shall make an actuarial investigation into the mortality, service and salary experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the various funds thereof, and upon the basis of such investigation the board of trustees shall:

(a) Adopt for the retirement system such mortality, service and other tables as shall be deemed necessary.

(b) Certify the rate of contribution which shall be made by each board of education to the pension fund as provided by this article.

Amended 1971, c.382, s.1; 1983, c.216, s.6; 1995, c.240, s.5; 1999, c.333, s.3; 2001, c.454, s.3. 2002, c.132; 2005, c.328, s.4.

L.1967, c.271.

18A:66-110.2 Increase in certain retirement benefits.

4. a. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired before January 1, 1995, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454, shall be increased by 33.3%.

b. The retirement allowance of each retiree under N.J.S.18A:66-110, N.J.S.18A:66-113 and section 4 of P.L.1971, c.382 (C.18A:66-113.1), who retired on or after January 1, 1995 and before January 10, 2000, or of the retiree's beneficiary pursuant to N.J.S.18A:66-110, on the effective date of this act, P.L.2001, c.454 (C.18A:66-110.2 et al.), shall be increased by 11.1%.

c. The pension fund shall be liable for any increased cost to an employer under section 6 of P.L.1971, c.278 (C.18A:66-126.6) as a result of this section.

d. A person who is eligible to receive an increased retirement allowance under this section may, at any time, waive his or her right thereto by filing a written notice of waiver with the secretary of the pension fund. The application for the waiver of all or part of the increase shall be made by the retiree at least 30 days prior to the desired effective date on a form satisfactory to the pension fund and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the retirement allowance shall commence with the retirement allowance payment for the next following month.

L.2001,c.454,s.4.

18A:66-111. Option to retire after referendum; amount of pension

When a majority of the members of any pension fund established pursuant to article 16 of chapter 5 of Title 18 of the Revised Statutes vote affirmatively on a referendum held pursuant to chapter 38 of the laws of 1955, any member of such fund who was in the employ of one of such boards of education on March 25, 1935 and has been continuously in the employ of one or more of such boards of education thereafter and has heretofore established credit in such pension fund for all service rendered subsequent to such date shall have the option to retire from such fund, to be exercised prior to the date of termination of the fund pursuant to referendum held in accordance with chapter 38 of the laws of 1955 and to receive during his or her natural life by way of pension $\frac{1}{60}$ of the average annual compensation received in the last 3 years of creditable service immediately preceding his or her retirement, multiplied by the number of years of creditable service. If such option is exercised, the pension payable under this act shall be in lieu of all other rights to which the member might otherwise be entitled under said fund.

L.1967, c.271; amended by L.1971, c. 382, s. 2, eff. Dec. 30, 1971.

18A:66-113 Deferred retirement allowance.

18A:66-113. A member of the pension fund who has 10 years of service credit in the pension fund and who separates voluntarily or involuntarily before attaining the age of 60 years, and not by removal for cause on charges of misconduct or delinquency, may elect to receive a deferred retirement allowance beginning at the age of 60 years, equal to one-forty-fifth of the average annual compensation received by him during any three years of creditable service providing the largest possible benefit multiplied by the number of years of credited service, with optional privileges as provided for in subsection d. of section 18A:66-110.

Such member shall advise the board of trustees of his election of such a deferred retirement allowance in writing, and shall complete such forms as shall be specified by the board of trustees in its administration of this section.

Subsequent to making such an election, but prior to attaining age 60, a member may later elect to withdraw all payments which he has made to the pension fund together with simple interest at the rate of 4% per annum figured on such employee contributions. Upon such withdrawal of contributions, no further benefits shall be payable on behalf of said employee by the pension fund. If such a member should die before attaining the age of 60 years, all payments which he has made, together with simple interest at the rate of 4% per annum figured on such employee's contributions to the fund from the date of membership, shall be paid to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate.

Any member who, having elected to receive a deferred retirement allowance, again becomes an employee covered by the retirement system while under the age of 60 shall thereupon be reenrolled. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred retirement allowance.

L.1967, c.271; amended 1971, c.382, s.3; 1983, c.216, s.7; 1995, c.240, s.6; 1999, c.333, s.4.

18A:66-113.1 Early retirement.

4. Should a member resign after having established 25 years of creditable service before reaching age 60, he may elect "early retirement," provided that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive in lieu of any other payment provided for in section 18A:66-113 retirement allowance of one-forty-fifth of his average annual compensation received in any three years of creditable service providing the largest possible benefit for each year of service credited reduced by one-quarter of 1% for each month that the member lacks of being age 55.

L.1971,c.382,s.4; amended 1983, c.216, s.8; 1995, c.240, s.7; 1999, c.333, s.5.

18A:66-114 Public employee veterans, retirement benefits, certain.

18A:66-114. a. (Deleted by amendment, P.L.2004, c.173.)

b. Any veteran who took or shall take office, position or employment with a board of education or a school district after June 26, 1962 and who shall become a member of the pension fund after such date, and who shall have attained 62 years of age and who shall present to the board of trustees satisfactory evidence of 20 years of aggregate service in office, position or employment with this State or with a county, municipality, or school district or board of education, shall have the privilege of retiring and of receiving annually from the fund, for and during the remainder of his life, by way of pension, 54.5% of the compensation upon which the veteran made contributions to the pension fund during the 12-month period of membership providing the largest possible benefit to the veteran, with the optional privileges provided in subsection d. of section 18A:66-110.

c. Any public employee veteran member of the pension fund who has been for 20 years in the aggregate in office, position or employment with this State or with a county, municipality, or school district or board of education shall have the privilege of retiring for ordinary disability and of receiving a retirement allowance equal to 54.5% of the compensation upon which contributions to the pension fund are based during the 12-month period of membership providing the largest possible benefit to the veteran, with the optional privileges provided in subsection d. of section 18A:66-110.

d. Any public employee veteran member who shall be in office, position or employment with a board of education or a school district and who shall have attained the age of 60 years of age and who has at least 25 years of aggregate service credit in such office, position or employment and who shall present to the board of trustees satisfactory evidence of at least 25 years of aggregate service in such office, position or employment, shall have the privilege of retiring for service and receiving annually from the fund, for and during the remainder of his life, by way of pension, 2.42% of the highest year's compensation during employment, upon which compensation he made contributions to the pension fund, multiplied by the number of years of service with the optional privileges provided in subsection d. of N.J.S.18A:66-110.

L.1967, c.271; amended 1995, c.240, s.8; 2004, c.173, s.1.

18A:66-114.1 Veteran retirees, allowance increased.

2. a. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired before January 1, 1995 shall be increased by 33.3%.

b. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired on or after January 1, 1995 and before December 31, 1999 shall be increased by 11.1%.

c. The retirement allowance of each veteran retiree under N.J.S.18A:66-114 who retired after December 31, 1999 shall be increased by 9%.

d. The increases in retirement allowances provided under subsection a., b. or c. of this section shall be applicable retroactively to payments made on or after January 14, 2002. The board of trustees shall make the appropriate calculations and the increase in benefits due to retirees shall be paid in such manner as the board of trustees shall determine.

L.2004,c.173,s.2.

18A:66-115. Payment of pensions in semimonthly installments

All pensions paid by a pension fund established under article 16 of chapter 5, Title 18 of the Revised Statutes or this article, shall be paid in equal semimonthly installments and shall not be decreased, revoked or repealed, except as otherwise provided in this article.

L.1967, c.271.

18A:66-116. Exemptions

18A:66-116. The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to a person under the provisions of this article, and the moneys in the various funds created under this article, shall be exempt from levy and sale, garnishment, attachment or any other process arising out of any State court and, except as otherwise provided, shall be unassignable.

Nothing in this section shall prohibit any person insured under a group insurance policy, pursuant to an arrangement among the insured, the group policyholder and the insurer, from making to any person other than his employer, a gift assignment of the rights and benefits conferred on him by any provision of such policy or by law including specifically, but not by way of limitation, the right to exercise the conversion privilege and the right to name a beneficiary. Any such assignment, whether made before or after the effective date of this act (P.L.1995, c.240), shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment.

L.1967, c.271; amended 1995,c.240,s.9.

18A:66-117. Contributory death benefits

a. The board of trustees may establish a plan of contributory death benefit coverage under which a death benefit, shall, upon receipt of proper proofs of death in service of a member covered therefor, be paid to such person, if living, as the member shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate. The amounts of death benefits under such plan of contributory death benefit coverage shall be determined by the board of trustees, provided that the amount of the death benefit for any member shall not exceed $1\frac{1}{2}$ times the compensation received by the member in the last year of creditable service, and provided further that for the death in service of a member occurring after he has attained age 70, the amount of death benefit under such plan shall not exceed $\frac{3}{16}$ of the compensation received by the member in the last year of creditable service. Such a plan of contributory death benefit coverage shall be subject to adjustment from time to time by the board of trustees.

b. The board of trustees shall establish all rules governing the contributory death benefit coverage, subject to the provisions of this section. There is hereby established the members' death benefit fund in which fund shall be accumulated the contributions made under this section. Upon the death of a member electing the contributory death benefit, the contributory death benefit payable shall be paid from the members' death benefit fund.

c. The board of trustees shall establish schedules of contributions to be made by or on behalf of the members covered under the plan of contributory death benefit coverage. Such contributions shall be so computed that the contributions made by or on behalf of all covered members in the aggregate shall be sufficient to provide for the cost of the benefits established by subsection a. of this section. Such schedules of contributions shall be subject to adjustment from time to time, by the board of trustees, as the need may appear.

d. Each member will be eligible for such contributory death benefit coverage in accordance with and subject to the further provisions of this section. Each person who was a member on June 26, 1962 and who elected, not later than June 26, 1963 to purchase such contributory death benefit coverage became covered therefor on the first day on or after such election, on which he was actively at work and performing all his regular duties at his customary place of employment. Each person who became or becomes a member after June 26, 1962, shall automatically be covered for such contributory death benefit coverage from the first day of his membership on which he is actively at work and performing all his regular duties at his customary place of employment. Such automatic coverage shall continue during the member's first year of membership and during such year contributions as fixed by the board of trustees shall be made by or on behalf of the member. After such first year of membership such member shall continue to be covered for contributory death benefit coverage, subject to the continuance of the required contributions and subject to the provisions of such plan and the provisions of this section.

e. The contributions of a member for the contributory death benefit coverage shall be deducted from his compensation, but if there is no compensation from which such contributions may be deducted it shall be the obligation of the member to make such contributions directly to the members' death benefit fund or as directed by the board; provided, however, that no contribution shall be required while a member remains in service after attaining age 70 but the board of education employing such person shall be required to pay into the members' death benefit fund or as directed by the board of trustees on such person's behalf an amount equal to the contribution otherwise required by the board of trustees in accordance with this section.

f. Any other provision of this article notwithstanding, the contributions of a member, or the contributions made on behalf of a member by the board of education employing such member for the contributory death benefit coverage under this section shall not be returnable to the member, his or her beneficiary, or the board of education employing such member in any manner, or for any reason whatsoever, nor shall any contributions made for the contributory death benefit coverage be included in any pension payable to such member or to his or her beneficiary.

g. A member who is covered by the contributory death benefit coverage provided by this section may file with the board of trustees, and alter from time to time during his lifetime, as desired, a duly attested, written, new nomination of the payee of the death benefit provided under this section. Such member may also file and alter from time to time during his lifetime, as desired, a request with the board of trustees directing payment of said benefit in one sum or in equal annual installments over a period of years or as a life annuity. Upon the death of such member, a payee to whom a benefit is payable in one sum may elect to receive the amount payable in equal installments over a period of years or as a life annuity.

h. All other provisions of this section notwithstanding, the benefits to be provided pursuant to this section shall come into effect only as determined by the board of trustees. Applications for such additional death benefit coverage shall be submitted to the board of trustees in such a manner and upon such forms as the board of trustees shall provide.

i. The board of trustees may also provide, effective upon the adoption of this 1968 amendatory act, for additional death benefit coverage, as described in subsection j of this section, for former members who are receiving retirement allowances pursuant to the

provisions of this article subject to the provisions hereinafter stated, and the board may terminate such coverage at any time. The additional death benefit coverage to be so provided shall be in accordance with rules as determined by the board from time to time on the basis of dates of retirement or other factors deemed appropriate by it. In no event shall the additional death benefit coverage described in subsection j of this section apply to any former member receiving a retirement allowance unless such member was covered by the additional death benefits described in subsection a of this section during the member's last month of creditable service, nor shall such coverage apply prior to a member's attainment of age 60. No contributions toward the cost of additional death benefit coverage described in subsection j of this section shall be required of a former member while he is receiving a retirement allowance pursuant to the provisions of this article.

j. Upon receipt of proper proofs of the death of a former member who was covered for the additional death benefit coverage pursuant to subsection i of this section, there shall be paid to such person, if living, as the member shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the member's estate, an amount equal to $\frac{3}{16}$ of the compensation received by the member in the last year of creditable service.

L.1967, c.271; amended by L.1968, c. 364, s. 4, eff. Dec. 26, 1968.

18A:66-118. Purchase of group life insurance policies for death benefits

The county superintendent of schools is hereby authorized and permitted to purchase from one or more life insurance companies, a policy or policies of group life insurance to provide for the noncontributory death benefit and the contributory death benefit as provided in section 18A:66-117.

L.1967, c.271.

18A:66-119. Qualifications of life insurance companies to issue group insurance policies

Any life insurance company must meet the following requirements in order to qualify under section 18A:66-118: (a) be licensed under the laws of the state of New Jersey to transact life and accidental death insurance, and (b) the amount of its group life insurance in the state of New Jersey other than group creditors insurance shall at the time said insurance is to be purchased equal at least 1% of the total amount of such group life insurance in the state of New Jersey in all life insurance companies.

L.1967, c.271.

18A:66-120. Payment of premiums for group life insurance

a. In the event the county superintendent of schools shall determine to purchase group life insurance coverage for the noncontributory death benefits, premiums for the same shall be paid from a special fund, hereby created, called the "group insurance premium fund." The county superintendent of schools shall estimate annually the amount of premiums which will be required for such benefits for the ensuing fiscal year and shall certify such amounts to the participating employers as due and owing from them. The participating employers shall pay over to the county superintendent of schools the amount for premiums so certified and the county superintendent of schools shall deposit these amounts in the group insurance premium fund.

b. In the event that the county superintendent of schools shall determine to purchase group coverage for the contributory death benefits, premiums for same shall be paid from a special fund hereby created called the "contributory group insurance premium fund." While such group coverage shall be in force, the contributions from the compensation of members or on behalf of members to provide such contributory death benefits shall be accumulated in said contributory group insurance premium fund

c. Any dividend or retrospective rate credit allowed by an insurance company shall be accredited to the aforesaid funds in an equitable manner. During the period such group insurance policy or policies are in effect, there shall be no commingling of the moneys in said funds with any other fund established pursuant to this article.

L.1967, c.271.

18A:66-121. Provision of conversion privileges in group life insurance policies

a. Any such group policy or policies shall include, with respect to any insurance terminating because the member has been retired or because of termination of service, the conversion privilege available upon termination of employment as prescribed by the law relating to group life insurance. Any such group policy or policies shall also provide that if a member dies during the 31-day period during which he would be entitled to exercise the conversion privilege, the amount of insurance with respect to which he could have exercised the conversion privilege shall be paid as a claim under the group policy.

b. If any member who has exercised the conversion privilege under the group policy or policies again becomes a member of the pension fund while the individual policy obtained pursuant to the conversion privilege is still in force, he shall not again be eligible for any of the death benefits provided by the noncontributory or contributory insurance group policy or policies unless he furnishes satisfactory evidence of insurability.

L.1967, c.271.

18A:66-122. Benefits under group life insurance policies; to whom paid

Benefits under such group policy or policies shall be paid by the company to such person, if living, as the member shall have nominated by written designation duly executed and filed with the insurance company through the policyholder, otherwise to the executors or administrators of the member's estate. A member may file with the insurance company through the policyholder and alter from time to time during his lifetime, as desired, a duly attested written nomination of his payee for the death benefit.

L.1967, c.271.

18A:66-123. Options as to payment of death benefits

Any such group policy or policies shall provide that payment of any death benefits which are payable by the insurance company may be made in one sum directly to the beneficiary as hereinafter provided, in equal installments over a period of years or as a life annuity or in such other manner as may be made available by the insurance company. A member may make such arrangements for settlement, and may alter from time to time during his lifetime any arrangement previously made, by making written request to the insurance company through the policyholder. Upon the death of a member, a beneficiary to whom a benefit is payable in one sum by the insurance company may likewise arrange for a settlement as described above. Any arrangement for payment under a group policy to a beneficiary shall be in lieu of that provided by the sections of this article establishing the benefits covered under such policy.

L.1967, c.271.

18A:66-124. Leave of absence for illness deemed to be service

a. For the purpose of section 18A:66-117 and subsection c. of section 18A:66-108, a member shall be deemed to be in service for a period of no more than 2 years while on official leave of absence without pay; provided that satisfactory evidence is presented to the board of trustees that such leave of absence without pay is due to illness.

b. For the purpose of section 18A:66-117 and subsection c. of section 18A:66-108, a member shall be deemed to be in service for a period of no more than 93 days while on official leave of absence without pay when such leave of absence is due to any reason other than illness or military leave of absence.

c. In order for a member to be covered for the contributory death benefits provided under section 18A:66-117, he shall continue to make contributions for same during the period such member is on official leave of absence without pay up to 93 days, except that when such official leave of absence without pay is due to illness, no contributions shall be required of the member during the period he is deemed to be in service while on such leave of absence.

L.1967, c.271; amended by L.1968, c. 364, s. 5, eff. Dec. 26, 1968.

18A:66-125. Perjury to obtain pension

Any person who shall willfully or knowingly swear falsely in any oath for the purpose of obtaining or procuring any pension or the payment thereof, under the provisions of this article, shall be deemed guilty of perjury.

L.1967, c.271.

18A:66-126. Retention of moneys bars member

Any member of the pension fund who shall unlawfully retain any of the moneys, property, or effects of any such corporation organized under this article shall be forever barred from any benefit from the fund.

L.1967, c.271.

18A:66-126.1. Definitions

As used in this act "retirant" means any former employee included in the membership of the retirement system established under the act to which this act is a supplement, who has retired from such employment and, as a result of such employment, is receiving a retirement allowance from the retirement system.

"Calendar year" means the 12-month period beginning January 1 and ending December 31.

"Retirement year" is the calendar year 1967 for all retirants who retired before the calendar year 1968; for all retirants who retired after 1967, "retirement year" is the actual calendar year of retirement.

"Index" shall mean the annual average over a calendar year of the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items Series A, of the United States Department of Labor, (1957-1959=100). Should the reference base of said index be changed, the index used to determine the Consumer Price Index as defined herein will be the index converted to the new base by standard statistical methods.

"Retirement year index" shall be the index of the calendar year 1967 for all retirants who retired prior to January 1, 1968 and the index for the calendar year of retirement for all retirants who retired thereafter.

L.1971, c. 278, s. 1.

18A:66-126.2. Increase in pension

The monthly retirement allowance originally granted to any retirant shall be increased in accordance with the provisions of this act.

Pension increases shall not be paid to retirants who are not receiving their regular, full, monthly retirement allowances. The increase granted under the provisions of this act shall be effective only on the first day of a month, shall be paid in monthly installments, and shall not be decreased, increased, revoked or repealed except as otherwise provided in this act. No increase shall be due to a retirant or his beneficiary unless it constitutes a payment for an entire month.

L.1971, c. 278, s. 2.

18A:66-126.3. Ratio of increase

The "ratio of increase" which shall apply to the retirement allowance originally granted to a retirant shall be calculated in accordance with the following percentages as determined by the calendar year in which the retirement became effective; provided that, in no instance shall the amount of the retirement allowance paid to any retirant under this supplementary act including payments under future revisions be less than the retirement allowance paid under section 6 of chapter 364, public laws of 1968.

Year of Retirement	Ratio of Increase	Year of Retirement	Ratio of Increase
1940	132%	1948	35%
1941	120%	1949	36%
1942	99%	1950	35%
1943	88%	1951	25%
1944	85%	1952	22%
1945	80%	1953	21%
1946	66%	1954	21%
1947	45%		

L.1971, c. 278, s. 3.

18A:66-126.4 Appropriations to pay increase

4. The employer shall pay one-half the cost of the increase in the retirement allowances payable to retirants who retired from the employ of such employer. Certification of the amounts due shall be made by the board of trustees to each employer. Each employer shall appropriate the amounts so certified in the fiscal year next following its fiscal year in which such certification is made. Such amounts shall be paid by each employer to the retirement system. In making such certifications to employers in the years after 1970 the board of trustees shall take into account payments made by the employer, payments to retirants of such employer and prospective payments to be made to such retirants in the following year.

The increase in retirement allowances provided for under this act shall commence provided, that there is appropriated the amount certified by the Director of the Division of Pensions of the State Department of the Treasury to the Director of the State Division of Budget and Accounting as set forth in the Pension Increase Act (P.L.1969, c.169). The increase in retirement allowances shall continue to be paid as long as there shall be appropriated the amounts so certified. In the event that the necessary funds are not so appropriated, the increase in retirement allowances shall cease; no further payments shall be made by other employers; refunds shall be made by the retirement system to all employers of any balances unexpended on their account.

L.1971,c.278,s.4; amended 1995,c.240,s.10.

18A:66-126.5. Waiver; withdrawal

Any person who is eligible to receive the increased retirement allowance under the provisions of this act may, at any time, waive his right thereto by filing a written notice of waiver with the secretary of the retirement system. The application for the waiver of all or part of the increase shall be made by the retirant at least 30 days prior to the desired effective date on a form satisfactory to the retirement system and shall be effective on the first day of the following month. Such waiver may be withdrawn at any time and upon such withdrawal the increase in the retirement allowance shall commence with the retirement allowance payment for the next following month.

L.1971, c. 278, s. 5.

18A:66-126.6 Adjustment of retirement allowances

6. On or before October 1, 1969 and by the same date in each subsequent year, the Director of the Division of Pensions of the State Department of the Treasury shall review the index and determine the percentum of change in the index from the retirement year index, pursuant to the provisions of the Pension Increase Act (P.L.1969, c.169). The percentage of adjustment in the retirement allowances shall be 60% of the percentum of change.

The director shall include amounts sufficient to adjust the retirement allowances or pensions payable to all eligible retirants by 60% of the percentum of change in the index as such retirement allowances or pensions may have been originally granted, or increased for certain retirants in accordance with the provisions of the Pension Increase Act (P.L.1969, c.169). The director shall notify the secretary of the retirement system of the percentage of adjustment for the applicable year.

The employer and the pension fund shall each pay one-half of the percentage of adjustment, provided however that if the percentage of adjustment from any one year to the next year is greater than ten percent, the amount paid by the pension fund with respect to that particular period shall be limited to five percent.

Adjustments by the pension fund in the retirement allowance shall only apply after the effective date of this act (P.L.1995, c.240) and there shall be no retroactive payments for adjustments.

In no instance shall the amount of the retirement allowance originally granted and payable to any retirant be reduced as a result of this adjustment.

For purposes of this section, a "retirant" shall include all retirants except those whose retirement allowances commenced within the two calendar years prior to the first of the month in which the adjustment is to become effective in any year.

L.1971,c.278,s.6; amended 1983,c.216,s.9; 1995,c.240,s.11.

18A:66-126.7. Blanket increase in original or minimum pensions; adjustment of payments under this act

If legislation is adopted providing for a blanket increase in the original retirement allowances or for minimum allowances to any group of retirants eligible for benefits under this act, all increases provided under this supplementary act shall be terminated on the first of the month when such blanket increases or minimum allowances are payable, except in those instances where the retirant's original allowance plus the increases provided under this act will exceed the amounts payable to such retirants as a result of such other legislation; in such event the amount payable under this act shall be the difference between the new allowance payable by the retirement system and the amount which would otherwise have been paid under this act. Any subsequent annual review of amounts payable under this act for such retirants shall continue to be determined on the basis of the original allowance as granted by the retirement system prior to any blanket increase or provision for minimum allowance for any group of retirants eligible for benefits under this act.

L.1971, c. 278, s. 7.

18A:66-126.8. Director of division of pensions; rules and regulations; reports

The Director of the Division of Pensions of the State Department of the Treasury shall promulgate such rules and regulations, not inconsistent with the provisions of the Pension Increase Act (P.L.1969, c. 169) and this act, as he shall deem necessary for the effective operation of the program. He shall include a report of the operation of the Pension Increase Act (P.L.1969, c. 169) and this act in his annual report submitted to the Governor and the Legislature regarding all of the operations of the Division of Pensions. The secretary of the retirement system shall furnish such information as the director may request for this purpose.

L.1971, c. 278, s. 8.

18A:66-126.9. Definitions

As used in this act:

a. "Pension fund" means the fund operating under the provisions of article 2 of chapter 66 of Title 18A of the New Jersey Statutes, as such fund applies to certain employees of the boards of education in school districts in counties of the first class.

b. "Retirement system" means the Public Employees' Retirement System of New Jersey as established under the provisions of P.L.1954, c. 84.

L.1973, c. 8, s. 1, eff. Jan. 24, 1973.

18A:66-126.10. Social security; coverage; referendum

a. The State Treasurer, as the State Agency for Social Security, is directed to conduct a referendum on the question of whether the service performed by members of the pension fund established under article 2 of chapter 66 of Title 18A of the New Jersey Statutes should be excluded from or included under the State's agreement with the Federal Government.

b. The State Treasurer is further directed to secure Social Security coverage for the members of the pension fund within 60 days after a majority of such members qualified to vote in a referendum as required by section 218(d)(3) of the Social Security Act shall have voted to be covered under terms of that act.

The State Treasurer is also directed to obtain Social Security coverage for such members on a prospective basis only.

L.1973, c. 8, s. 2, eff. Jan. 24, 1973.

18A:66-126.11. Application of L.1956, c. 169 upon extension of social security coverage to members of pension fund

If Social Security coverage is extended to members of the pension fund, the provisions of P.L.1956, c. 169 shall apply to such members of said pension fund subject to the following provisos:

a. Any member of the pension fund who was a member on or before June 26, 1962 and who has or shall hereafter have credit in the pension fund and the retirement system for 30 years or more as an employee of a board of education, shall, upon application to the board of trustees of the retirement system, be retired by such board of trustees and shall thereupon receive annually, for and during the remainder of his life, by way of a retirement allowance, an amount equal to $1/60$ of the average annual salary received by him during the 3 years immediately preceding his retirement multiplied by the number of years he has credit in the pension fund and the retirement system as an employee of a board of education.

Any such retirement allowance payable under this subsection shall be in lieu of the retirement benefits which would accrue to the said employee under the retirement system or any retirement system established by the State or any of its political subdivisions.

b. The transfer of prior service, contributing membership credit, and the moneys attributable to the accounts of public employee veteran members of the pension fund to the retirement system shall not alter the service credit previously established.

c. All pensions granted by the pension fund shall be payable by the retirement system in equal monthly installments.

d. All purchases of service credit contracted with the pension fund shall be continued without alteration in terms of credit to be established, the cost and the amount of the additional payroll deductions prescribed for such purchase.

e. All reserves and moneys held by the insurance carrier under contracts provided by employer and employee contributions to the county superintendent of schools, the policyholder, shall be transferred and merged with those maintained for all members of the retirement system.

f. If a transferring member was not covered by either or both noncontributory and contributory death benefit coverages, he may be allowed the death benefits of the retirement system, provided, however, that such member must furnish satisfactory evidence of insurability and on the effective date of his membership in the retirement system is actively at work and performing all his regular duties at his customary place of employment. The effective date of coverage for such benefits shall be on the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

Such evidence of insurability will not be required of any transferring member if such member was covered by such benefits immediately prior to the transfer.

L.1973, c. 8, s. 3, eff. Jan. 24, 1973.

18A:66-126.12. Effect of termination of pension fund on article

The termination of the pension fund pursuant to the provisions of P.L.1956, c. 169 shall result in the repeal of article 2 of chapter 66 of Title 18A of the New Jersey Statutes and all acts amendatory and supplementary thereto.

L.1973, c. 8, s. 4, eff. Jan. 24, 1973.

18A:66-127 Employees of board of education, agreement to reduce salary for purchase of annuity.

18A:66-127. Any board of education may enter into an agreement with any of its employees whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the board's agreement to use a corresponding amount to purchase for the employee an annuity, as defined by N.J.S.17B:17-5, from any company authorized to sell such annuities under the provisions of Title 17B of the New Jersey Statutes, or to invest in a custodial account for the employee through a broker-dealer or agent registered pursuant to the provisions of sections 9 and 10 of the "Uniform Securities Law (1967)," P.L.1967, c.93 (C.49:3-56 and C.49:3-57).

Any such annuity shall be purchased by means of an individual or group annuity contract which may provide for continuance of purchase payments during total disability, and under which the rights of such employee to such contract shall be nonforfeitable. Any such custodial account shall be established in accordance with and maintained to meet the requirements of section 403(b)(7) or section 457(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C. ss.403(b) and 457(b), as amended. All moneys deferred for section 457 plans adopted after the effective date of this act, P.L.2003, c.155 and any other income shall be held in trust, in one or more annuity contracts or in custodial accounts for the exclusive benefit of the participating employees and their beneficiaries. Every such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to the amounts earned while the agreement is in effect. The total amount of the reductions in an employee's salary pursuant hereto, for any calendar year, shall not exceed the limitations set forth in sections 403(b), 457(b) and 415(c) of the Internal Revenue Code of 1986 as amended for such year. Any such agreement may be terminated upon notice in writing by either party.

Amounts payable pursuant to this section by a board of education on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

L.1967, c.271; amended 1977, c.187; 1981, c.550, s.1; 1999, c.247, s.1; 2003, c.155, s.1.

18A:66-128 Reduction of salary for obtaining certain benefits.

18A:66-128. Any reduction in salary agreed to by any employee pursuant to the provisions of this article shall be deemed to be a reduction in salary for the purpose of obtaining the benefits afforded under section 403(b) or section 457, 26 U.S.C. ss.403(b) and 457, of the Federal Internal Revenue Code and shall not be deemed to be a reduction in salary in any other matter, the determination of which is based upon the amount of the employee's includable compensation as set forth in sections 403(b) and 457(b) of the federal Internal Revenue Code.

L.1967, c.271; amended 2003, c.155, s.2.

18A:66-129 Agreements validated, confirmed.

18A:66-129. Any agreements having the same purpose as agreements authorized by this article, made prior to October 7, 1966, between a board of education and any of its employees are hereby validated and confirmed and shall be as good and effectual as if they had been made under the provisions of this article provided that the terms of any such agreement applicable after July 1, 1967 are in conformity with the terms applicable to the agreements specifically authorized by this article.

Any 457(b) deferred compensation plan established by a board of education prior to the effective date of this act, P.L.2003, c.155, which has the same purpose as plans authorized by this act, is hereby validated and confirmed and shall be as good and effectual as if it had been made under the provisions of this act, provided that the terms of such plan, and the manner in which it was established and managed, are in conformity with the provisions of this act.

L.1967, c.271; amended 2003, c.155, s.3.

18A:66-167. Repeals

The following acts or parts of acts are repealed as of July 1, 1969:

- a. Sections 18A:64C-11.1 to 18A:64C-11.9, inclusive, of the New Jersey Statutes.
- b. Sections 18A:65-74 to 18A:65-85, inclusive, of the New Jersey Statutes.
- c. Public Laws 1967, c. 278 (C. 18A:66-130 to C. 18A:66-141, inclusive).
- d. Public Laws 1967, c. 281 (C. 18A:66-142 to C. 18A:66-153, inclusive).
- e. Public Laws 1968, c. 181 (C. 18A:66-154 to C. 18A:66-166, inclusive).

L.1969, c. 242, s. 1, eff. July 1, 1969.

18A:66-168. Repeal subject to certain provisos

2. Repeal of the act and parts of acts, and all amendments and supplements thereto, pursuant to section 1 of this act, is subject to the following provisos:

a. The alternate benefit programs established by the Board of Trustees of the University of Medicine and Dentistry, the Board of Governors of Rutgers, The State University of New Jersey, the Board of Trustees of the New Jersey Institute of Technology and the Board of Higher Education for certain employees of State and county colleges, are continued except as the benefit and contribution schedules are revised by this act.

b. The timely filing of applications for transfer from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan as specified in such acts shall be deemed to have not been revised by this act.

c. The transfer of employee and employer contributions from the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund and the Group Annuity Plan to the insurers or mutual fund companies of the alternate benefit programs shall be considered as having met the requirements of said acts and shall be continued as provided by this act.

d. Any contributions made by a member of the alternate benefit program for any additional death benefit coverage established under said acts shall not be returnable to the member or his beneficiary in any manner, or for any reason whatsoever, nor shall any contributions made for the additional death benefit coverage be included in any annuity payable to any such member or to his beneficiary.

L.1969,c.242,s.2; amended 1993,c.385,s.1.

18A:66-169 Definitions.

3. As used in this act:

a. "Accumulated deductions" means those contributions as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

b. "Base salary" means a participant's regular base or contractual salary. It shall exclude bonus, overtime or other forms of extra compensation such as (1) longevity lump sum payments, (2) lump sum terminal sick leave or vacation pay, (3) the value of maintenance, (4) individual pay adjustments made within or at the conclusion of the participant's final year of service, (5) retroactive salary adjustments or other pay adjustments made in the participant's final year of service unless such adjustment was made as a result of a general pay adjustment for all personnel of the department or institution, (6) any unscheduled individual adjustment made in the final year to place the member at the maximum salary level within his salary range and (7) any pay for services rendered during the summer vacation period by a participant who is required to work only 10 months of the year.

c. "Base annual salary" means the base salary upon which contributions by the member and his employer to the alternate benefit program were based during the last year of creditable service.

d. (Deleted by amendment, P.L.1994, c.48).

e. "University of Medicine and Dentistry" means the University of Medicine and Dentistry of New Jersey established pursuant to the terms of section 3 of P.L.1970, c.102 (C.18A:64G-3).

f. "County colleges" means the colleges so defined in N.J.S.18A:64A-1.

g. "Division of Pensions" means the division established in the Department of the Treasury pursuant to section 1 of P.L.1955, c.70 (C.52:18A-95) and is the agency responsible for the administration of the alternate benefit program of the State and county colleges and for the administration of the group life and disability insurances of all alternate benefit programs established in the State for public employees.

h. "Full-time officers" and "full-time members of the faculty" shall include the president, vice president, secretary and treasurer of the respective school. "Full-time" shall also include eligible full-time officers and full-time members of the faculty who are granted sabbaticals or leaves of absence with pay where the compensation paid is 50% or more of the base salary at the time the leave commences and the period of eligibility terminates with the end of the school year following the year in which the sabbatical began. "Part-time" shall be defined as an appointment where the employee receives a salary or wages for a period of less than 50% of the normal work week. These definitions shall apply to teaching or administrative staff members or to employees serving in a dual capacity where the appointment includes teaching as well as administrative duties.

i. "Group Annuity Plan" refers to the Group Annuity Contract R-134 between the Board of Trustees of the New Jersey Institute of Technology and the Prudential Insurance Company of America.

j. "Member" or "participant" means a full-time officer or a full-time member of the faculty participating in the alternate benefit program, and after the effective date of P.L.2008, c.89, means an adjunct faculty member or a part-time instructor whose employment agreement begins after that effective date.

k. "New Jersey Institute of Technology" means the Newark College of Engineering.

l. "Pension reserve" means those moneys as defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

m. "Rutgers, The State University" means the institution of higher education described in chapter 65 of Title 18A of the New Jersey Statutes.

n. "State Colleges" means the colleges so described in chapter 64 of Title 18A of the New Jersey Statutes.

o. "Mutual fund company" means an investment company or trust regulated by the federal "Investment Company Act of 1940," 15 U.S.C.s. 80a-1 et seq.

L.1969, c.242, s.3; amended 1993, c.385, s.2; 1994, c.48, s.187; 2008, c.89, s.12.

18A:66-170. Alternate benefit program

4. All full-time officers and all full-time members of the faculty of the University of Medicine and Dentistry of New Jersey, Rutgers, The State University, the Newark College of Engineering, the State and county colleges and all regularly appointed teaching and administrative staff members in applicable positions, as determined by the Director of the Division of Pensions in the Department of the Treasury, shall be eligible and shall participate in the alternate benefit program, except those persons appointed in a part-time or temporary capacity, physicians and dentists holding employment in positions titled intern, resident or fellow on or after the effective date of this amendatory act, persons compensated on a fee basis, persons temporarily in the United States under an F or J visa and members of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan, who did not elect to transfer to the alternate benefit program in accordance with the provisions of chapter 64C or 65 of Title 18A of the New Jersey Statutes, P.L.1967, c.278 (C.18A:66-130 et seq.), or c.281 (C.18A:66-142 et seq.), or P.L.1968, c.181 (C.18A:66-154 et seq.). An eligible person who has been enrolled in the alternate benefit program for at least one year pursuant to this section may continue to be enrolled in the program, notwithstanding promotion or transfer to a position within the institution not otherwise eligible for the program.

Any person participating in the alternate benefit program shall be ineligible for membership in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan and any person electing to participate in the alternate benefit program shall thereby waive all rights and benefits provided by the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan as a member of said fund, system or plan, except as herein and otherwise provided by law or under terms of the Group Annuity Plan.

Any person required to participate in the alternate benefit program by reason of employment, who at the time of such employment is a member of the Teachers' Pension and Annuity Fund, shall be permitted to transfer his membership in said fund to the Public Employees' Retirement System, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Any such new employee who is a member of the Public Employees' Retirement System will be permitted to continue his membership in that system, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions within 30 days of the beginning date of employment.

Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.

No person eligible for participation in the alternate benefit program shall be eligible for, or receive, benefits under chapters 4 and 8B of Title 43 of the Revised Statutes.

The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P.L.1968, c.23 (C.43:3C-1 et seq.).

L.1969,c.242,s.4; amended 1981,c.342,s.1; 1982,c.126,s.1; 1984,c.200,s.1; 1994,c.48,s.188.

18A:66-170.1. Commissioner of education; enrollment

Notwithstanding any other provision of the statutory law, the Commissioner of Education shall have the option to enroll in the Alternate Benefit Program if he exercises such option within 10 days from the date of his appointment.

L.1974, c. 67, s. 2, eff. July 11, 1974.

18A:66-170.2. Employee subsequently deemed eligible for enrollment pursuant to L.1984, c. 200 to continue participation from date of original enrollment

Any employee enrolled in the alternate benefit program who is subsequently deemed to be eligible for enrollment by the Board of Higher Education pursuant to this act is permitted to continue his participation in the program from the date of his original enrollment.

L.1984, c. 200, s. 3, eff. Nov. 28, 1984.

18A:66-170.3. Continuation in alternate benefit program

Notwithstanding the provisions of any law to the contrary, any former employee of the Department of Higher Education or of the Commission on Science and Technology, created pursuant to Executive Order No. 12 of 1982, who was a participant in the alternate benefit program and who has continued in uninterrupted service with the New Jersey Commission on Science and Technology, created pursuant to P.L. 1985, c. 102 (C. 52:9X-1

et seq.), may continue to participate in the alternate benefit program on the same terms as if the employee was an eligible employee of the Department of Higher Education.

L. 1986, c. 21, s. 1.

18A:66-170.4 Former employee of auxiliary organization may participate in alternate benefit program.

2. Notwithstanding the provisions of any law to the contrary, any employee of an auxiliary organization, as defined in section 2 of P.L.1982, c.16 (C.18A:64-27), at a State or county college who has service credited in a private defined contribution retirement plan and who, without a break in service, becomes an employee of the State or county college may participate in the alternate benefit program if the employee enrolls in the program within 10 days from the effective date of this act or within 10 days from commencement of employment, whichever date is later.

L. 1993, c.28, s.2.

18A:66-171. Ineligibility for participation in alternate benefit program; enrollment in public employees' retirement system

Those faculty members, who are ineligible for participation in the alternate benefit program, and all other employees of all of the public institutions of higher education in the State, except physicians and dentists holding employment in positions titled intern, resident or fellow on or after the effective date of this amendatory act, shall be enrolled in the Public Employees' Retirement System if they are otherwise eligible. Such eligibility shall extend to all part-time faculty members whose services have been renewed for the succeeding school year.

L.1969, c. 242, s. 5, eff. July, 1969. Amended by L.1982, c. 126, s. 2, eff. Sept. 2, 1982.

18A:66-172. Allocation of contributions; mobility of pension credit

6. Participants in the alternate benefit program shall be allowed to allocate portions of their own contributions and the contributions of their employer, including amounts used by the employer to purchase an annuity pursuant to a salary reduction agreement under section 24 of P.L.1969, c.242 (C.18A:66-190), to accounts with two or more insurers or mutual fund companies designated pursuant to the provisions of section 3 of P.L.1993, c.385 (C.18A:66-172.1) as companies from which alternate benefit contracts may be purchased, and shall, subject to such rules and regulations as the Division of Pensions may adopt, be permitted to direct the withdrawal of such contributions from their account with one such company for deposit in an account with another such company. Since the establishment of the alternate benefit programs for the several public institutions of higher education in New Jersey is designed to provide mobility of pension credit from within the academic community in and outside the State, and since it is imperative that eligibility for participation in this program be of uniform application in the several schools, it shall be the responsibility of the Director of the Division of Pensions to establish regulations which shall provide for such uniformity.

L.1969, c.242, s.6; amended 1993, c.385, s.4; 1994, c.48, s.189.

18A:66-172.1. Pension Provider Selection Board

3. There is established in but not of the Division of Pensions in the Department of the Treasury the Pension Provider Selection Board, which shall consist of the Director of the Division of Pensions or a representative of that director; the Director of the Division of Investment or a representative of that director; the Commissioner of the Department of Insurance or a representative of that commissioner; the Director of the Division of Purchase and Property or a representative of that director; and a person appointed by the Director of the Division of Pensions who is an active participant or receiving a benefit from the alternate benefit program.

The Pension Provider Selection Board shall select through a competitive bidding process at least three unrelated insurance or mutual fund companies licensed or otherwise authorized to transact business in New Jersey from which alternate benefit contracts will be purchased. These new insurers or mutual fund companies shall be selected by competitive bidding in accordance with all applicable State laws and regulations not later than the 270th day following the effective date of P.L.1993, c.385 (C.18A:66-172.1 et al.). The selected carriers shall be authorized to receive contributions within 60 days of their selection. Each contract shall be awarded for a period not to exceed six years with a renewal option for a period not to exceed three years. All carriers shall be subject to a performance review by the Pension Provider Selection Board every seven years and must meet such standards as the Pension Provider Selection Board shall establish by regulation in order to be renewed for another term of seven years as carriers. Removal of a carrier for cause during a seven-year term is not waived. In establishing by regulation the criteria for the initial selection and any performance review of a carrier, the Pension Provider Selection Board shall consider, among other things, the following:

- a. the portability of the contracts offered or to be offered by the company, based on the number of states in which the company provides contracts under similar plans;
- b. the efficacy of the contracts in the recruitment and retention of employees for the various State public institutions of higher education;

- c. the nature and extent of the rights and benefits to be provided by the contracts for participating employees and their beneficiaries;
- d. the relation of the rights and benefits to the amount of contributions to be made pursuant to the provisions of this article;
- e. the suitability of the rights and benefits to the needs and interests of participating employees and the various State public institutions of higher education;
- f. the ability of the company to provide the rights and benefits under such contracts;
- g. the financial soundness of the company, the extent of the company's financial commitment to the contracts, and whether the company meets the minimum financial criteria established by the Division of Pensions;
- h. the company's overall quality of service, its investment performance considering return on investments and risk, the administrative fee to be charged to participating employees, and the offering of a balanced array of investment opportunities; and
- i. the nature of the informational or promotional materials to be provided to prospective participants.

The Pension Provider Selection Board may not designate a company which serves as a disbursement system for other providers or which charges third party administrative fees.

A company that has been designated as of January 1, 1993 by the Division of Pensions as a designated provider shall continue to be so designated until its status as a designated provider is terminated for cause by the division or by the Pension Provider Selection Board.

L.1993,c.385,s.3; amended 1994,c.48,s.193.

18A:66-173. Transfer of certain accumulated deductions to alternate benefit program; transfer of pension reserves; determination of amount of pension; employee's option; limitation

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in section 38 or section 48 of P.L.1954, c. 84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-38, C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N.J.S.18A:66-36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N.J.S.18A:66-36 or N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954, c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the University of Medicine and Dentistry, Rutgers, The State University, the New Jersey Institute of Technology or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of

election. The amount of pension is that established by formula within N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 as such sections have been amended and supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under N.J.S.18A:66-36 or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than two consecutive years elapse in which no employer contributions to an alternate benefit program are required.

L.1969,c.242,s.7; amended 1981,c.342,s.2; 1993,c.385,s.5.

18A:66-173.1. Present or former members of police and firemen's retirement system; transfer of contributions

Any person who is or has been a member of the Police and Firemen's Retirement System and who has taken, or shall take, office, position or employment in any position covered by the alternate benefit programs established pursuant to P.L.1969, c. 242 (C. 18A:66-167 et seq.), but who, prior to the enactment of this amendatory and supplementary act, was ineligible to transfer his contributions from the Police and Firemen's Retirement System, shall be entitled, upon application, to transfer his contributions from the Police and Firemen's Retirement System to the alternate benefit programs as provided in section 7 of P.L.1969, c. 242. If the person's membership in the Police and Firemen's Retirement System has expired on or before the effective date of this act, but he has not withdrawn his contributions from the system, he shall be entitled, upon application, to transfer his contributions from the Police and Firemen's Retirement System to the alternate benefit programs as provided in section 7 of P.L.1969, c. 242.

L.1981, c. 342, s. 3, eff. Dec. 17, 1981.

18A:66-174. Reductions from compensation of participants; payments of employer contributions

8. (a) The University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the New Jersey Institute of Technology shall reduce the compensation of each participant in the alternate benefit program and pay over to the insurers or mutual fund companies for the benefit of the participant an employee contribution for the retirement annuity contract or contracts equal to 5% of the participant's base salary. The intervals for deductions or reductions and payments shall be determined by the respective school governing bodies.

The Division of Pensions shall provide for reductions from the compensation of each participant in the alternate benefit program employed by the State and county colleges of an employee contribution equal to 5% of the participant's base salary and pay this amount to the insurers or mutual fund companies for the individual's retirement annuity contract or contracts. The intervals for deductions or reductions and payments shall be determined by the Division of Pensions.

The Division of Pensions may require that all participant contributions be made in accordance with section 414(h) of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

(b) Based on a certification to the Division of Pensions by the University of Medicine and Dentistry of New Jersey, Rutgers, The State University and the New Jersey Institute of Technology of the number and base salary of participants, the division shall authorize the State to make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

Based on a certification by the Division of Pensions of the number and base salary of participants employed by the State and county colleges, the State shall make payment of the employer contributions to the alternate benefit program at a rate equal to 8% of the employee's base salary, which moneys shall be paid to the designated insurers or mutual fund companies for the benefit of each participant.

(c) For the member of the Public Employees' Retirement System employed by the county colleges, who is defined in the regulations of the Division of Pensions as a full-time faculty member and who is permitted to transfer his membership and does so, the State

shall pay the employer contribution to the alternate benefit program at a rate equal to 8% of the member's base salary. If the member continues membership in the Public Employees' Retirement System, the State shall pay the employer contribution to the retirement system on his behalf and such employer contribution shall be at a rate equal to the normal contribution made by the State on behalf of nonveteran members of the Public Employees' Retirement System.

(d) For any nonacademic employee of a county college, as defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is eligible for the program according to the regulations of the Director of the Division of Pensions, the county college shall pay the employer contribution to the retirement system on the employee's behalf in the same manner as the State, pursuant to this section.

L.1969,c.242,s.8; amended 1975,c.364; 1984,c.200,s.2; 1985,c.71; 1993,c.385,s.6; 1994,c.48,s.190.

18A:66-175. Termination of membership or participation

9. Membership or participation in the alternate benefit program shall terminate and the individual shall be considered retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate.

L.1969,c.242,s.9; amended 1993,c.385,s.7.

18A:66-176 Group life insurance and disability benefits; noncontributory; coverage.

10. As of July 1, 1969 the group contract providing life insurance and disability benefits for all participants in the alternate benefit program of each public institution of higher education in the State shall be on a non-contributory basis and shall be in lieu of any non-contributory and contributory benefits provided pursuant to sections 18A:64C-11.1 to 18A:64C-11.9 (inclusive) and article 16 of chapter 65 of Title 18A of the New Jersey Statutes, chapters 278 and 281 of the laws of 1967, and chapter 181 of the laws of 1968. In accordance with the provisions of this act such group contract or contracts providing life insurance shall be in an amount equal to 3 1/2 times the base annual salary of the participant in the alternate benefit program; provided, however, that if death shall occur after retirement, the amount payable shall equal 1/2 of the participant's base annual salary.

For purposes of this section a participant shall be deemed to be in service and covered by the group life insurance for a period of no more than 93 days while on official leave of absence without pay when such leave is due to any reason other than illness, except for a leave up to one year to fulfill a residency requirement for an advanced degree, for a period of no more than one year in the event of an official leave due to maternity and for a period of no more than two years if satisfactory evidence is presented to the Division of Pensions and Benefits that such official leave of absence without pay is due to illness. A participant shall be deemed to be on an official leave of absence only if the leave is formally approved by his employer prior to the time the leave commenced and timely notice is filed by the employer with the Division of Pensions and Benefits; the lack of such timely notice shall place the responsibility for the payment of any benefits pursuant to this section directly upon the employer if the participant was otherwise eligible for such benefits.

In the event of the death of a participant in active service in the first year of participation as a result of an accident met in the actual performance of duty at some definite time and place, the death benefit payable pursuant to this section shall be computed at the annual rate of base salary.

No beneficiary of a retired member shall be entitled to receive the death benefits payable in the event of death after retirement pursuant to this section unless such member (a) had at least 10 years of credited New Jersey participation in an alternate benefit program established pursuant to this act and (b) had attained 60 years of age and was an actively employed participant in such a program in the year immediately preceding his initial receipt of a retirement annuity.

L.1969,c.242,s.10; amended 2003, c.75, s.1.

18A:66-177. Purchase of group life insurance and disability benefit coverage; alternate benefit group insurance premium fund

As of July 1, 1969 the State Treasurer is hereby authorized and permitted to purchase from one or more insurance companies, as determined by him, group life insurance and disability benefit coverage to provide for the death benefits and disability benefits in the amounts specified in this act. Such group life insurance and disability benefit coverage may be provided under one or more policies issued to the State Treasurer specifically for this purpose or, in the discretion of the State Treasurer, under one or more policies issued to the State Treasurer which provide group life insurance coverage for members of one or more retirement systems of the State of New Jersey. Any dividend or retrospective rate credit allowed by an insurance company attributable to the alternate benefit program shall be credited in an equitable manner to the funds available to meet the employers' obligations under the alternate benefit program.

Premiums for such group insurance coverage shall be paid from a special fund, hereby created, called the "Alternate Benefit Group Insurance Premium Fund." The State Treasurer shall estimate annually the amount which will be required for premiums for such benefits for the ensuing fiscal year and shall certify such amounts which shall be applied against the total employer contributions due for the participants from the several institutions where the alternate benefit programs are established, depositing such amounts in the Alternate Benefit Group Insurance Premium Fund.

During the period such group insurance policy or policies are in effect with respect to participants in the alternate benefit programs the State Treasurer shall in no way commingle moneys in this fund with any pension funds established under the alternate benefit programs.

All reserves and moneys held by the insurance carriers under the group life insurance and disability benefit policies providing for employer and employee contributions pursuant to the provisions of chapters 64C and 65 of Title 18A of the New Jersey Statutes, chapters 278 and 281 of the laws of 1967 and chapter 181 of the laws of 1968, and any amendments and supplements thereto, as well as any accrued liabilities under such policies which may be terminated, shall be transferred and merged with those group policies purchased by the State Treasurer.

L.1969, c. 242, s. 11, eff. July 1, 1969.

18A:66-178. Life insurance companies eligible to sell life and accidental death insurance

Any life insurance company must meet the following requirements in order to qualify under section 11 of this act:

a. Be licensed under the laws of the State of New Jersey to transact life and accidental death insurance, and the amount of its group life insurance in the State of New Jersey shall at the time said insurance is to be purchased equal at least 1% of the total amount of such group life insurance in the State of New Jersey in all life insurance companies; or

b. Come within the exceptions provided in chapter 234 of the laws of 1968 (C. 17:32-16 et seq.).

L.1969, c. 242, s. 12, eff. July 1, 1969.

18A:66-179. Conversion privilege upon termination of employment or death

Any such group policy or policies shall include, with respect to any insurance terminating or reducing because the participant has ceased to be in service or has retired, the conversion privilege available upon termination of employment as prescribed by the law relating to group life insurance; and shall also include, with respect to life insurance terminating because of termination of the group policy, the conversion privilege available upon termination of the group policy as prescribed by such law. Any such group policy or policies shall also provide that if the participant dies within the 31-day period during which he would be entitled to exercise the conversion privilege, the amount of life insurance with respect to which he could have exercised the conversion privilege shall be paid as a claim under the group policy. When benefits payable upon the death of a participant following retirement are determined as though the participant had not retired, the death benefits payable under the group policy or policies, together with the amount of life insurance paid under any individual policy obtained under the conversion privilege, shall in no event exceed the amount of insurance for which the participant was insured under the group policy or policies immediately prior to the date the right of conversion arose. If any participant has exercised the conversion privilege under the group policy or policies while on leave of absence or upon termination of employment, when he again becomes a participant of an alternate benefit program and the individual policy obtained pursuant to the conversion privilege is still in force, he shall not again be eligible for any of the group life insurance provided under such policy or policies unless he furnishes satisfactory evidence of insurability.

L.1969, c. 242, s. 13, eff. July 1, 1969.

18A:66-180. Designation of payee for death benefits

Death benefits under such group policy or policies shall be paid by the insurance company to such person, if living, as the participant shall have nominated by written designation duly executed and filed with the insurance company through the policyholder, otherwise to the executors or administrators of the participant's estate. A participant may file with the insurance company through the policyholder and alter from time to time during his lifetime as desired, a duly attested written nomination of his payee for the death benefit.

L.1969, c. 242, s. 14, eff. July 1, 1969.

18A:66-181. Payment of death benefits

Any such group policy or policies shall provide that payment of any death benefits which are payable by the insurance company may be made in one sum directly to the beneficiary as hereinafter provided, in equal installments over a period of years or as a life annuity or in such other manner as may be made available by the insurance company. A participant may make such arrangements for settlement, and may alter from time to time during his lifetime any arrangement previously made, by making written

request to the insurance company through the policyholder. Upon the death of a participant, a beneficiary to whom a benefit is payable in one sum by the insurance company may likewise arrange for a settlement as described above.

L.1969, c. 242, s. 15, eff. July 1, 1969.

18A:66-182. Evidence of insurability

a. Any person entitled to become a participant in an alternate benefit program shall not be allowed any of the group life and disability insurance benefits if on the date he files an application for participation he is 60 or more years of age or if he makes application for participation in an alternate benefit program beyond the year after he first became eligible for participation, regardless of age, unless the participant furnishes satisfactory evidence of insurability and on the effective date of his participation is actively at work and performing all his regular duties at his customary place of employment.

The effective date of coverage for such benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a participant of an alternate benefit program upon transfer from the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, other State-administered retirement system or the Group Annuity Plan, if such system provided benefits of a similar nature and the transferring employee was covered by such benefits at the time of the transfer. If such transferring employee was not covered by such benefits at the time of the transfer, he may be allowed the benefits under the group policy or policies subject to the provisions of subsection a. of this section; provided, however, that any such participant must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section, if he had been unable or failed to give such evidence as a member of the system from which he transferred.

c. Any person who must furnish satisfactory evidence of insurability under the provisions of this section and who ceases to be a participant of an alternate benefit program without such evidence having been given, shall continue to be subject to the same requirement if he subsequently becomes a participant.

L.1969, c. 242, s. 16, eff. July 1, 1969.

18A:66-183 Designation of beneficiary; form; payment.

17. The designation of beneficiary by a participant or retirant shall be made in writing on a form satisfactory to the Division of Pensions and Benefits and filed with the division. The participant or retirant may, from time to time and without the consent of his designee, change the beneficiary by filing a written notice of the change on a satisfactory form. The new nomination will be effective on the date the notice, in proper form, is received and any prior nomination shall thereupon become void.

If more than one beneficiary is nominated and in such nomination the participant or retirant has failed to specify their respective interests, the beneficiaries shall share equally. If any beneficiary predeceases the participant or retirant, the interest of such beneficiary shall terminate and shall be shared equally by such of the beneficiaries as survive the participant or retirant, unless the participant or retirant has made written request to the contrary in his beneficiary nomination.

Any amounts due for which there is no beneficiary at the death of a participant, retirant or beneficiary shall be payable to the estate of such participant, retirant or beneficiary.

Except with regard to the payment of the group life insurance death benefit upon the death of a retirant, a participant may elect, by making written request, that the whole or any part of his group life death benefits be made payable to his beneficiary either as a life annuity or in equal installments over a period of years specified in such election, and may alter such election from time to time during his lifetime by again making such written request. In the event of a change of beneficiary, any previous arrangement by the participant or retirant under this paragraph shall be void. The election set forth in this paragraph shall not apply or be available when the beneficiary is an estate, or a corporation, partnership, association, institution, trustee, or any fiduciary.

If, at the participant's death, an amount of group life death benefit would be payable to the beneficiary in a single sum, any election with regard to such amount which was available to the participant immediately prior to his death in accordance with the preceding paragraph shall then be available to such beneficiary for the benefit of such beneficiary.

With respect to any death benefits payable on the basis of the individual retirement annuity contract or contracts, all settlement options will be made available to the participant, retirant or beneficiary as are allowed by the insurer or insurers.

The provisions of this section shall be construed separately with respect to each of the death benefits for which a beneficiary is designated by the participant or retirant.

L.1969,c.242,s.17; amended 2003, c.75, s.2.

18A:66-184. Disability benefits; payment; total disability; exceptions

The disability benefits provided under such group policy or policies for all eligible participants in the alternate benefit programs shall provide a monthly income if the participant becomes totally disabled from occupational or nonoccupational causes for a period of at least 6 consecutive months following the effective date of the coverage. The monthly disability benefit may be paid by the insurance company so long as the participant remains disabled up to his seventieth birthday, provided the disability commenced prior to his sixtieth birthday. The benefit will terminate when the participant is no longer considered totally disabled or begins to receive retirement benefits.

The participant will be considered totally disabled if he is unable to perform each duty of his occupation and is under the regular care of a physician. After the 12 months following the commencement of such disability benefit payments, he must be unable to engage in any gainful occupation for which he is reasonably fitted by education, training or experience. Total disability is not considered to exist if he is gainfully employed. However, following an agreement with the insurance company and the policyholder, the participant can continue to receive disability benefits for a limited time while performing some type of work. During the period of rehabilitation the monthly benefit will be the regular payment less 80% of the participant's earnings from such rehabilitative position.

For purposes of this section a participant shall be deemed to be in service and covered by the disability benefit insurance provisions for a period of no more than 6 months while on official leave of absence without pay if satisfactory evidence is presented to the Division of Pensions that such leave of absence without pay is due to illness and that the member was not actively engaged in any gainful occupation during such period of leave of absence without pay.

Disability benefit insurance provisions of the group policy or policies shall not cover disability resulting from or contributed to by pregnancy, act of war, intentionally self-inflicted injury, or attempted suicide whether or not sane. For purposes of such disability insurance the participant will not be considered to be disabled while he is imprisoned or while outside the United States, its territories or possessions, or Canada.

If the participant has recovered from the disability for which he had received benefits and again becomes totally disabled while insured, the later disability will be regarded as a continuation of the prior one unless the participant has returned to full-time covered employment for at least 6 months. However, if the later absence is due to an unrelated cause and the participant had returned to full-time work, it will be considered a new disability. The disability benefit insurance cannot be converted to an individual policy.

No person shall be covered by the disability benefit provision of the group policy or policies except upon the completion of one year of full-time continuous employment in a position eligible for participation in the alternate benefit program.

L.1969, c. 242, s. 18, eff. July 1, 1969.

18A:66-185. Amount of disability benefits

The disability benefits provided under such group policy or policies shall be in an amount equal to 60% of the participant's base monthly salary, reduced by periodic benefits to which the participant may be entitled during the period of total disability. The minimum monthly disability benefit will be \$50.00.

The periodic benefits by which the monthly disability benefits may be reduced shall include salary or wages, retirement benefits or benefits from any source for which the State or other public employer has paid any part of the cost or made payroll deductions, Social Security disability or other benefits, including dependents' benefits, and benefits paid by Social Security at the option of the participant before the age of 65, but not including any increase in Social Security benefits enacted after the disability benefits under such group policy or policies have commenced, and any other periodic benefits provided by law except on account of military service.

When a participant begins to receive disability benefits under such group policy or policies the insurance company will pay an amount equal to the employee contribution which would have been required of the participant and deducted from his base salary in order to meet his obligation for the purchase of his individual retirement annuity. Such amount shall be paid by the insurance company without reduction by any other periodic benefits which the participant is eligible to receive. Such amount will be paid by the insurance company to the insurer or insurers for the participant's retirement annuity contract or contracts.

L.1969, c. 242, s. 19, eff. July 1, 1969.

18A:66-186. Credit by insurer; savings on commissions

Notwithstanding any other provision of law, any insurance company or companies, issuing such policy or policies may credit the policyholder either directly or in the

form of reduced premiums, with savings by said company or companies in the event that no brokerage commission or commissions are paid by said company or companies on the issuance of such policy or policies.

L.1969, c. 242, s. 20, eff. July 1, 1969.

18A:66-187. Certain employer obligations prohibited

21. While any participant in the alternate benefit program may make personal contributions at any time directly to the insurers or mutual fund companies of the individual retirement annuities, no employer obligations will be paid when the participant is on a leave of absence without pay or when the participant no longer meets the definition of a full-time officer or full-time member of the faculty.

L.1969,c.242,s.21; amended 1993,c.385,s.8.

18A:66-188. Cash surrender option; policy loans; conditions for annuity repurchase; affect on past and future contributions

22. The alternate benefit programs shall provide an option for cash surrender upon separation from service. The cash surrender shall be applicable only to employee contributions and accumulations prior to the participant's 55th birthday, and thereafter to the full amount of all employee and employer contributions and accumulations. Additionally, a participant may borrow from his employee account accumulations up to the amounts allowed under federal law while still employed. Employee and employer account accumulations shall be used to qualify for the amount of a policy loan. In the event a participant in the alternate benefit program terminates his employment for reasons other than retirement or disability and requests repurchase of his annuity or annuities, such repurchase shall be allowed provided it meets the conditions under which the insurer or mutual fund company will repurchase annuities automatically, and provided that the portion of the repurchase value attributable to employer contributions made pursuant to this act shall be refunded to the employer.

The amendments to this section made by P.L.1993, c.385 (C.18A:66-172.1 et al.) shall apply to all contributions made to a plan under the alternate benefit program on or after the 90th day following the effective date of that P.L.1993, c.385. Any plan contributions invested in the College Retirement Equities Fund prior to that date shall be fully subject to distribution as cash if those contributions shall not have been annuitized prior to that 90th day. Any plan contributions invested in the Teachers Insurance and Annuity Association prior to that 90th day shall become subject to distribution as cash to the maximum extent permitted by the contract if those contributions shall not have been annuitized prior to that 90th day.

L.1969,c.242,s.22; amended 1993,c.385,s.9.

18A:66-189. Vesting of contributions; qualification under federal tax law

23. The Division of Pensions and Benefits may, in its sole discretion, qualify the alternate benefit program under section 401(a) or 403(a) of the federal Internal Revenue Code (26 U.S.C. s.401(a), s.403(a)). In such a case, all contributions to the retirement annuity contracts shall be made as soon as the employee is eligible and has filed application forms required by the annuity carrier. No employer contributions under these contracts shall be vested in the employee until after the employee commences the second year of employment unless the employee, at the time of initial employment, either (a) owns a retirement annuity contract or contracts determined by the Division of Pensions and Benefits to be substantially similar to the contracts to be purchased under the alternate benefit program and issued by the designated insurers or mutual fund companies, or (b) is a member of another State-administered retirement system.

To the extent that any contributions required by this section would exceed the limits established pursuant to section 415 of the Internal Revenue Code, the contributions shall not be made to a plan which has been qualified under sections 401(a) or 403(a) of the Internal Revenue Code. Instead, the excess contributions shall be made to a section 403(b) plan established by the State to the extent that those contributions would be permitted to the plan in compliance with any provisions of the Internal Revenue Code and, in the event that there are remaining contributions, they shall be made to a nonqualified annuity plan established and maintained for this purpose. The participant shall be liable for any federal income taxes on contributions made to this plan.

L.1969,c.242,s.23; amended 1993,c.385,s.10.

18A:66-190 Authority to enter into agreements for annuity purchases; method of payment; limitations.

24. The Board of Trustees of the University of Medicine and Dentistry of New Jersey, the Board of Governors of Rutgers, The State University, the Board of Trustees of the New Jersey Institute of Technology and the boards of trustees of State and county colleges, are hereby authorized to enter into agreement with each employee participating in the alternate benefit program whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the agreement of the respective institution to use a corresponding amount to purchase an annuity for such employee so as to obtain the benefits afforded under section 403(b) of the federal Internal Revenue Code, as amended. Any such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to amounts earned while the agreement is in effect;

provided, however, that such agreement may be terminated after it has been in effect for a period of not less than one year upon notice in writing by either party, and provided further that not more than one such agreement shall be entered into during any taxable year of the employee. For the purposes of this section, any annuity or other contract which meets the requirements of section 403(b) of the federal Internal Revenue Code, as amended, may be utilized. The amount of the reduction in salary under any agreement entered into between the institutions and any employee pursuant to this section shall not exceed the limitations set forth in P.L.93-406 (Employment Retirement Income Security Act of 1974) and Section 415(c) of the Internal Revenue Code of 1954 as amended for such year.

Amounts payable pursuant to this section by an institution on behalf of an employee for a pay period shall be transmitted and credited not later than the fifth business day after the date on which the employee is paid for that pay period.

L.1969,c.242,s.24; amended 1981, c.39, s.1; 1994, c.48, s.191; 1999, c.247, s.2.

18A:66-191. Prohibited payments; authorized payments

25. No retirement, death or other benefit shall be payable by the State, the University of Medicine and Dentistry, Rutgers, The State University, the New Jersey Institute of Technology or the Division of Pensions under the alternate benefit program. Benefits shall be payable to participating employees and their beneficiaries only by the designated insurers or mutual fund companies under the terms of the contracts.

L.1969,c.242,s.25; amended 1993,c.385,s.11; 1994,c.48,s.192.

18A:66-192. Rules and regulations; operation of programs

The Division of Pensions shall provide for all things necessary to prepare and operate said alternate benefit programs. The division shall adopt rules and regulations from time to time as it may deem necessary for the operation of the programs.

L.1969, c. 242, s. 26, eff. July 1, 1969.

18A:67-1. Title or name of educational institutions; exceptions

No educational institution conducted in this state shall adopt as a name for the institution any title containing the words "New Jersey," "state of New Jersey," "state," or any other expression indicating a relationship between it and the state except schools maintained by the state and the state university of New Jersey.

L.1967, c.271.

18A:67-2. Approval of collegiate name

18A:67-2. No institution which proposes to offer courses of study above high school grade, which courses satisfy in whole or in part the requirements for a college or university degree, shall adopt or use any title or name commonly accepted as descriptive of collegiate or university institutions without the approval of the Commission on Higher Education made under rules relating to names and titles of institutions adopted by the commission.

L.1967, c.271; amended 1994,c.48,s.194.

18A:68-1. Right of colleges to give diplomas and confer degrees

Subject to the provisions of this chapter, any college in this state founded or hereafter to be founded under and by virtue of the provisions of a general act of the legislature, may, from time to time, give diplomas and confer degrees upon those who shall successfully complete prescribed courses of study, and confer honorary degrees upon such others as shall be recommended therefor by its board of trustees. Nothing in this section shall be construed to authorize a college to confer any degree or diploma authorizing the practice of medicine, dentistry, or law.

L.1967, c.271.

18A:68-1.1 Voter registration at private colleges, universities.

3. The registrar or other principal officer responsible for the registration of students at each eligible institution, as defined by subsection a. of section 3 of P.L.1979, c.132 (C.18A:72B-17), that receives financial assistance, aid or grants from State funds shall:

a. cause copies of the voter registration forms and instructions furnished under subsection f. of section 16 of P.L.1974, c.30 (C.19:31-6.4) to be displayed at the office of registration for that institution and to be made available to each eligible enrolled student at and each eligible prospective student of the institution who, when appearing in person at that office, may wish on a voluntary basis to register to vote;

b. provide for the continuous supply of the forms and instructions specified in subsection a. of this section to that office of registration; and

c. provide the forms and instructions specified in subsection a. of this section in both the English and Spanish languages to each office of registration that is located in any county in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

As used in this section:

"eligible enrolled student" means an individual who is already enrolled in the eligible institution who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election; and

"eligible prospective student" means an individual who is applying for initial enrollment in the eligible institution who, by the time of the next election, shall be at least 18 years old, a citizen of the United States, a resident of the State of New Jersey, and a resident of the county in which the individual resides for at least 30 days before the election.

L.2003,c.36,s.3.

18A:68-2. Right of seminaries or schools of theology to confer degrees

Subject to the provisions of this chapter, any seminary or school of theology in this state, whether incorporated by special charter or under general laws, may, upon the precedent recommendation, or with the concurrent approval, of the faculty of instruction and after satisfactory examination held on completion of the studies required for the degree, grant to and confer upon a graduate of the institution, or a person who has done approved work therein:

a. The degree of bachelor of divinity or theology.

b. The degree of bachelor, master or doctor of sacred theology as may be appropriate in each case.

c. In the case of a seminary or school of theology which has a full collegiate course preparatory to the theological course, the degree of bachelor of arts. Such an institution may also confer honorary degrees upon persons recommended therefor by the board of trustees or directors thereof. Nothing contained herein shall be construed to authorize such an institution to confer a degree or diploma authorizing the practice of medicine, dentistry or law.

Degrees may be conferred under this section with all honors, rights and privileges usually incident to them when granted in and by universities or the schools of theology in the United States.

L.1967, c.271.

18A:68-3 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.

L.1967, c.271; amended 1994, c.48, s.195; 1999, c.46, s.44.

18A:68-4. Revocation of license

18A:68-4. Any license issued under this article may be revoked by the Commission on Higher Education.

L.1967, c.271; amended 1994,c.48,s.196.

18A:68-5. Restraint of corporations operating without license

18A:68-5. When it shall appear that any corporation is carrying on the business of such instruction or teaching, or conferring any such degree, or giving any such diploma without such license, the Commission on Higher Education, represented by the Attorney General, may institute a civil action in the Superior Court to restrain the corporation from the transaction of any such business or the exercise of any such franchise within this State until it shall have obtained such license or the approval of the commission. The court may proceed in the action in a summary manner or otherwise. The costs in any such action, to be fixed by the court, shall be paid by the corporation before the dissolution of any injunctive order or judgment.

L.1967, c.271; amended 1994,c.48,s.197.

18A:68-6. Submission and approval as prerequisite to conferring of degrees

18A:68-6. No school, corporation, association or institution of learning conducted within this State and licensed by the Commission on Higher Education, nor any officer or member thereof, in recognition of the attainment or proficiency of any person in pursuing or graduating from any course or courses of study, arts, or learning conducted by it or another such school corporation, association or institution, shall admit any such person to the grade of a degree by conferring, or participating in conferring, any degree upon any person unless that degree program is consistent with the programmatic mission of the institution or is approved by the commission.

Nothing contained in this section shall apply to any school, corporation, association or institution of learning, or officer or member thereof, which was established and conducted within this State on April 1, 1887, and was then in the course of admitting persons to the grade of a degree by conferring the same upon them in recognition of their attainments or proficiencies, nor to any school conducted under the public school system.

L.1967, c.271; amended 1994,c.48,s.198.

18A:68-7. Withdrawal of approval; record of approvals and revocations

18A:68-7. The approval given by the Commission on Higher Education of the basis or conditions for the admission to the grade of a degree may be revoked for proper cause by the commission after hearing upon 20 days' notice of the time and place of such hearing given to any such school, corporation, association or institution of learning by service upon any officer or member thereof, and proof made at such hearing to the satisfaction of the commission, that the standards presented for admission to such grade of a degree or for the conferring of such degree are not being satisfactorily complied with by such school, corporation, association or institution of learning, or by the officers or members thereof. The commission shall keep a record of such approvals and revocations in a book to be provided and used solely for that purpose, which book shall be kept at its office in Trenton and may be inspected by any person upon request.

L.1967, c.271; amended 1994,c.48,s.199.

18A:68-8. Conferring degree during revocation

The admitting of any person to any such grade of a degree by conferring the same upon him during the continuation of the revocation of such approval shall render any such school, corporation, association or institution of learning, or any officer or member thereof, participating therein, liable to the penalty prescribed by this chapter as though no approval had been granted in the first instance.

L.1967, c.271.

18A:68-9. Penalties; recovery

18A:68-9. An officer or member of a school, corporation, association or institution of learning who by vote or in any other manner or capacity, or a school, corporation, association or institution of learning which shall admit or participate in admitting a scholar, student, or subscriber to any grade of a degree by conferring or participating in conferring any degree upon him, contrary to the provisions of this chapter, or who shall sign any certificate or diploma as evidence of the conferring of such degree shall be liable to a penalty of not more than \$300.00 for each offense, to be enforced and collected by and in the name of the Commission on Higher Education in a summary proceeding in accordance with chapter 58 of Title 2A of the New Jersey Statutes, the penalty enforcement law. Process shall be either in the nature of a summons or warrant.

L.1967, c.271; amended 1994,c.48,s.200.

18A:68-10. Failure to pay penalty

Upon the failure of the defendant to pay forthwith the amount of any money judgment rendered against him the defendant shall be committed to the county jail for a period not exceeding 90 days.

L.1967, c.271.

18A:68-11. Disposition of moneys recovered

18A:68-11. All moneys recovered under the provisions of this article shall be payable to the State Treasurer.

L.1967, c.271; amended 1994,c.48,s.201.

18A:68-11.1. Short title

This act shall be known and may be cited as the "Institution of Higher Education Educational Loan Act."

L.1977, c. 123, s. 1, eff. June 6, 1977.

18A:68-11.2. Definitions

2. As used in this act:

a. "Institution of higher education" means an institution of collegiate grade in New Jersey licensed by the Commission on Higher Education or otherwise authorized under

N.J.S.18A:68-6 and accredited by the Middle States Association of Colleges and Secondary Schools.

b. "Educational loan" means either (1) a loan which is made for the purpose of defraying the cost of attendance by one or more students at the institution of higher education making such loan or (2) a loan to an employee of an institution of higher education for the purpose of defraying the costs of post-secondary school education of the employee or of the spouse or child of the employee.

L.1977,c.123,s.2; amended 1994,c.48,s.202.

18A:68-11.3. Educational loans from institutional funds; authorization

In addition to such other powers and authority which institutions of higher education may have, such institutions may make educational loans upon the terms and conditions prescribed by this act, provided that only institutional funds derived from endowment, corporate or foundation accounts are used to make such loans. Funds borrowed from sources outside of the institution or received from governmental sources shall not be used for such loans.

L.1977, c. 123, s. 3, eff. June 6, 1977.

18A:68-11.4. Interest; computation

An institution of higher education may make educational loans and may charge and collect interest thereon at a rate not in excess of 1% per month on the first \$10,000.00 of the principal sum owing on all such loans for the payment of which a person is liable to the institution in any capacity, and 3/4 of 1% on the excess over \$10,000.00 owing on all such loans for the payment of which a person is so liable to the institution of higher education. Interest shall be calculated according to the actuarial method, pursuant to which payments made on the loan are applied first to accumulated interest on the principal amount of the loan and the remainder applied to the unpaid principal balance of the loan in reduction thereof. All payments shall be applied no later than the next day, other than a Sunday or a public holiday, after the date of receipt, and a day shall be counted as one-three hundred sixty-fifth of a year.

L.1977, c. 123, s. 4, eff. June 6, 1977.

18A:68-11.5. Repayment

Educational loans shall be repaid in such manner and shall be subject to such terms and conditions not inconsistent with this act to which the parties thereto may agree.

L.1977, c. 123, s. 5, eff. June 6, 1977.

18A:68-11.6. Credit life or health insurance

When a person liable for the payment of an educational loan consents in writing thereto, the institution of higher education may obtain or provide either or both credit life insurance and credit health insurance on such person, pursuant to chapter 29 of subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S. 17A:29-1 et seq.), and may deduct and retain from the proceeds of such loan an amount equal to the premium lawfully charged by the insurer issuing such insurance. If there is more than one person who is liable for the payment of such loan, insurance may be obtained as herein authorized only upon one of such persons. Nothing in any law of this State shall prohibit an institution of higher education or any employee or agent thereof from collecting the premium or identifiable charge for such insurance, dividend or other gain or advantage resulting from such insurance.

L.1977, c. 123, s. 6, eff. June 6, 1977.

18A:68-11.7. Regulations

The Higher Education Assistance Authority of the State of New Jersey shall make such regulations including the rate of interest to be charged pursuant to Section 4 and establish such procedures as may be necessary to achieve the purposes of this act.

L.1977, c. 123, s. 7, eff. June 6, 1977.

18A:68-12. Requirement of license

No school or college shall be conducted within this state for the purpose of training or qualifying its students to practice medicine or surgery or any branch thereof or any method for the treatment of disease or any abnormal physical condition without first securing from the state board of medical examiners a license authorizing it so to do.

L.1967, c.271.

18A:68-13. Application for license; fee

Every such school or college shall submit to the state board of medical examiners, with its application for a license, a statement verified by affidavit of the president or head master of the school or college showing the location of the school or college, the course of study pursued therein, the time required to complete the course, whether its students are required to attend the school or college in person, and if so, for what period of time, the number and qualifications of the instructors employed therein, and the facilities afforded for teaching the subjects in which instruction is intended to be given. The statement shall contain such additional information concerning the school or

college as may be required by the board. The applicant shall present with the application a fee of \$100.00.

L.1967, c.271.

18A:68-14. Granting license

The board shall issue its license to every school or college applying therefor which complies with the requirements adopted by the state board of medical examiners for class A medical colleges in force at the time the application is made.

L.1967, c.271.

18A:68-15. Statement in license of system of treatment taught

A license issued pursuant to this article shall state plainly upon its face the system or branch of medicine or surgery or method of treatment of disease or abnormal physical condition which the school or college to which it is issued is authorized to each.

L.1967, c.271.

18A:68-16. Term and revocation of license

The license shall remain in force and effect until revoked. The state board of medical examiners may, after notice and hearing, revoke the license of any school or college which is so conducted and equipped as not to comply with the requirements adopted by the board for class A medical colleges in force at the time such revocation shall be under consideration.

L.1967, c.271.

18A:68-17 Schools for midwifery, podiatric medicine excepted.

18A:68-17. This article shall not apply to a school conducted for the sole purpose of training persons to practice midwifery or podiatric medicine.

L.1967, c.271; amended 2005, c.259, s.30.

18A:68-18. Penalty for violation of article

A person violating any provision of this article shall be liable to a penalty of \$500.00, which shall be recovered by and in the name of the state board of medical examiners in a summary proceeding in accordance with the penalty enforcement law, chapter 58, of Title 2A of the New Jersey Statutes. Process shall be either in the nature of a summons or warrant.

L.1967, c.271.

18A:71-28 Short title.

This act shall be known as, and may be cited as, the "New Jersey Educational Opportunity Act of 1968."

L.1968,c.142,s.1, eff.July 12, 1968.

18A:71-29 Liberal construction.

This act shall be liberally construed to effectuate the purposes and intent thereof.

L.1968,c.142,s.2, eff.July 12, 1968.

18A:71-30 Definitions.

3. As used in this act, unless the context clearly indicates otherwise, the following terms shall have the following meanings:

(a) The term "board" shall mean the Board of Directors of the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(b) (Deleted by amendment, P.L.1994, c.48).

(c) The term "department" shall mean the Department of State.

(d) The term "fund" shall mean the New Jersey Educational Opportunity Fund created by section 4 of P.L.1968, c.142 (C.18A:71-31).

(e) The term "higher education" shall mean that education which is provided by any or all of the public institutions of higher education as herein defined or any or all equivalent private institutions.

(f) The term "public institutions of higher education" shall mean and include Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the nine State colleges, the county colleges, and any other public universities, colleges or county colleges now or hereafter established or authorized by law.

L.1968,c.142,s.3; amended 1994,c.48,s.212.

18A:71-31 "New Jersey Educational 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.

L.1968,c.142,s.4; amended 1994,c.48,s.213; 1999,c.46,s.45.

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 two-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.

L.1968,c.142,s.5; amended 1988, c.101; 1994, c.48, s.214; 1999, c.46, s.46; 2003, c.222.

18A:71-33 Board's additional duties.

6. The board shall:

(a) Administer all funds appropriated by the Legislature for the purpose of carrying out the provisions of this act.

(b) 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 or similar to those set forth in this act.

(c) Develop, establish and publicize criteria for the determination of eligibility for financial assistance from the fund based on need and potential for success in college.

(d) Established procedures for determining the amount of each award according to the total financial need of each student.

(e) Through the Commission on Higher Education, be responsible and report periodically in writing to the Governor and the Legislature on the performance of its duties in accordance with the provisions of this act.

(f) Adopt bylaws, and make, enforce, alter and repeal rules for its own operation and for carrying out the provisions of this act.

(g) Receive and disburse such contributions to the fund as may be forthcoming from private and public sources.

L.1968,c.142,s.6; amended 1994,c.48,s.215.

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.

L.1968,c.142,s.7; amended 1994,c.48,s.216, 1999,c.46,s.47.

18A:71-35 Prerequisites necessary for awarding grant.

(a) No opportunity grant shall be awarded to any applicant therefor unless such applicant shall have demonstrated to the satisfaction of the board that he or she:

(1) Is and has been a resident of the State for at least 12 months prior to receiving the grant;

(2) Will be or is attending a full-time or other program leading to a degree, or other organized program of study approved by the institution which he or she is or will be attending;

(3) Has demonstrated financial need for such grant, as determined by standards and procedures to be established by the board, in accordance with the provisions of this and the preceding article; and

(4) Has complied with all rules and regulations adopted pursuant to this act by the board for the award, regulation and administration of opportunity grants.

(b) In addition to the requirements of subsection (a) of this section, the board is hereby authorized to require the satisfaction of such other requirements as it may deem necessary to carry out the provisions of this act.

L.1968,c.142,s.8.

18A:71-36 Financial resources of applicant; rules and regulations.

In awarding opportunity grants pursuant to this act, the board shall take into account the financial resources available to the applicant to meet the cost of his higher education and the tuition, fees and living expenses at the institution of higher education which the applicant is attending or to which he has been admitted. Opportunity grants awarded pursuant to this act shall be paid to recipients by the State Treasurer in accordance with rules and regulations adopted by the board.

L.1968,c.142,s.9.

18A:71-37 Period of assistance.

No person shall be eligible for educational opportunity assistance pursuant to this act for more than six years, or for such other period of time as may be determined by the board to be necessary for the completion of an organized course of study. Each opportunity grant awarded pursuant to this act shall remain in effect only so long as the recipient thereof achieves academic progress to the satisfaction of the board and demonstrates continued eligibility pursuant to the provisions of this act.

L.1968,c.142,s.10.

18A:71-38 No discrimination; number; amount.

Opportunity grants shall be awarded by the board without regard to race, creed or religion and in such number and amount as may be within the limits of funds appropriated or otherwise made available therefor.

L.1968,c.142,s.11.

18A:71-39 Remedial and supplementary education for grantees.

12. The board of directors shall develop, establish and maintain programs of remedial and supplementary education for the students who will receive educational opportunity assistance under this act. Such programs may be administered directly by the fund or may be co-operative ventures undertaken with any or all of the public and private institutions of higher education in the State.

L.1968,c.142,s.12, amended 1994,c.48,s.217.

18A:71-40.1. Short title

This act shall be known and may be cited as the "C. Clyde Ferguson Law Scholarship Act of 1989."

L.1989, c.259, s.1.

18A:71-40.2. C. Clyde Ferguson Law Scholarships; created

There are created C. Clyde Ferguson Law Scholarships which shall be maintained by the State and awarded and administered pursuant to this act to students from disadvantaged or minority backgrounds enrolled in the Minority Student Program at Rutgers School of Law-Newark, and enrolled in the Rutgers School of Law-Camden and Seton Hall University School of Law.

L.1989, c.259, s.2.

18A:71-40.3. Scholarships awarded annually

C. Clyde Ferguson Law Scholarships shall be awarded annually by the board of directors of the New Jersey Educational Opportunity Fund to 30 New Jersey law students from disadvantaged or minority backgrounds. Each of the participating law schools shall select 10 students to participate in the program.

L.1989, c.259, s.3.

18A:71-40.4. Requirements for scholarship recipients

No person shall be awarded a C. Clyde Ferguson Law Scholarship unless:

a. The person has been a resident of New Jersey for a period of not less than one year immediately prior to receiving the scholarship;

b. The person has demonstrated financial need for the scholarship in accordance with standards to be established by the board of directors of the New Jersey Educational Opportunity Fund;

c. The person has demonstrated high moral character, good citizenship, and dedication to American ideals; and

d. The person has complied with all rules and regulations adopted pursuant to this act by the board of directors of the New Jersey Educational Opportunity Fund for the award, regulation and administration of the scholarship.

L.1989, c.259, s.4.

18A:71-40.5. Amount of scholarship

The amount of a C. Clyde Ferguson Scholarship shall be established by the board of directors of the New Jersey Educational Opportunity Fund but shall not exceed the maximum amount of tuition, fees and on-campus housing charged at the Rutgers School of Law-Newark.

L.1989, c.259, s.5.

18A:71-40.6. Renewal of scholarship

Each C. Clyde Ferguson Law Scholarship shall be renewable annually for up to four years except that each scholarship shall remain in effect only if the holder of the scholarship continues to have financial need, achieves satisfactory academic progress as defined by the law school in which the student is enrolled, continues to meet the eligibility criteria and guidelines established by the board of directors of the New Jersey Educational Opportunity Fund, and is regularly enrolled as a full-time student.

L.1989, c.259, s.6.

18A:71-40.7. Rules, regulations

The board of directors of the New Jersey Educational Opportunity Fund 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.

L.1989, c.259, s.7.

18A:71-78.1 Tuition-free enrollment in postsecondary program for certain volunteers, family members.

1. A person who is an active member of a volunteer fire company or volunteer first aid or rescue squad or association in good standing and the dependent children and spouse of a volunteer shall be allowed to enroll in a postsecondary program on a tuition-free basis in a county college, county vocational school or county technical institute and be eligible to receive tuition credit in an amount not to exceed a maximum of \$2,400 for the member, children and spouse; provided that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a county college, county vocational school or county technical institute from requiring registration and lab fees for individuals attending courses pursuant to this act.

L.1998,c.145,s.1.

18A:71-78.2 Eligibility for tuition credit.

2. In order to be eligible to receive tuition credit at a county college, county vocational school or county technical institute, a person shall agree to serve as a member of a volunteer fire company or volunteer first aid or rescue squad or association for a minimum of four years and sign an agreement with the municipality in which the squad or association is located pledging four years of service in exchange for the tuition credit. Following each year of volunteer service performed, the volunteer or the spouse or dependent child shall be entitled to receive tuition credit of up to \$600, not to exceed a maximum of \$2,400 for the member, children and spouse over a four-year service period.

L.1998,c.145,s.2.

18A:71-78.3 Verification of service; transcript records.

3. Upon being accepted and enrolled in a county college, county vocational school or county technical institute, the volunteer, dependent child or spouse shall provide verification to the institution that the volunteer has performed the service required for the tuition credit. Upon completion of each semester, the volunteer shall submit a transcript to the municipality to be maintained in a permanent record. The volunteer or the dependent child or spouse shall maintain a "C" grade average in order to continue eligibility for the tuition credit program.

L.1998,c.145,s.3.

18A:71-78.4 Issuance of letter of eligibility.

4. A municipality which chooses to participate in the tuition credit program shall issue a letter of eligibility to the volunteer, to be presented to the appropriate institution, stating that the individual is a member in good standing of a volunteer fire company, volunteer first aid or rescue squad or association.

L.1998,c.145,s.4.

18A:71A-1. Short title.

18A:71A-1. Short Title.

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

L.1999,c.46,s.1.

18A:71A-2. 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.

L.1999,c.46,s.1.

18A:71A-3 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.

L.1999,c.46,s.1.

18A:71A-4 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.

L.1999,c.46,s.1.

18A:71A-5 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.

L.1999,c.46,s.1.

18A:71A-6 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.

L.1999,c.46,s.1.

18A:71A-7 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.

L.1999,c.46,s.1.

18A:71A-8 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.

L.1999,c.46,s.1.

18A:71A-9 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.

L.1999,c.46,s.1.

18A:71A-10 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 \$25,000 or, after the effective date of P.L.1999, c.440, 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; provided, however, that such advertising shall not be required when the contract to be entered into is one for the furnishing or performing of services of a professional nature, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under R.S.32:1-4; and the Delaware River Port Authority established under R.S.32:3-2. 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).

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. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall 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 index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest \$1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective July 1 of the year in which it is made.

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.

L.1999, c.46, s.1; amended 1999, c.440, s.105.

18A:71A-11 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.

L.1999,c.46,s.1.

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.

L.1999,c.46,s.1.

18A:71A-13 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.

L.1999,c.46,s.1.

18A:71A-14 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.

L.1999,c.46,s.1.

18A:71A-15 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.

L.1999,c.46,s.1.

18A:71A-16 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.

L.1999,c.46,s.1.

18A:71A-17 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.

L.1999,c.46,s.1.

18A:71A-18 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.

L.1999,c.46,s.1.

18A:71A-19 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.

L.1999,c.46,s.1.

18A:71A-20 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.

L.1999,c.46,s.1.

18A:71A-21 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.

L.1999,c.46,s.1.

18A:71A-22 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.

L.1999,c.46,s.1.

18A:71A-23 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.

L.1999,c.46,s.1.

18A:71A-24 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.

L.1999,c.46,s.1.

18A:71A-25 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.

L.1999,c.46,s.1.

18A:71A-26 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.

L.1999,c.46,s.1.

18A:71A-27 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.

L.1999,c.46,s.1.

18A:71A-28 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.)

L.1999,c.46,s.1.

18A:71A-29 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.).

L.1999,c.46,s.1.

18A:71A-30 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.).

L.1999,c.46,s.1.

18A:71A-31 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.

L.1999,c.46,s.1.

18A:71A-32 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.

L.1999,c.46,s.1.

18A:71A-33 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.

L.1999,c.46,s.1.

18A:71A-34 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.

L.1999,c.46,s.1.

18A:71B-1 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.

L.1999,c.46,s.1.

18A:71B-2 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.

L.1999,c.46,s.1.

18A:71B-3 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.

L.1999,c.46,s.1.

18A:71B-4 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.

L.1999,c.46,s.1.

18A:71B-5 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.

L.1999,c.46,s.1.

18A:71B-6 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."

L.1999,c.46,s.1.

18A:71B-7 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.

L.1999,c.46,s.1.

18A:71B-8 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.

L.1999,c.46,s.1.

18A:71B-9 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.

L.1999,c.46,s.1.

18A:71B-10 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.

L.1999,c.46,s.1.

18A:71B-11 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.

L.1999,c.46,s.1.

18A:71B-12 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.

L.1999,c.46,s.1.

18A:71B-13 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.

L.1999,c.46,s.1.

18A:71B-14 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.

L.1999,c.46,s.1.

18A:71B-15 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.

L.1999,c.46,s.1.

18A:71B-16 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.

L.1999,c.46,s.1.

18A:71B-17 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.

L.1999,c.46,s.1.

18A:71B-18 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.

L.1999,c.46,s.1.

18A:71B-19 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.

L.1999,c.46,s.1.

18A:71B-20 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.

L.1999,c.46,s.1.

18A:71B-20.1 Tuition aid grant eligibility for children of persons transferred to a military installation in New Jersey.

1. Notwithstanding the provisions of section 1 of P.L.1979, c.361 (C.18A:62-4) or any other law to the contrary, a dependent child of a parent or guardian who has been transferred to a military installation located in this State shall be considered a resident of this State for the purposes of qualifying for a State tuition aid grant pursuant to N.J.S.18A:71B-18 et seq.

L.2005,c.60.

18A:71B-21 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.

L.1999,c.46,s.1.

18A:71B-22 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.

L.1999,c.46,s.1.

18A:71B-23 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.

L.1999,c.46,s.1.

18A:71B-23.1 Short title.

1. This act shall be known and may be cited as the "New Jersey World Trade Center Scholarship Program Act."

L.2001,c.442,s.1.

18A:71B-23.2 Definitions relative to "New Jersey World Trade Center Scholarship Program Act."

2. As used in this act:

"Institution of higher education" means an institution of higher education licensed by the appropriate agency or department and accredited or preaccredited by a nationally recognized accrediting association. An institution of higher education shall also include certain proprietary institutions, but only for degree granting programs approved by the Commission on Higher Education or other proprietary institutions as determined by the authority.

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-1 et seq.

L.2001,c.442,s.2.

18A:71B-23.3 New Jersey World Trade Center Scholarship Fund.

3. a. There is established in the Higher Education Student Assistance Authority a nonlapsing fund which shall be known as the New Jersey World Trade Center Scholarship Fund. The fund shall be administered by the board of trustees established pursuant to section 4 of this act.

b. The fund shall consist of: all moneys appropriated by the Legislature for inclusion in the fund; investment earnings of the fund; and moneys contributed to the fund by private sources, to be used for the purposes of this act. The moneys in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury.

L.2001,c.442,s.3.

18A:71B-23.4 Board of Trustees; membership; duties; responsibilities.

4. a. The board of trustees of the New Jersey World Trade Center Scholarship Fund shall consist of the State Treasurer, or a designee, and ten public members appointed as follows: two by the President of the Senate, two by the Speaker of the General Assembly and six by the Governor, with the advice and consent of the Senate. Seven of the public members shall be persons who were directly affected by the terrorist attacks on the United States on September 11, 2001. Two of the public members shall be named by the Governor to serve as co-chairpersons of the board.

b. Each public member of the board shall serve for a term of four years and until a successor shall have been appointed and qualified; except that of the first members appointed, two shall serve for one year, two shall serve for two years, three shall serve for three years and three shall serve for four years. 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. 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.

d. The board shall have the following duties and responsibilities:

(1) establish criteria for the determination of eligibility for a scholarship from the fund;

(2) establish procedures for determining the amount of each scholarship award, based on the financial need of the applicant and the resources available to the applicant to meet his higher education costs;

(3) report annually to the Governor and the Legislature on the performance of its duties in accordance with the provisions of this act;

(4) solicit and raise private funds to finance the New Jersey World Trade Center Scholarship Program; and

(5) receive and disburse such contributions to the fund as may be forthcoming from private and public sources.

L.2001,c.442,s.4.

18A:71B-23.5 Awarding of scholarships.

5. a. The board is hereby authorized to award scholarships from the fund for the costs of undergraduate study at an institution of higher education to the dependent children or surviving spouses of persons who were New Jersey residents on September 11, 2001 and:

(1) who were killed in the terrorist attack on the United States on September 11, 2001; or

(2) who died as a result of injuries received in the attack; or

(3) who died as a result of illness caused by exposure to the attack sites, as established in medical records or other appropriate documentation as required by the board; or

(4) who are missing and officially presumed dead as a direct result of the attack.

The terrorist attack on the United States shall include the hijackings of American Airlines Flight 11, American Airlines Flight 77, United Airlines Flight 93 and United Airlines Flight 175 and the subsequent crashes at the World Trade Center in New York City, the Pentagon in Washington, D.C. and in Somerset County, Pennsylvania.

b. Scholarships from the fund may be awarded annually upon proper application to the fund to any student who qualifies under the criteria developed by the board.

L.2001, c.442, s.5; amended 2007, c.5, s.1.

18A:71B-23.6 Conditions for awarding of scholarship.

6. a. A New Jersey World Trade Center scholarship shall not be awarded to an applicant unless the applicant has demonstrated to the satisfaction of the board that the applicant:

(1) will be or is enrolled in a full-time undergraduate program of study leading to a degree at an institution of higher education; and

(2) has complied with all rules and regulations adopted pursuant to this act for the award, regulation and administration of scholarships from the fund.

b. Eligibility for a scholarship, in the case of a surviving spouse, shall be limited to a period of eight years from the date of death of the person for initial receipt of the benefits under the program. In the case of a dependent child, eligibility shall be limited to a period of eight years following graduation from high school.

L.2001,c.442,s.6.

18A:71B-23.7 Rules, regulations.

7. 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.), necessary for the administration of this act.

L.2001,c.442,s.7.

18A:71B-24 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.

L.1999,c.46,s.1.

18A:71B-24.1. Short title

1. This act shall be known and may be cited as the "Law Enforcement Officers' Memorial Scholarship Act of 2000."

L.2001,c.41,s.1.

18A:71B-24.2. Law Enforcement Officer Memorial Scholarships Program

5. a. There is created the Law Enforcement Officer Memorial Scholarships Program. These scholarships shall be awarded, pursuant to the provisions of this act, to the children of New Jersey law enforcement officers who were killed in the line of duty. The New Jersey Higher Education Student Assistance Authority, in but not of the Department of State, and established pursuant to N.J.S.18A:71A-3, shall administer this program.

b. Law Enforcement Officer Memorial Scholarships shall be awarded annually within the limits of monies in the Law Enforcement Officer Memorial Fund, created pursuant to subsection c. of section 2 of P.L.2001, c.41 (C.39:3-27.123), for undergraduate study leading to a baccalaureate degree or associate degree at any public or private institution of higher education in New Jersey. The amount of any such scholarship shall not exceed an amount equal to the portion of the recipient's cost of attendance at the institution that is not otherwise covered by any other scholarship, tuition aid grant, benefit or other assistance awarded to the recipient under the "Higher Education Student Assistance Authority Law," N.J.S.18A:71A-1 et seq.

c. The scholarships may be renewed annually for up to four years, except that each scholarship shall remain in effect only if the holder of the scholarship remains a full-time student in good standing at the institution and continues to meet the eligibility criteria and guidelines established under this act and regulations promulgated thereto. Selection of recipients may take into account the actual dependency of the recipients, their needs and means, and the pecuniary loss occasioned by reason of the death of their parents.

d. 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 scholarship without verification of compliance with the requirements of that act.

e. For the purposes of this act, "law enforcement officer" means a New Jersey resident employed as a permanent full-time member of any federal, State, county or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State or of the United States and statutorily required to successfully complete a training course approved by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), or certified by the commission as being substantially equivalent to an approved course.

L.2001,c.41,s.5.

18A:71B-24.3. Rules, regulations

6. 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.), necessary to carry out the provisions of this act.

L.2001,c.41,s.6.

18A:71B-24.4. Annual appropriation

7. There shall be annually appropriated to the Higher Education Student Assistance Authority such sums as shall be necessary to administer the provisions of sections 5 and 6 of P.L.2001, 41 (C.18A:71B-24.2 and 18A:71B-24.3).

L.2001,c.41,s.7.

18A:71B-25 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.

L.1999,c.46,s.1.

18A:71B-26 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 bachelor's 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.

L.1999,c.46,s.1.

18A:71B-27 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 bachelor's 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.

L.1999,c.46,s.1.

18A:71B-28 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.

L.1999,c.46,s.1.

18A:71B-29 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.

L.1999,c.46,s.1.

18A:71B-30 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.

L.1999,c.46,s.1.

18A:71B-31 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.

L.1999,c.46,s.1.

18A:71B-32 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.

L.1999,c.46,s.1.

18A:71B-33 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.

L.1999,c.46,s.1.

18A:71B-34 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.

L.1999,c.46,s.1.

18A:71B-35 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.

L.1999,c.46,s.1.

18A:71B-36 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.

L.1999,c.46,s.1.

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.

L.1999,c.46,s.1.

18A:71B-38 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.

L.1999,c.46,s.1.

18A:71B-39 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.

L.1999,c.46,s.1.

18A:71B-40 Selection of investment manager.

18A:71B-40. 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.

e. If the selection process provided for in this section results in an investment manager other than the Division of Investment, the authority shall provide for the orderly transfer of accounts and shall ensure that all the rights of the contributors and designated beneficiaries participating in the program as of the effective date of P.L.2001, c.262 (C.18A:71B-64 et al.), are protected.

L.1999, c.46, s.1; amended 2001, c.262, s.18.

18A:71B-41 Operation of program; fees.

18A:71B-41. 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.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. (Deleted by amendment, P.L.2003, c.309).

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.

p. A contributor, if an individual, may designate another person as a successor contributor in the event of the death of the original contributor. The person who opens the account, or any successor contributor, shall be considered the contributor as defined in N.J.S.18A:71B-36.

q. Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

L.1999, c.46, s.1; amended 2003, c.309.

18A:71B-41.1 Exemption from claims of creditors for NJBEST accounts.

20. Moneys paid into or out of an NJBEST account by or on behalf of a contributor or designated beneficiary for the purposes of financing the cost of qualified higher education expenses under this article are exempt from all claims of creditors of the contributor or the designated beneficiary.

L.2001,c.262,s.20.

18A:71B-42 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.

L.1999,c.46,s.1.

18A:71B-43 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.

L.1999,c.46,s.1.

18A:71B-44 Assurance of availability of principal.

18A:71B-44. 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 chair of the authority as necessary to provide that amount at the time of distribution. The chair 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 made in accordance with an investment plan approved by the State Investment Council in the Division of Investment.

L.1999, c.46, s.1; amended 2001, c.262, s.19.

18A:71B-45 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.

L.1999,c.46,s.1.

18A:71B-46 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.

L.1999,c.46,s.1.

18A:71B-47 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.

L.1999,c.46,s.1.

18A:71B-48 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.

L.1999,c.46,s.1.

18A:71B-49 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.

L.1999,c.46,s.1.

18A:71B-50 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.

L.1999,c.46,s.1.

18A:71B-51 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.

L.1999,c.46,s.1.

18A:71B-52 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.

L.1999,c.46,s.1.

18A:71B-53. Short title

1. This act shall be known as, and may be cited as, the "Tony Pompelio Commemorative Scholarship Fund Act."

L.2000,c.163,s.1.

18A:71B-54. Findings, declarations about crime victims

2. The Legislature finds and declares that:

a. Ten percent of the crimes reported in the State are violent crimes, and murder accounts for at least one percent of all violent crimes committed. Victims of violent crimes and their families often become crime statistics with no honorable mention.

b. It is appropriate to pay tribute to those who have suffered from violent crime through the recognition of National Crime Victims' Rights Week. The State should recognize these individuals through the establishment of a special fund which will allow the children of crime victims the opportunity to attend college through the commemoration of the death of Tony Pompelio, a crime victim, by establishing the Tony Pompelio Commemorative Scholarship Fund.

L.2000,c.163,s.2.

18A:71B-55. Definitions regarding scholarship

3. As used in this act, the following terms shall have the following meanings:

"Board" means the Board of Trustees of the Tony Pompelio Commemorative Scholarship Fund for the children of crime victims created pursuant to this act.

"Chairman" means the Chairman of the Violent Crimes Compensation Board.

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

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-1 et seq., the "Higher Education Student Assistance Authority Law," or any body, entity, commission, or department succeeding to the principal functions thereof or to whom the powers conferred upon the authority by N.J.S.18A:71A-1 et seq. shall be given by law.

"Public Institutions of Higher Education" means the State colleges and universities created pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the county colleges; the University of Medicine and Dentistry of New Jersey; the New Jersey Institute of Technology; Rutgers, the State University; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

L.2000,c.163,s.3.

18A:71B-56. "Tony Pompelio Commemorative Scholarship Fund"

4. a. There is hereby created and established in the authority a scholarship fund which shall be known as the "Tony Pompelio Commemorative Scholarship Fund." The fund shall consist of all funds appropriated by the Legislature or otherwise made available for the Tony Pompelio Commemorative Scholarship Fund program.

b. The fund shall be administered by a board of trustees which shall consist of the executive director or a designee of the executive director, the chairman or a designee of the chairman and eight citizens of this State who have been crime victims or are family members of a crime victim. Citizen members of the board shall be selected by the chairman in consultation with the executive director, and without regard to political affiliation and, on the basis of their experience as crime victims or family members of a crime victim.

c. Each citizen member of the board shall serve for a term of four years and until a successor shall have been appointed and qualified. 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.

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.

e. The executive director or a designee of the executive director in conjunction with the chairman or a designee of the chairman shall serve as the chief executive officers of the fund and shall organize the work of the fund as deemed necessary to carry out the provisions of this act.

L.2000,c.163,s.4.

18A:71B-57. Board duties

5. The board shall:

a. Develop and maintain a Statewide system for the identification of potential Pompelio scholars in cooperation with other State departments, agencies or public institutions of higher education in the State.

b. Recruit, select and provide financial assistance from the fund to Pompelio scholars who are residents of this State in order that they may be able to attend public institutions of higher education.

c. Communicate with departments and agencies of the United States on the availability of grants to this State for purposes related or similar to those set forth in this act.

d. Develop, establish and publicize criteria for the determination of eligibility for financial assistance from the fund.

e. Establish procedures for determining the amount of each award based on the total financial need of each Pompelio scholar and the resources available to the applicant to meet the costs of the applicant's higher education.

f. Annually report in writing to the authority on the performance of its duties in accordance with the provisions of this act.

g. Adopt bylaws, and make, enforce, alter and repeal rules for its own operation and for carrying out the provisions of this act.

h. Deposit in the fund and disburse from the fund such gifts and contributions as may be forthcoming from public and private sources.

L.2000,c.163,s.5.

18A:71B-58. Awarding scholarships

6. a. The board is hereby authorized to award scholarships from the fund to Pompelio scholars for undergraduate study leading to a baccalaureate degree, associate degree, or other approved certificate at public institutions of higher education located in New Jersey.

b. Grants from the fund may be awarded annually upon proper application to the fund, to any Pompelio scholar who qualifies under the standards to be developed and promulgated by the board.

L.2000,c.163,s.6.

18A:71B-59. Qualifications of applicant

7. a. No scholarship pursuant to this act shall be awarded to any applicant unless the applicant has demonstrated to the satisfaction of the board that he or she:

(1) Is and has been a resident of this State for at least 12 months prior to receiving the grant;

(2) Will be or is enrolled in a full-time undergraduate program of study leading to a degree or certificate at a public institution;

(3) Has complied with all rules and regulations adopted pursuant to this act by the board for the award, regulation and administration of grants from the fund.

b. In addition to the requirements of subsection a. of this section, the board is hereby authorized to require the satisfaction of such other requirements as it may deem necessary to carry out the provisions of this act.

L.2000,c.163,s.7.

18A:71B-60. Recipients paid by State Treasurer

8. Scholarships awarded pursuant to this act shall be paid to recipients by the State Treasurer in accordance with rules and regulations adopted by the authority.

L.2000,c.163,s.8.

18A:71B-61. Eligibility restrictions

9. No person shall be eligible for scholarships pursuant to this act for more than four years, or for such other period of time as may be determined necessary by the board for the completion of an organized course of study. Each scholarship awarded pursuant to this act shall remain in effect only so long as the recipient achieves satisfactory academic progress as determined by the institution of attendance and demonstrates continued eligibility pursuant to this act.

L.2000,c.163,s.9.

18A:71B-62. Nondiscrimination in awards

10. Scholarships awarded pursuant to this act shall be awarded by the board without regard to race, creed, or religion and in such manner and amount as may be within the limits of funds appropriated or otherwise made available.

L.2000,c.163,s.10.

18A:71B-63. Rules, regulations

11. 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.) necessary for the administration of this act.

L.2000,c.163,s.11.

18A:71B-64 Short title.

1. Sections 1 through 17 of this act shall be known and may be cited as the "New Jersey Prepaid Higher Education Expense Program Act of 2001."

L.2001,c.262,s.1.

18A:71B-65 Findings, declarations relative to Prepaid Higher Education Expense Program.

2. The Legislature finds and declares: that educational opportunity at the college and university level is a critical State interest which is linked to the needs of the State to ensure a well-educated work force; that educational opportunity is best ensured through the provision of institutions of higher education which are geographically and financially accessible; that it is in the best interests of this State to adopt and foster mechanisms which will encourage its citizens to engage in the timely financial planning which is necessary to guarantee that students will have the financial resources necessary to pursue a higher education given the annually escalating level of resources which such attendance requires; and that one such mechanism which has proven successful in some other states is the establishment of a program through which a portion of the costs associated with attendance at institutions of higher education may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment.

L.2001,c.262,s.2.

18A:71B-66 Definitions relative to Prepaid Higher Education Expense Program.

3. As used in sections 1 through 17 of this act:

"Advance payment contract" means a contract entered into by the board and a purchaser pursuant to the provisions of this act;

"Board" means the Prepaid Higher Education Expense Board established pursuant to section 6 of this act;

"Eligible independent institution of higher education" means those institutions of higher education incorporated and located in this State, which, by virtue of law or character or license, are nonprofit educational institutions empowered to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey and whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529. "Eligible independent institution of higher education" 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 board. "Eligible independent institution of higher education" does not include any educational institution dedicated primarily to

the preparation or training of ministers, priests, rabbis, or other professional persons in the field of religion;

"Fund" means the Prepaid Higher Education Expense Trust Fund established pursuant to section 5 of this act;

"Institution of higher education" 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;

"Program" means the New Jersey Prepaid Higher Education Expense Program established pursuant to section 4 of this act;

"Public institution of higher education" means Rutgers, The State University, the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by State law. A public institution of higher education is an institution whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

"Purchaser" means a person who makes or is obligated to make payments in accordance with an advance payment contract;

"Qualified beneficiary" means: a. a resident of this State at the time a purchaser enters into an advance payment contract on behalf of the resident; or b. a nonresident who is the child of a noncustodial parent who is a resident of the State at the time that the noncustodial parent enters into an advance payment contract on behalf of the child;

"Tuition" means the charges imposed by an institution of higher education for enrollment at the institution. The Prepaid Higher Education Expense Board shall determine whether mandatory fees charged by institutions of higher education shall be included in the definition of tuition.

L.2001,c.262,s.3.

18A:71B-67 New Jersey Prepaid Higher Education Expense Program.

4. a. There is established the New Jersey Prepaid Higher Education Expense Program to provide a means for payment of the costs of tuition in advance of enrollment at a public institution of higher education. Moneys remitted in accordance with advance payment contracts shall be combined and invested in a manner that is intended to yield sufficient interest to generate the difference between the prepaid amount and the average in-state tuition costs at public institutions of higher education in the State at the time that the benefits are exercised. The program shall pay to the public institution of higher education at which the qualified beneficiary is enrolled an amount equal to the institution's tuition rate at the time the benefits are exercised.

b. The program shall be administered by the Prepaid Higher Education Expense Board established pursuant to section 6 of this act.

L.2001,c.262,s.4.

18A:71B-68 Prepaid Higher Education Expense Trust Fund.

5. a. There is created within the Prepaid Higher Education Expense Board the Prepaid Higher Education Expense Trust Fund. The fund shall consist of State appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. Dividends, interest, and gains accruing to the fund shall increase the total funds available for the program.

b. Any funds associated with contracts for which refunds are due, but have not been claimed, shall increase the total funds available for the program. However, the board shall establish procedures for notifying purchasers of any unclaimed refund and shall establish a time period after which a refund may not be claimed.

c. Any balance contained in the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program.

d. The assets of the fund shall be maintained, invested, and expended solely for the purposes of this act and shall not be loaned, transferred, or otherwise used by the State for any purpose other than the purposes of this act. This subsection shall not be construed to prohibit the board from investing in, by purchase or otherwise, bonds, notes or other obligations of the State or an agency or instrumentality of the State.

e. Unless otherwise specified by the board, assets of the fund shall be expended in the following order of priority:

(1) to make payments to institutions of higher education on behalf of qualified beneficiaries;

(2) to make refunds upon cancellation of advance payment contracts; and

(3) to pay the costs of program administration and operations.

f. The board shall administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board determines a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure soundness.

g. If the board finds that a surplus in the fund exists, the board may compensate purchasers of advance payment contracts in a manner that the board determines to be appropriate.

L.2001,c.262,s.5.

18A:71B-69 Prepaid Higher Education Expense Board.

6. a. The Prepaid Higher Education Expense Board is established as a body corporate and politic in the Executive Branch of State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is allocated in, but not of, the Department of State. Notwithstanding this allocation, the board shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The board shall consist of 11 members, including the State Treasurer or a designee, the executive director of the Commission on Higher Education or a designee, the executive director of the Higher Education Student Assistance Authority or a designee, the chair of the New Jersey Presidents' Council or a designee; and seven members appointed by the Governor without regard for political affiliation, one upon the recommendation of the Speaker of the General Assembly, one upon the recommendation of the Minority Leader of the General Assembly, one upon the recommendation of the President of the Senate, and one upon the recommendation of the Minority Leader of the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management or investment management. Members appointed by the Governor shall serve terms of three years, except that in making the initial appointments, the Governor shall appoint two members to serve for one year, two members to serve for two years, and three members to serve for three years. Any member appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve until a successor qualifies. Members of the board shall serve without compensation but shall be reimbursed for any necessary expenses incurred in the performance of their duties.

c. The Governor shall appoint a member of the board to serve as the initial chair of the board. Thereafter, the board shall elect a chair annually. The board shall annually elect a board member to serve as vice-chair and shall designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the board and shall be the custodian of all printed material filed with or by the board and of its official seal. Notwithstanding the existence of vacancies on the board, a majority of the members shall constitute a quorum. The board shall take no official action in the absence of a quorum. The board shall meet, at a minimum, on a quarterly basis at the call of the chair.

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

L.2001,c.262,s.6.

18A:71B-70 Powers of the board.

7. The board shall have the powers necessary or proper to carry out the provisions of this act, including, but not limited to, the power to:

a. appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned by the board;

b. adopt an official seal and alter the same at pleasure;

c. sue and be sued in its own name;

d. make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.);

e. purchase, without advertising for bids or after having rejected all bids obtained pursuant to advertising therefor, any materials, supplies, goods, services or equipment pursuant to a contract or contracts for such materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property;

f. establish agreements or other transactions with federal, State, and local agencies, including institutions of higher education;

- g. invest funds not required for immediate disbursement;
- h. hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board;
- i. employ personnel, including financial and computer experts, legal counsel, accountants, managers and auditors, as may be necessary; to fix their compensation; and to promote and discharge the employees and agents; all without regard to the provisions of Title 11A of the New Jersey Statutes;
- j. solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this act;
- k. require a reasonable length of State residence for qualified beneficiaries, as appropriate;
- l. reasonably restrict the number of participants in the county college plan and the university plan according to criteria developed by the board. A person denied participation solely on the basis of this restriction shall be granted priority for participation during the succeeding year;
- m. segregate contributions and payments to the fund into various accounts;
- n. establish reasonable administrative fees in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis;
- o. procure insurance against any loss in connection with the property, assets and activities of the fund or the board;
- p. provide for the receipt of contributions in lump sums or installment payments;
- q. impose reasonable limits on the length of time within which a qualified beneficiary shall be required to begin to exercise benefits under the program. The board shall also determine whether to impose limits on the total amount of time that the qualified beneficiary is permitted to exercise the benefits under the program;
- r. delineate the terms under which payments may be withdrawn from the fund and impose reasonable fees and charges for withdrawals;
- s. define for the purposes of this act the maximum number of credit hours which may be purchased under the program for an associate degree; the maximum number of credit hours which may be purchased under the program for a baccalaureate degree; the average current and projected tuition within the county college system and the average current and projected tuition of the four-year public institutions of higher education utilized to limit the contractual obligations of the board to qualified beneficiaries;
- t. adopt rules and regulations to implement this act; and
- u. 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.

L.2001,c.262,s.7.

18A:71B-71 Establishment of comprehensive investment plan, administration of program, annual report.

8. a. The board, acting with the approval of the State Investment Council in the Division of Investment, shall establish a comprehensive investment plan for the purposes of this act and annually review the plan to assure that the program remains actuarially sound. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the funds to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness or other investment products, pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. The board 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). The insurance, annuity, savings or investment products shall be underwritten and offered in compliance with the applicable federal and State laws and regulations and by persons who are duly authorized by applicable federal and State authorities.

b. The board may delegate responsibility for administration of the program to a person the board determines to be qualified. Directly or through the person, the board may contract, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), with a private corporation or institution authorized to do business in this State to provide such services as may be a part of the program or as may be deemed necessary for implementation of the program, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, asset purchase, control

and safekeeping, investment management, marketing, administration, program operations, and other services deemed necessary and proper to carry out the purposes of this act. In the event that the board delegates a private entity as the investment manager, the assets of the fund shall be invested in accordance with an investment plan approved by the State Investment Council in the Division of Investment.

The board shall determine whether the services deemed necessary and proper to carry out the purposes of this act shall be provided by a single or multiple entities.

c. The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. The report shall be submitted to the Governor, the President of the Senate, the Speaker of the General Assembly, the State Treasurer, the executive director of the New Jersey Commission on Higher Education and the executive director of the Higher Education Student Assistance Authority on or before August 1 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Commission on Higher Education by August 1 each year complete advance payment contract sales information, including projected higher education enrollments of qualified beneficiaries.

d. The accounts of the funds shall be subject to annual audits by the State Auditor or a designee. In addition, the board shall commission an annual independent audit of the program. The results of the independent audit shall be provided to the Governor, the President of the Senate, the Speaker of the General Assembly, the State Treasurer, the executive director of the New Jersey Commission on Higher Education and the executive director of the Higher Education Student Assistance Authority. If the board delegates responsibility for the administration of the comprehensive investment plan pursuant to subsection b. of this section, the cost of the independent audit shall be borne by that person.

e. The board may make available insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers or beneficiaries thereof, which may be issued in the form of a group term life policy to purchasers of advance payment contracts.

f. Materials produced for the purpose of marketing the program shall be submitted to the board for review and approval. Marketing materials shall not be made available or distributed to the public prior to the materials being approved by the board. An institution of higher education may distribute marketing materials produced for the program. The State and the board shall not be liable for misrepresentation of the program by a marketing agent.

g. 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.

L.2001,c.262,s.8.

18A:71B-72 Development of advance payment contract, terms.

9. a. The board shall develop an advance payment contract with the assistance of the Office of the Attorney General. An advance payment contract shall be exempt from the provisions of Subtitle 3 of Title 17 of the Revised Statutes and Subtitle 3 of Title 17B of the New Jersey Statutes. The contents of the contract shall include, but not be limited to, the following:

(1) the amount of the payments and the number of payments required from a purchaser;

(2) the terms and conditions under which purchasers are required to remit payments, including, but not limited to, the date or dates upon which each payment is due;

(3) provisions for late payment charges and for default;

(4) provisions for penalty fees for withdrawals from the fund;

(5) the name and date of birth of the qualified beneficiary on whose behalf the contract is drawn and the terms and conditions under which another person may be substituted as the qualified beneficiary;

(6) the name of any person who may cancel the contract. The terms of the contract shall specify whether the contract may be canceled by the purchaser, the qualified beneficiary, a specific designated person or any combination of these persons;

(7) the terms and conditions under which a contract may be canceled, the name of the person entitled to any refund due as a result of the cancellation of the contract pursuant to those terms and conditions, and the method for determining the amount of refund;

(8) the time limitations, if any, within which the qualified beneficiary is required to claim benefits through the program. If time limitations are included in the

contract, the time expended by a qualified beneficiary as an active duty member of any of the armed services of the United States shall be added to the period of time permitted to exercise the benefits;

(9) the terms and conditions, if any, under which a purchaser may designate another individual as a successor owner of the contract; and

(10) other terms and conditions deemed by the board to be necessary or proper.

b. In addition to the provisions of subsection a. of this section an advance payment contract shall include the following:

(1) the number of credit hours contracted by the purchaser;

(2) the plan toward which the credit hours shall be applied;

(3) the assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of credit hours of undergraduate instruction at a public institution of higher education, not to exceed the maximum number of credit hours which may be purchased under the program for the associate degree or the baccalaureate degree, as appropriate .

L.2001,c.262,s.9.

18A:71B-73 Availability of advance payment contracts; plans.

10. a. At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the county college plan and the university plan.

(1) Through the county college plan, the advance payment contract shall provide prepaid tuition for a specified number of undergraduate credit hours not to exceed the maximum number of credit hours which may be purchased under the program for an associate degree. The cost of participation in the county college plan shall be based primarily on the average current and projected tuition within the county college system and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by the qualified beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary chooses to attend a four-year public institution of higher education, the qualified beneficiary may convert the maximum number of credit hours which may be purchased under the program for an associate degree from a county college plan to a university plan. Each qualified beneficiary shall be classified as an in-county resident for tuition purposes regardless of his actual legal residence during the period in which benefits under the program are being utilized.

(2) Through the university plan, the advance payment contract shall provide prepaid tuition for a specified number of undergraduate credit hours not to exceed the maximum number of credit hours which may be purchased under the program for a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the average current and projected tuition of the four-year public institutions of higher education and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by the beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary fails to be admitted to a four-year public institution of higher education or chooses to attend a county college, the qualified beneficiary may convert the maximum number of credit hours which may be purchased under the program for an associate degree from a university plan to a county college plan and may retain the remaining credit hours in the university plan or may request a refund for prepaid credit hours in excess of the maximum number of credit hours which may be purchased under the program for an associate degree. A refund may also be requested for the difference in the cost of credit hours under the university plan and the county college plan for the number of credit hours converted to the county college plan. Each qualified beneficiary shall be classified as a resident for tuition purposes regardless of his actual legal residence during the period in which benefits under the program are being utilized.

b. In addition to the plans required pursuant to subsection a. of this section, the board may make advance payment contracts available for other plans, such as the county college plus university plan whereby the advance payment contract would provide tuition that would allow a qualified beneficiary to attend a county college for an associate degree and then attend a four-year public institution of higher education for a baccalaureate degree.

c. The board shall establish procedures for conversions between plans established under the program. The procedures shall include, but not be limited to, the conditions under which a conversion may occur and the method for calculating any refund due.

d. A qualified beneficiary may apply a county college plan or a university plan toward any eligible independent institution of higher education. The board shall transfer or cause to have transferred to the eligible independent institution of higher education designated by the qualified beneficiary an amount not to exceed the weighted

average tuition purchased under the advance payment contract. In the event that the cost of tuition at the eligible independent institution of higher education is less than the weighted average tuition purchased under the advance payment contract, the amount transferred shall not exceed the actual cost of tuition. A transfer authorized pursuant to this subsection shall not exceed the number of credit hours contracted on behalf of a qualified beneficiary.

e. A qualified beneficiary may apply the benefits of an advance payment contract toward an eligible out-of-State institution of higher education. Institutional eligibility for out-of-State institutions of higher education shall be determined by the board, but in making those determinations the board shall recognize that the benefits may only be used at an out-of-State institution of higher education whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529. The board shall transfer or cause to have transferred to the eligible out-of-State institution of higher education designated by the qualified beneficiary an amount not to exceed the weighted average tuition purchased under the advance payment contract. In the event that the cost of tuition at the eligible out-of-State institution of higher education is less than the weighted average tuition purchased under the advance payment contract, the amount transferred shall not exceed the actual cost of tuition. A transfer authorized pursuant to this subsection shall not exceed the number of credit hours contracted on behalf of a qualified beneficiary.

L.2001,c.262,s.10.

18A:71B-74 Conditions for payment of refunds.

11. a. The board shall determine the conditions under which refunds are payable under the program. Unless authorized by the board or under the provisions of this section, a refund shall not exceed the amount paid into the fund by the purchaser. A refund may exceed the amount paid into the fund in the following circumstances:

(1) if the qualified beneficiary is awarded 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), the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts may be returned to the purchaser in enrollment period installments coinciding with the matriculation by the qualified beneficiary in amounts equal to the lesser of the original purchase price plus 5% interest compounded annually, or the weighted average tuition purchased under the advance payment contract; and

(2) in the event of the death or disability of the qualified beneficiary, moneys paid for the purchase of advance payment contracts shall be returned to the purchaser together with 5% interest compounded annually.

b. A refund shall not be authorized through an advance payment contract for any school year partially attended but not completed. For purposes of this subsection, a school year partially attended but not completed means any one enrollment period whereby the student is still enrolled at the conclusion of the official drop-add period, but withdraws before the end of the enrollment period.

c. If a qualified beneficiary does not complete a county college plan or university plan, for reasons other than specified in subsection a. of this section, the purchaser shall receive a refund of the amount paid into the fund for the remaining unattended years of the advance payment contract pursuant to rules promulgated by the board and in accordance with the provisions of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529.

L.2001,c.262,s.11.

18A:71B-75 Exemption from creditors.

12. Moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract for the purposes of financing the cost of qualified higher education expenses under the program are exempt from all claims of creditors of the purchaser or the beneficiary.

L.2001,c.262,s.12.

18A:71B-76 Remittance of payments through governmental payroll deductions.

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

L.2001,c.262,s.13.

18A:71B-77 Appropriations necessary for distributions.

14. If the investment manager is the Division of Investment in the Department of the Treasury, in order to meet the obligations of the board under this act, there shall be paid to the board for deposit in the fund, at the time of distribution, subject to appropriation, such sum, if any, as shall be certified by the chair of the board as necessary to provide that amount at the time of distribution. The chair shall make and deliver to the Governor, or his designee, the certificate stating the sums, if any, required to make available in the fund the amount aforesaid, and the sums so certified shall be appropriated and paid to the board during the then current State fiscal year.

L.2001,c.262,s.14.

18A:71B-78 Discontinuance of program.

15. In the event that the State Treasurer determines the program to be financially infeasible, the State may discontinue the provision of the program. A qualified beneficiary who has been accepted by and is enrolled or is within five years of enrollment in an institution of higher education shall be entitled to exercise the benefits for which he has contracted. All other contract holders shall receive a refund of the amount paid into the fund.

L.2001,c.262,s.15.

18A:71B-79 Admission to public colleges, guaranteed; requirements.

16. a. A qualified beneficiary who graduates from high school with a 3.0 cumulative grade point average on a 4.0 scale in an academic program or a 3.2 cumulative grade point average on a 4.0 scale in a vocational-educational program, based upon grades in core curriculum content subject areas as determined by the board, or who graduates in the top 15% of his high school graduating class shall be admitted to a public institution of higher education. In order to be admitted to a public institution of higher education pursuant to this section, the qualified beneficiary shall meet all of the institution's requirements for admittance. This provision shall not be construed to promise or guarantee that a qualified beneficiary shall be admitted to a particular public institution of higher education.

b. In order to effectuate the provisions of subsection a. of this section, the board, in consultation with the Commission on Higher Education, shall develop a process to assist qualified beneficiaries in applying to all public institutions of higher education.

L.2001,c.262,s.16.

18A:71B-80 Admission to particular college, continuance not guaranteed; obligation of State limited.

17. a. Nothing in this article shall be construed to guarantee that a qualified beneficiary will be admitted to a particular higher education institution or be allowed to continue enrollment at or graduate from a higher education institution after admission.

b. Nothing in this article shall establish any obligation or liability on the part 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.

c. Under regulations promulgated by the board, every contract and application that may be used in connection with the program shall clearly indicate that the contract is not insured by this State, other than as set forth in sections 14 and 15 of P.L.2001, c.262 (C.18A:71B-77 and C.18A:71B-78).

L.2001,c.262,s.17.

18A:71B-81 Short title.

1. This act shall be known and may be cited as the "New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act."

L.2004,c.59,s.1.

18A:71B-82 Findings relative to NJ STARS Program.

2. The Legislature finds that it is necessary for the State's citizens to acquire an education beyond the secondary level in order to succeed during the 21st century. A well-trained and educated population, moreover, is vital to New Jersey's efforts to attract and retain highly skilled businesses, and to ensure the State's continued economic well-being. It is therefore incumbent upon the Legislature to institute a program which will help high achieving students to pursue a post-secondary education.

L.2004,c.59,s.2.

18A:71B-83 Definitions relative to NJ STARS Program.

3. As used in this act:

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

"Full-time course of study" in any semester means a course of study, leading to a degree from the county college of enrollment, that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum.

"Program" means the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students.

L.2004,c.59,s.3.

18A:71B-84 NJ STARS Program.

4. There is hereby created the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students. It shall be the duty of the Higher Education Student Assistance Authority to administer the program.

L.2004,c.59,s.4.

18A:71B-85 NJ STARS scholarships; eligibility.

5. a. A scholarship under the NJ STARS Program shall cover the full cost of tuition and fees, subject to the prior application of other grants and scholarships against those costs as provided under paragraph (2) of subsection c. of this section, for up to 15 credit hours in any semester, for an eligible student enrolled in a full-time course of study at the New Jersey county college serving the student's county of residence. An otherwise eligible student who demonstrates to the authority, in accordance with such criteria and by means of such documentation as the authority shall establish by regulation, that the county college serving the student's county of residence does not offer the curriculum that the student chooses to study shall be eligible for such scholarship at another New Jersey county college offering that curriculum. The amount of any scholarship allowed hereunder to a student at a county college serving a county other than the student's county of residence shall be computed as though the student were a resident of the county served by that college, and the college shall likewise compute the amount of any additional payment, required with respect to the enrollment of that student for credit hours of study during a semester in which the scholarship is awarded that are not covered by that scholarship, as though the student were a resident of the county.

b. A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters. The scholarship shall be payable for the first year of enrollment in a county college to a student who graduated in the top 20% of the student's high school graduating class, provided that in the case of students graduating from high schools that do not calculate the class rank of their students, the student's ranking shall be determined by the high school in consultation with the authority. During a student's enrollment in a county college after the first year of enrollment, the scholarship shall be payable to that student if the student attains a grade point average of at least 3.0 by the start of the student's second year of county college enrollment. A student who attains a grade point average of less than 3.0 at the start of the second semester of the student's first year of county college enrollment shall participate in an enrichment program designed by the county college during the second semester of the student's first year of enrollment.

c. To be eligible to receive a scholarship under the NJ STARS Program a student shall:

- (1) be a State resident pursuant to guidelines established by the authority;
- (2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges to reduce the amount of any scholarship that the student shall receive under the provisions of this act;
- (3) be enrolled in a full-time course of study at a New Jersey county college;
- (4) have graduated from high school in 2004 or later, and not earlier than the calendar year two years prior to the first calendar year in which a scholarship payment is to be made; and
- (5) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college, or unless called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States.

d. A student who is dismissed for academic or disciplinary reasons from a county college shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The county college shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

e. A student scholarship under the NJ STARS Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to subsection b. of this section.

L.2004,c.59; amended 2005, c.168; 2007, c.214, s.1.

18A:71B-86 Report to Legislature, Governor on NJSTARS Program; guidelines rules, regulations.

6. a. Not later than September 30,2006, the Higher Education Student Assistance Authority shall prepare and submit to the Legislature and the Governor a report on the implementation of the NJ STARS Program at the several county colleges. The report shall, for each college, set forth statistics on and include an analysis of student participation in the program at the college, the amounts of funding provided under the program to students enrolled at the college, the amounts of funding made available to those participating students from State sources other than the NJ STARS Program and from federal and institutional sources, and such other factors as the authority deems to be necessary or useful to the evaluation of the program.

b. The Higher Education Student Assistance Authority shall administer the provisions of this act and shall establish appropriate criteria, procedures, and guidelines for awarding New Jersey Student Tuition Assistance Reward Scholarships to eligible students in accordance with the provisions of this act. The authority shall adopt in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

L.2004,c.59,s.6.

18A:71B-86.1 Short title.

1. This act shall be known and may be cited as the "New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program Act."

L.2005,c.359,s.1.

18A:71B-86.2 Definitions relative to NJ STARS II Program.

2. As used in this act:

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

"Full-time course of study" in any semester means a course of study that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum, and leads to a degree from a New Jersey four-year public institution of higher education.

"Program" means the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program.

L.2005,c.359,s.2.

18A:71B-86.3 NJ STARS II Program created.

3. There is hereby created the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program. It shall be the duty of the Higher Education Student Assistance Authority to administer the program.

L.2005,c.359,s.3.

18A:71B-86.4 Eligibility for NJ STARS II; scholarship amounts.

4. a. For an eligible student enrolled in a full-time course of study at a New Jersey four-year public institution of higher education, a scholarship under the NJ STARS II Program shall be paid to the institution in the amount of \$2,000 for each semester of enrollment commencing in the 2006-2007 academic year. For each academic year thereafter, the amount of the scholarship shall be increased by one-half of the average percentage increase over the prior academic year in undergraduate tuition and fees for all four-year public institutions of higher education and shall be paid to the institution for each semester of enrollment in that academic year; except that the amount of the scholarship shall not exceed \$2,500 per semester. The scholarship amount awarded shall be in addition to any other State and federal need-based grants and merit scholarships to which the student is entitled. The four-year public institution of higher education shall waive or provide an institutional scholarship for any tuition and fee amount for the student, for up to 18 credits, that exceeds the sum of the NJ STARS II scholarship and any other State and federal grants and scholarships to which the student is entitled. The institution shall not be required to waive or provide an institutional scholarship for tuition and fees for credits in excess of 18 credit hours in any single semester.

b. A student shall be eligible for a scholarship under the NJ STARS II Program for up to four semesters, excluding summer sessions, at a New Jersey four-year public institution of higher education.

c. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's third academic year of study if the student: attained an associate's degree from a New Jersey county college; received a scholarship under the

"New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act," P.L.2004, c.59 (C.18A:71B-81 et seq.), or was eligible for but did not receive a scholarship under NJ STARS because the student's tuition and fees were fully covered by other State or federal need-based grants or merit scholarships, for each semester of study in the county college; attains a grade point average of at least 3.0 for the second academic year of study in the county college; enrolls in a baccalaureate degree program at a New Jersey four-year public institution of higher education for the third academic year of study in the academic year immediately following the student's attainment of an associate's degree; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

d. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's fourth academic year of study if the student: received a scholarship under the NJ STARS II Program for the student's third academic year of study pursuant to subsection c. of this section; based on the student's performance during the third academic year of study, attained a grade point average of at least 3.0; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

e. To be eligible to receive a scholarship under the NJ STARS II Program, a student shall:

- (1) be a State resident pursuant to guidelines established by the authority;
- (2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges;
- (3) be enrolled in a full-time course of study at a four-year public institution of higher education; and
- (4) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the four-year public institution of higher education, or unless called to partial or full mobilization for State or federal active duty as a member of the National Guard or a Reserve component of the Armed Forces of the United States.

f. A student who is dismissed for academic or disciplinary reasons from a four-year public institution of higher education shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The four-year public institution of higher education shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

g. A student scholarship under the NJ STARS II Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to this section.

L.2005,c.359,s.4; amended 2007, c.214, s.2.

18A:71B-86.5 Acceptance of academic credits.

5. A four-year public institution of higher education shall accept all academic credits awarded by a county college to an NJ STARS student who subsequently enrolls in the four-year institution and is participating in the NJ STARS II Program at the institution.

L.2005,c.359,s.5.

18A:71B-86.6 Report to Governor, Legislature; authority regulations.

6. a. Not later than September 30, 2008, the authority shall prepare and submit to the Legislature and the Governor a report on the implementation of the NJ STARS II Program at the four-year public institutions of higher education. The report shall, for each institution, set forth statistics on and include an analysis of student participation in the program at the institution, the amounts of funding provided under the program to students enrolled at the institution, the amounts of funding made available to those participating students from State sources other than the NJ STARS II Program and from federal and institutional sources, and such other factors as the authority deems to be necessary or useful to the evaluation of the program. The report shall set forth the number of students participating in the program Statewide, including such statistical and demographic information as may be relevant and appropriate.

b. The authority shall administer the provisions of this act and shall establish appropriate criteria, procedures, and guidelines for awarding New Jersey Student Tuition Assistance Reward II Scholarships to eligible students in accordance with the provisions of this act. The authority shall adopt in accordance with the "Administrative Procedure

Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

L.2005,c.359,s.6.

18A:71B-86.7 Construction of act.

7. Nothing in this act shall be construed to require a four-year public institution of higher education to admit a student eligible for a scholarship under this act or to waive its admission standards and application procedures.

L.2005,c.359,s.7.

18A:71B-87 Short title.

1. This act shall be known and may be cited as the "Social Services Student Loan Redemption Program Act."

L.2005,c.157,s.1.

18A:71B-88 Findings, declarations relative to social services student loan redemption.

2. The Legislature finds and declares that:

a. A qualified and stable work force in public facilities and nonprofit social services agencies is essential to ensure the provision of quality services to persons in need of services, including persons with mental illness, developmental disabilities or other disabilities, persons in need of substance abuse treatment and juveniles under the custody and care of the Juvenile Justice Commission;

b. These public facilities and social services agencies are currently facing a personnel crisis, which is expected to worsen in the next two decades;

c. The entry-level and on-going salaries offered by these public facilities and social services agencies to direct care professionals are not always competitive with those offered in the private for profit sector, which limits the ability of these facilities and agencies to attract and retain qualified direct care professionals;

d. Loan redemption programs can address the economic hardship of direct care professionals performing critical work in low-paying jobs, who in many instances are forced, because of their high loan debt and low incomes, to reject or abandon employment in the public sector, which is in great need of their skills and knowledge, for employment that is more financially rewarding;

e. The departure of these skilled direct care professionals from the public and nonprofit sector is, in many cases, a loss to their own sense of personal fulfillment, to the consumers that they serve, and to society at large; and

f. The establishment by this State of a loan redemption program for direct care professionals employed in public facilities and nonprofit agencies that contract with the Department of Human Services and the Juvenile Justice Commission is essential to address the need for the continued provision of high-quality services by these skilled and knowledgeable professionals.

L.2005,c.157,s.2.

18A:71B-89 Definitions relative to social sciences student loan redemption.

3. As used in this act:

"Approved course of study" means: an undergraduate program leading to a bachelor's degree offered by a four-year public or independent institution of higher education; or a graduate program leading to a master's degree, which is offered by a public or independent institution of higher education, in a human services discipline such as social work, psychology or counseling, or a health-related profession such as occupational, physical or speech therapy.

"Approved employment" means postgraduate, full-time employment as a direct care professional in a qualified facility. The term shall not include a paid student internship, paid fellowship, volunteer service or employment before graduation.

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

"Direct care professional" means a professional staff member at a qualified facility who provides one or more of the following services to eligible persons: counseling; physical, occupational, recreational or speech therapy; case management; vocational training; assistance with activities of daily living; medication management; budgeting assistance; addiction treatment services; nutrition; and other clinical services.

"Eligible student loan expenses" mean the cumulative total of the annual student loans, covering the cost of attendance while enrolled in an approved course of study. Interest paid or due on student loans that a program participant has taken out for use in paying the costs of attendance at an institution of higher education shall be considered eligible for reimbursement under the program.

"Program" means the Social Services Student Loan Redemption Program established pursuant to this act.

"Program participant" means a person who meets the requirements of the program.

"Qualified facility" means:

- a. a facility operated by the Department of Human Services that provides direct care services to persons served by the department;
- b. a county psychiatric hospital;
- c. a facility operated by the Juvenile Justice Commission;
- d. a veterans' memorial home operated by the Department of Military and Veterans' Affairs; and
- e. a nonprofit agency in the State that contracts with the Department of Human Services or the Juvenile Justice Commission to provide direct care services to persons served by the department or commission.

L.2005,c.157,s.3.

18A:71B-90 Social Services Student Loan Redemption Program.

4. There is established the Social Services Student Loan Redemption Program within the Higher Education Student Assistance Authority.

The purpose of the program is to address the current and projected critical shortage of direct care professionals in the State by providing an incentive for persons to engage in employment at certain public facilities, and nonprofit social services agencies under contract with the Department of Human Services or the Juvenile Justice Commission, so as to ensure that State residents who are in need of direct care services at these facilities and agencies have sufficient, qualified professional staff in order to provide the needed services.

The program shall provide loan redemption to finance the undergraduate or graduate study of program participants in exchange for full-time employment as a direct care professional at a qualified facility following completion of an approved course of study.

L.2005,c.157,s.4.

18A:71B-91 Eligibility for participation in program.

5. To be eligible to participate in the program, a direct care professional shall:

- a. be a resident of the State and maintain domicile in the State during participation in the program;
- b. have successfully completed an approved course of study within a one-year period prior to being hired as a full-time direct care professional at a qualified facility;
- c. have been initially hired as a full-time direct care professional at a qualified facility on or after the date of enactment of this act; and
- d. have an outstanding balance with a State or federal student loan program and not be in default on any student loan.

L.2005,c.157,s.5.

18A:71B-92 Application for loan redemption.

6. An eligible direct care professional may apply to the authority for a loan redemption in such a manner as the authority prescribes and shall include all information and documentation required by the authority.

a. A program participant shall enter into a written contract with the authority to participate in the program. The contract shall specify the duration of the applicant's required service and the total amount of eligible student loan expenses to be redeemed by the State in return for service.

b. The redemption of loans under the program shall not exceed \$5,000 of principal and interest of eligible student loan expenses for each full year of service satisfactorily completed by the program participant. The total loan redemption amount for a program participant, for four years of service, shall not exceed \$20,000. No amount of loan redemption shall be provided for service performed for less than a full year.

c. The period of service shall commence on or after the date of enactment of this act.

L.2005,c.157,s.6.

18A:71B-93 Nullification of redemption contract.

7. a. A program participant who has entered into a redemption contract with the authority may nullify that contract by submitting written notification to the authority and assuming full responsibility for repayment of the full amount of the participant's loan or that portion of the loan that has not been redeemed by the State in return for partial fulfillment of the contract.

b. In the case of a program participant's death or total or permanent disability, the authority shall nullify the service obligation of the participant, thereby terminating the participant's service obligation; or where continued enforcement of the contract may result in extreme hardship, the authority may nullify or suspend the participant's service obligation.

L.2005,c.157,s.7.

18A:71B-94 Loan forgiveness awards.

8. The authority shall grant loan forgiveness awards subject to the availability of funds appropriated for this purpose, of which funds, 80% shall be allocated to provide loan redemption to finance the undergraduate study of program participants and 20% shall be allocated to provide loan redemption to finance the graduate study of program participants.

L.2005,c.157,s.8.

18A:71B-95 Annual report.

9. The authority shall annually submit a report on the program to the Governor and the chairmen of the Senate Budget and Appropriations, Assembly Appropriations, Senate Health, Human Services and Senior Citizens, and Assembly Health and Human Services committees, or their successor committees. The report shall be submitted no later than August 1 of each year and shall include, but not be limited to, the following information for the prior fiscal year:

a. the total number of participants receiving loan redemption under the program;

b. the approved course of study of each of the participants; and

c. the total number of participants who withdrew from the program and failed to complete the program's employment requirement.

L.2005,c.157,s.9.

18A:71B-96 Rules, regulations.

10. The Higher Education Student Assistance Authority, in consultation with the Commissioner of Human Services and the executive director of the Juvenile Justice Commission, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and regulations necessary to implement the provisions of this act, including eligibility criteria for the program, procedures for determining the amount of the loan redemption award, and the types of direct care professional positions that qualify for the program.

L.2005,c.157,s.10.

18A:71B-97 Filling of direct care professional position with persons having degrees.

11. To better ensure the effectiveness of the program, any agency of the State, any political subdivision thereof, and any nonprofit agency in the State, that operates a qualified facility, or provides services under contract funded in whole or in part with State funds at a qualified facility shall make the greatest possible good faith effort to fill any direct care professional position at the qualified facility with a person having an undergraduate or graduate degree in a human services discipline, such as social work, psychology or counseling, or in a health-related profession such as occupational, physical, or speech therapy.

L.2005,c.157,s.11.

18A:71C-1 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.

L.1999,c.46,s.1.

18A:71C-2 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.

L.1999,c.46,s.1.

18A:71C-3 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.

L.1999,c.46,s.1.

18A:71C-4 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.

L.1999,c.46,s.1.

18A:71C-5 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.

L.1999,c.46,s.1.

18A:71C-6 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.

L.1999,c.46,s.1.

18A:71C-7 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.

L.1999,c.46,s.1.

18A:71C-8 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.

L.1999,c.46,s.1.

18A:71C-9 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.

L.1999,c.46,s.1.

18A:71C-10 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.

L.1999,c.46,s.1.

18A:71C-11 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.

L.1999,c.46,s.1.

18A:71C-12 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.

L.1999,c.46,s.1.

18A:71C-13 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.

L.1999,c.46,s.1.

18A:71C-14 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.

L.1999,c.46,s.1.

18A:71C-15 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.

L.1999,c.46,s.1.

18A:71C-16 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.

L.1999,c.46,s.1.

18A:71C-17 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.

L.1999,c.46,s.1.

18A:71C-18 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.

L.1999,c.46,s.1.

18A:71C-19 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.

L.1999,c.46,s.1.

18A:71C-20 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.

L.1999,c.46,s.1.

18A:71C-21 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.

L.1999,c.46,s.1.

18A:71C-22 College loans to assist State Students Loan Fund.

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.

L.1999,c.46,s.1.

18A:71C-23 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.

L.1999,c.46,s.1.

18A:71C-24 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.

L.1999,c.46,s.1.

18A:71C-25 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.

L.1999,c.46,s.1.

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.

L.1999,c.46,s.1.

18A:71C-27 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).

L.1999,c.46,s.1.

18A:71C-28 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.

L.1999,c.46,s.1.

18A:71C-29 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.

L.1999,c.46,s.1.

18A:71C-30 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.

L.1999,c.46,s.1.

18A:71C-31 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.

L.1999,c.46,s.1.

18A:71C-32 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.

L.1999,c.46,s.1.

18A:71C-33 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.

L.1999,c.46,s.1.

18A:71C-34 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.

L.1999,c.46,s.1.

18A:71C-35 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.

L.1999,c.46,s.1.

18A:71C-36 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.

L.1999,c.46,s.1.

18A:71C-37 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).

L.1999,c.46,s.1.

18A:71C-38 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.

L.1999,c.46,s.1.

18A:71C-39 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.

L.1999,c.46,s.1.

18A:71C-40 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.

L.1999,c.46,s.1.

18A:71C-41 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.

L.1999,c.46,s.1.

18A:71C-42 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.

L.1999,c.46,s.1.

18A:71C-43 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.

L.1999,c.46,s.1.

18A:71C-44 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.

L.1999,c.46,s.1.

18A:71C-45 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.

L.1999,c.46,s.1.

18A:71C-46 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.

L.1999,c.46,s.1.

18A:71C-47 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.

L.1999,c.46,s.1.

18A:71C-48 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.

L.1999,c.46,s.1.

18A:71C-49 OB/GYN student loan expense reimbursement program.

29. a. There is established a student loan expense reimbursement program within the Higher Education Student Assistance Authority for obstetrician/gynecologists who

agree to practice in State designated underserved areas as established pursuant to section 1 of P.L.1999, c.46 (C.18A:71C-35). Any loans provided through the NJCLASS Loan Program pursuant to P.L.1999, c.46 (C.18A:71C-21 et seq.) or a student loan program of the federal government shall be eligible for reimbursement under this program.

The authority shall implement the program in consultation with the Commissioners of Banking and Insurance and Health and Senior Services and the State Board of Medical Examiners.

b. (1) An obstetrician/gynecologist who receives a payment under the student loan expense reimbursement program shall be required to practice as an obstetrician/gynecologist in an underserved area in this State for a period of at least four years after receipt of the payment.

(2) An obstetrician/gynecologist who fails to comply with the provisions of paragraph (1) of this subsection shall be required to repay to the Higher Education Student Assistance Authority the amount of the payment, in whole or in part as determined by the authority.

c. The authority shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section, including, but not limited to: eligibility for the program, procedures for application, selection of participants, establishment and nullification of contracts established with participants under the program, and reports to the program by participants.

L.2004,c.17,s.29.

18A:72A-1. Preamble, purpose of chapter

It is hereby declared that a serious public emergency exists affecting and threatening the welfare, comfort, health, safety and prosperity of the people of the state and resulting from the fact that financial resources are lacking with which to construct required dormitory and other educational facilities at public and private institutions of higher education; that it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions for higher education within the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; that it is essential that all resources of the state be employed in order to meet the tremendous demand for higher educational opportunities; that all institutions of higher education in the state, both public and private, are an integral part of the total educational effort in the state for providing higher educational opportunities, and that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable institutions of higher education in the state to provide the facilities which are sorely needed to accomplish the purposes of this chapter, all to the public benefit and good, to the extent and manner provided herein.

L.1967, c.271.

18A:72A-2. Short title

This chapter shall be known and may be cited as the "New Jersey educational facilities authority law."

L.1967, c.271.

18A:72A-3 Definitions.

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

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

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

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

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

"Educational facility" means a structure suitable for use as a dormitory, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, teaching hospital, and parking maintenance storage or utility facility and other structures or facilities

related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education, and public libraries, and the necessary and usual attendant and related facilities and equipment, but shall not include any facility used or to be used for sectarian instruction or as a place for religious worship;

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

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

"Participating college" means a public institution of higher education or private college which, pursuant to the provisions of this chapter, participates with the authority in undertaking the financing and construction or acquisition of a project;

"Project" means a dormitory or an educational facility or any combination thereof, or a county college capital project;

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

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

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

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

"University" means Rutgers, The State University.

L.1967, c.271; amended 1971, c.113; 1993, c.136, s.3; 1997, c.360, s.5; 1999, c.184, s.6; 2000, c.56, s.10.

18A:72A-4 "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, Saturdays, Sundays and public holidays excepted, 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 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 sold and the Governor shall indicate approval or disapproval of the action prior to the issuance of the bonds.

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.

L.1967, c.271; amended 1994, c.48, s.236; 1999, c.46, s.48; 1999, c.217, s.11.

18A:72A-5 Authority's powers.

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

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

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

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

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

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

(f) To 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 chapter;

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

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

(i) To prepare or cause to be prepared plans, specifications, designs and estimates of costs for the construction and equipment of projects for participating colleges under the provisions of this chapter, and from time to time to modify such plans, specifications, designs or estimates;

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

(1) separate bids for the following categories of work;

(a) the plumbing and gas fitting work;

(b) the heating and ventilating systems and equipment;

(c) the electrical work, including any electrical power plants;

(d) the structural steel and ornamental iron work;

(e) all other work and materials required for the completion of the project, or

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

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

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

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

(k) To determine the location and character of any project to be undertaken pursuant to the provisions of this chapter, and to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same; to enter into contracts for any or all such purposes; to enter into contracts for the management and operation of a project, and to designate a participating college as its agent to determine the location and character of a project undertaken by such participating college under the provisions of this chapter and, as the agent of the authority, to construct, reconstruct, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and, as agent of the authority, to enter into contracts for any and all such purposes including contracts for the management and operation of such project;

(l) To establish rules and regulations for the use of a project or any portion thereof and to designate a participating college as its agent to establish rules and regulations for the use of a project undertaken by such participating college;

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

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

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

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

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

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

L.1967, c.271; amended 1968, c.109; 1992, c.61, s.4; 1993, c.136, s.4; 1997, c.360, s.6; 2000, c.56, s.11.

18A:72A-5.1 Prevailing wage rate for workers employed on projects with New Jersey Educational Facilities Authority involvement.

5. Each worker employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, tax exemptions or other incentives or financial assistance approved, provided, authorized, facilitated or administered by the New Jersey Educational Facilities Authority, or undertaken to fulfill any condition of receiving any of the incentives or financial assistance, shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

The Commissioner of Labor and Workforce Development shall determine the prevailing wage rate in the locality in which the construction or rehabilitation is to be performed for each craft, trade or classification of worker employed in the construction or rehabilitation, as if the construction or rehabilitation is "public work" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

L.2004,c.127,s.5.

18A:72A-5.2 Exercise of rights, powers or duties.

6. For the purpose of implementing the provisions of sections 5 through 7 of this act, the Commissioner of Labor and Workforce Development shall, and a worker employed in the performance of work subject to this act or the employer or any designated representative of the worker may, exercise all rights, powers or duties granted or imposed upon them by P.L.1963, c.150 (C.34:11-56.25 et seq.).

L.2004,c.127,s.6.

18A:72A-5.3 Prevailing wage rules, regulations, adoption by New Jersey Educational Facilities Authority.

7. The New Jersey Educational Facilities Authority shall, in consultation with the Commissioner of Labor and Workforce Development, adopt rules and regulations, consistent with the rules and regulations adopted by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), requiring that not less than the prevailing wage be paid to workers employed in the construction or rehabilitation of facilities undertaken in connection with loans, loan guarantees, expenditures, investments, incentives or other financial assistance provided, authorized or administered by the authority. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.).

L.2004,c.127,s.7.

18A:72A-5.4 Inapplicability of C.18A:72A-5.1 through C.18A:72A-5.3.

8. The provisions of sections 5 through 7 of this act shall not apply to construction and rehabilitation of facilities conducted entirely under contracts entered into prior to the effective date of this act or to the refinancing of the outstanding debt on projects in which all construction or rehabilitation of facilities was conducted under contracts entered into prior to the effective date of this act.

L.2004,c.127,s.8.

18A:72A-6. Expenses of authority

All expenses incurred in carrying out the provisions of this chapter shall be payable from funds provided the authority therefor, and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided therefor.

L.1967, c.271.

18A:72A-7. Issuance of notes authorized

The authority is authorized from time to time to issue its negotiable notes for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All such notes shall be payable from the revenues or other moneys of the authority, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

L.1967, c.271.

18A:72A-8 Issuance of negotiable bonds for corporate purpose.

N.J.S.18A:72A-8. (a) The authority is authorized from time to time to issue its negotiable bonds for any corporate purpose. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes 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 shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds or notes 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 or notes pledging any particular revenues or moneys. Notwithstanding that bonds and notes may be payable from a special fund, they shall be fully negotiable within the meaning of Title 12A, the Uniform Commercial Code, of the New Jersey Statutes, subject only to the provisions of the bonds and notes for registration.

(c) 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 50 years from their respective dates, bear interest at such rate or 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 such resolution or resolutions may provide. The bonds or notes 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 such definitive bonds.

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

(i) pledging all or any part of the revenues of a project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(ii) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(iii) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(iv) limitations on the right of the authority or its agent to restrict and regulate the use of a project;

(v) 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 such proceeds to secure the payment of the bonds or any issue of the bonds;

(vi) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(vii) 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 such consent may be given;

(viii) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority; and

(ix) 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 such holders in the event of a default.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

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

(g) In connection with any bonds or refunding bonds issued pursuant to this section, the authority may also enter into any revolving credit agreement; agreement establishing a line of credit or letter of credit; reimbursement agreement; interest rate exchange agreement; currency exchange agreement; interest rate floor or cap, option, put or call to hedge payment, currency, rate, spread or similar exposure, or similar agreement; float agreement; forward agreement; insurance contract; surety bond; commitment to purchase or sell bonds; purchase or sale agreement; or commitment or other contract or agreement and other security agreement approved by the authority.

L.1967, c.271; amended 1999, c.217, s.12.

18A:72A-9. Bonds secured by trust agreement

In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues or other moneys to be received or proceeds of any contract or contracts pledged. Such trust agreement or resolution providing for the issuance of such 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 such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such 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, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of construction or operation of a project.

L.1967, c.271.

18A:72A-10. Bonds not liability of state or political subdivision

Bonds issued under the provisions of this chapter 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 such political subdivision, but shall be payable solely from the funds herein provided. All such bonds shall contain on the face thereof 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 of New Jersey or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of bonds under the provisions of this chapter 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.

L.1967, c.271.

18A:72A-11. Further powers of authority

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

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

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

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

Such rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a project, except such part of such revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund shall be a fund for all such bonds issued to finance projects at a participating college without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at a participating college and for the bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds of the authority and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds.

L.1967, c.271.

18A:72A-11.1. Refinancing outstanding mortgages of private lenders

In addition to other powers and duties which have been granted to the authority, whenever any public or private college has constructed or acquired any work or improvement which would otherwise qualify under this act except for the fact that such construction or acquisition was undertaken and financed without assistance from the authority, the authority may purchase such work or improvement, and lease the same to such college, or may lend funds to such college for the purpose of enabling the latter to retire obligations incurred for such construction or acquisition; except that the amount of any such price or loan shall not exceed the original project cost. All powers, rights, obligations and duties granted to or imposed upon the authority, colleges, State departments and agencies or others by this chapter in respect to projects shall apply to the same extent with respect to transactions pursuant to this section; except that any action otherwise required to be taken at a particular time in the progression of a project may, where the circumstances are so required in connection with a transaction under this section, be taken with the same effect as if taken at that particular time.

L.1980, c. 31, s. 1, eff. June 3, 1980.

18A:72A-12. Moneys of authority; trust funds

All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and the resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide.

L.1967, c.271.

18A:72A-12.1. Investment or reinvestment of funds

All functions, powers and duties relating to the investment or reinvestment of funds within the jurisdiction of the authority including the purchase, sale or exchange of any investments or securities may, at the request of the authority, be exercised and performed by the director of the Division of Investment, in accordance with written directions of the authority signed by an authorized officer.

L.1968, c. 400, s. 1, eff. Jan. 10, 1969.

18A:72A-12.2 Short title.

1. Sections 1 through 4 of this act shall be known and may be cited as the "County College Capital Projects Fund Act."

L.1997,c.360,s.1.

18A:72A-12.3 Findings, declarations relative to county college capital projects fund.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing the education and training of the work force of the future;

b. The county colleges serve a vital role in the educational system of the State by providing students with an affordable means of obtaining higher education, thereby providing opportunities to the residents of the State which would not otherwise be available;

c. County colleges and the residents of the State would benefit from additional funds and resources enabling counties to undertake and complete county college capital projects;

d. It would therefore be appropriate for the New Jersey Educational Facilities Authority created pursuant to N.J.S.18A:72A-1 et seq. to enter into contracts with counties and the State Treasurer to provide for the financing of county college capital projects.

L.1997,c.360,s.2.

18A:72A-12.4 County college capital projects fund, established.

3. a. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, hereinafter referred to as the "authority," a county college capital projects fund to finance county college capital projects. The authority may issue bonds to finance the State share of county college capital projects and the county share of county college capital projects as certified by the State Treasurer pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2). The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued to finance the State share of county college capital projects. The authority may enter into a loan agreement with each county in which a county college capital project is located for the purpose of funding the county share of the applicable county college capital project.

b. The authority may from time to time issue bonds or notes in an amount sufficient to finance county college capital projects and which shall also finance the administrative costs and any reserves or other issuance costs associated with the issuance of bonds or notes. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of this act and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq. The authority shall not issue any bonds or notes pursuant to this section without the prior written consent of the State Treasurer.

L.1997,c.360,s.3.

18A:72A-12.5 Loan agreement to issue bonds, notes.

4. a. At any time within one year of the certification by the State Treasurer to the board of chosen freeholders, the county college at which the capital project is located, and the authority, pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2), the board of chosen freeholders is authorized, in lieu of issuing bonds or notes pursuant to N.J.S.18A:64A-19, to enter into a loan agreement with the authority for the issuance of bonds or notes of the authority to fund the county share of the capital project. The county shall issue bonds and notes to the authority which shall be delivered to the authority to evidence the loan, and which shall be the source of payment for the bonds or notes issued by the authority to finance the county share of the capital project. The loan evidenced by the bonds or notes may be made subject to such terms and conditions as the authority determines to be consistent with the purposes thereof. Each loan by the authority shall be subject to approval by the State Treasurer and shall be evidenced by notes or bonds issued by the county which shall be authorized and issued as provided by law for the issuance of notes and bonds by the county. A loan to a county, and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as may be agreed upon by the authority and the county.

b. Any bonds or notes authorized by the county to be issued to the authority or to another entity for the purpose of funding the county share of a county college capital project shall be in addition to the sums authorized to be borrowed by the board of chosen freeholders pursuant to the provisions of N.J.S.18A:64A-19 for the purpose of funding the county's share of capital projects, and the additional borrowing, if entered into by the county, shall constitute a deduction from the gross debt of the county and shall not be considered in determining its net debt for debt incurring purposes.

L.1997,c.360,s.4.

18A:72A-12.6 "Dormitory Safety Trust Fund."

6. a. There is created within the New Jersey educational facilities authority established pursuant to N.J.S.18A:72A-4, the "Dormitory Safety Trust Fund," hereinafter referred to as the "trust fund." The trust fund shall be maintained as a separate account and administered by the authority to carry out the provisions of P.L.2000, c.56 (C.52:27D-198.7 et al.). There shall be paid into this fund:

(1) moneys received from the sale of bonds or notes issued pursuant to section 8 of P.L.2000, c.56 (C.18A:72A-12.8);

(2) moneys appropriated by the Legislature, including moneys as may be appropriated annually in an amount sufficient to pay the principal and interest on the bonds or notes;

(3) all interest and investment earnings received on the moneys in the trust fund; and

(4) all repayments of loans authorized pursuant to P.L.2000, c.56 (C.52:27D-198.7 et al.).

b. The trust fund shall be used to provide loans to the schools and institutions of higher education which are required pursuant to P.L.2000, c.56 (C.52:27D-198.7 et al.) to install automatic fire suppression systems, for the cost, or a portion of the cost, of the construction, reconstruction, development, extension or improvement of dormitory safety facilities, including fire prevention and sprinkler systems.

L.2000,c.56,s.6.

18A:72A-12.7 Establishment of program to provide loans.

7. a. The State Treasurer shall establish a program to provide the loans authorized pursuant to P.L.2000, c.56 (C.52:27D-198.7 et al.). The governing board of a public or private institution of higher education as defined pursuant to N.J.S.18A:72A-3 or of a public or private secondary school shall be eligible for and may determine by resolution to apply for a loan from the trust fund established pursuant to section 6 of P.L.2000, c.56 (C.18A:72A-12.6). The resolutions shall be transmitted to and in a manner to be determined by the State Treasurer. Owners of residences being utilized by fraternities or sororities, other than those owned by public or private institutions of education, who are responsible for the installation of an automatic fire suppression system pursuant to section 3 of P.L.2000, c.56 (C.52:27D-198.9) shall not be eligible for a loan from the trust fund established pursuant to section 6 of P.L.2000, c.56 (C.18A:72A-12.6), but shall be eligible and may apply for a life safety improvement loan pursuant to section 13 of P.L.1983, c.530 (C.55:14K-13) as amended by section 13 of P.L.2000, c.56.

b. Individual loan amounts from the trust fund shall be limited to no more than the projected costs as stated in the plan required to be filed with the Director of the Division of Fire Safety in the Department of Community Affairs pursuant to section 3 of P.L.2000, c.56 (C.52:27D-198.9), and loan amounts shall be disbursed in accordance with the need and the time frame established under the installation plan. If sufficient funds are not available to fully fund each request, the State Treasurer may limit the amounts loaned on a basis which shall provide the maximum amount of funding to the greatest number of buildings.

c. The loans issued pursuant to this subsection shall bear interest of not more than:

(1) zero percent per year for loans made to public or private institutions of higher education as defined pursuant to N.J.S.18A:72A-3; or

(2) two percent per year for loans made to secondary schools, military schools, boarding schools, or similar occupancies.

d. The term of a loan shall be for a period of not more than 15 years. Any loan approved pursuant to this subsection shall be contingent upon the applicant entering into a contract or contracts for the construction, reconstruction, development, extension or improvement required in the installation plan in accordance with section 3 of P.L.2000, c.56 (C.52:27D-198.9).

e. The State Treasurer shall:

(1) review each application and approve, disapprove, amend or modify the loan request;

(2) establish any other terms or conditions of each loan which are not otherwise provided under this section; and

(3) forward to the New Jersey educational facilities authority and the Department of Community Affairs a copy of any loan approval granted pursuant to this section, including information concerning the amount and terms of the loan.

f. All repayments of loans awarded pursuant to this section shall be made to the authority and deposited by the authority into the trust fund.

g. The State Treasurer shall promulgate the rules necessary to effectuate this section in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L.2000,c.56,s.7.

18A:72A-12.8 Issuance of bonds, notes.

8. a. The authority shall from time to time issue bonds or notes, in accordance with the provisions of the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., and in an amount sufficient to finance the loans provided under P.L.2000, c.56 (C.52:27D-198.7 et al.) and to finance the administrative costs associated with the approval process and the issuance of the bonds or notes, up to a total amount not to exceed \$90,000,000; except that all administrative costs associated with the approval process and the issuance of bonds, notes or other obligations shall not be included within the total aggregate principal amount of the bonds, notes or other obligations issued; the term of any bond so issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of P.L.1993, c.375 (C.18A:72A-49 et al.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq., provided that no bonds or notes shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. Bonds or notes issued pursuant to P.L.2000, c.56 (C.52:27D-198.7 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by P.L.2000, c.56 (C.52:27D-198.7 et al.). Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon 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, redemption premium, if any, or the interest on the bonds.

c. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds or notes issued pursuant to the authorization hereunder that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds or notes, or to fix, establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds and notes, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds and notes, together with interest thereon, are fully met and discharged or provided for.

d. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to P.L.2000, c.56 (C.52:27D-198.7 et al.) plus any amounts payable in connection with an agreement authorized under subsection (g) of N.J.S.18A:72A-8.

e. To assure the continued operation and solvency of the dormitory safety trust fund program, the authority shall require that if a school or institution of higher education fails or is unable to pay to the authority in full, when due, any obligation of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the school or institution" means any amount payable by the school or institution for dormitory safety facilities pursuant to an agreement with the authority.

The amount retained by the State Treasurer shall be deducted from the corresponding appropriation or apportionment of State aid payable to the school or institution of higher education and shall not obligate the State to make, or entitle the school or institution to receive, any additional appropriation or apportionment.

L.2000,c.56,s.8.

18A:72A-13. Bondholders; enforcement of rights

Any holder of bonds issued under the provisions of this chapter 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 such trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all

rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the authority or by any officer, employee or agent thereof, including the fixing, charging and collecting of the rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

L.1967, c.271.

18A:72A-14. Refunding bonds; additional purposes

(a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority 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 such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project or any portion thereof.

(b) The proceeds of any such 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 such 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 such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(c) Any such 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 such 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.

(d) The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project 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 not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such bonds shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

L.1967, c.271.

18A:72A-15. Bonds as legal investments

Bonds and notes issued by the authority under the provisions of this chapter are hereby made securities in which the state and all political subdivisions of the state, their officers, boards, commissions, departments or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control; and said bonds, notes or other securities or 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.

L.1967, c.271

18A:72A-16. Chapter complete authority for issuance of bonds

Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau, agency or officer of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specifically required by this chapter.

L.1967, c.271.

18A:72A-17. Power to mortgage

The authority shall not have power to mortgage any of its real property or projects.

L.1967, c.271.

18A:72A-18. Exemptions from taxes; bonds; property

The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a project by the authority or its agent will constitute the performance of an essential public function, neither the authority nor its agent shall be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by the authority or its agent under the provisions of this chapter or upon the income therefrom, and any bonds issued under the provisions of this chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions in the state.

L.1967, c.271.

18A:72A-19. Restriction on alteration of powers

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 chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter or restrict the rights hereby vested in the authority and the participating colleges to maintain, construct, reconstruct and operate any project as defined in this chapter or to establish and collect such rents, fees, receipts or other charges as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation thereof and to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to the provisions of this chapter, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

L.1967, c.271.

18A:72A-20. Authority not subject to 18A:62-2

In carrying out the provisions of this chapter the authority shall not be subject to the provisions of section 18A:62-2.

L.1967, c.271.

18A:72A-21. Annual report and audit

On or before March 31 in each year, the authority shall make an annual report of its activities for the preceding calendar year to the governor and the legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants.

L.1967, c.271.

18A:72A-22. Contracts of property; conflicts of interest

Except as otherwise expressly provided in this chapter, any member, officer, agent or employee of the authority who is interested, either directly or indirectly, in any contract of another with the authority, or in the sale of any property, either real or personal, to the authority, shall be guilty of a misdemeanor.

L.1967, c.271.

18A:72A-23. Comptroller of treasury; powers of examination

The comptroller of the treasury and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating to its financial standing.

L.1967, c.271.

18A:72A-24. Visitorial powers; Governor

18A:72A-24. The Governor may visit, examine into and inspect, the authority as an institution under the educational supervision of the State, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the Governor shall prescribe.

L.1967, c.271; amended 1994,c.48,s.237.

18A:72A-25. Services of state departments or agencies

The authority shall be entitled to call to its assistance and avail itself of the services of such employees of any state department or agency as it may require and as may be available to it for said purpose.

L.1967, c.271.

18A:72A-26. Powers and duties of treasurer; institutions under State jurisdiction

18A:72A-26. In order to provide new dormitories and to enable the construction and financing thereof, to refinance indebtedness hereafter created by the authority for the purpose of providing a dormitory or dormitories or additions or improvements thereto, or for any one or more of said purposes, but for no other purpose unless authorized by law, each of the following bodies shall have the powers hereafter enumerated to be exercised upon such terms and conditions, including the fixing of any consideration or rental to be paid or received, as it shall determine by resolution as to such property and each shall be subject to the performance of the duties hereafter enumerated, that is to say, the treasurer as to such as are located on land owned by the State or by the authority, the board of governors of the university, the board of trustees of the New Jersey Institute of Technology or the University of Medicine and Dentistry of New Jersey, the board of trustees of a State college or the board of trustees of a county college as to such as are located on land owned by the university or by the particular college respectively, namely:

a. The power to sell and to convey to the authority title in fee simple in any such land and any existing dormitories thereon owned by the State or owned by the board of trustees of a county college or the power to sell and to convey to the authority such title as the university or the college respectively may have in any such land and any existing dormitories thereon.

b. The power to lease to the authority any land and any existing dormitories thereon so owned for a term or terms not exceeding 50 years each.

c. The power to lease or sublease from the authority, and to make available, any such land and existing dormitories conveyed or leased to the authority under subsections a. and b. of this section, and any new dormitories erected upon such land or upon any other land owned by the authority, any rentals to be payable, as to the university or as to any such college from available funds other than moneys appropriated to it by the State.

d. The power and duty, upon receipt of notice of any assignment by the authority of any lease or sublease made under subsection c. of this section, or of any of its rights under any such lease or sublease, to recognize and give effect to such assignment, and to pay to the assignee thereof rentals or other payments then due or which may become due under any such lease or sublease which has been so assigned by the authority.

L.1967, c.271; amended 1971,c.77,s.1; 1994,c.48,s.238.

18A:72A-27 Additional powers of boards of governors, trustees.

18A:72A-27. In addition thereto the board of governors of the university and the board of trustees of each of said colleges including county colleges shall have the following powers and shall be subject to the following duties as to its lands and dormitories:

a. The power to pledge and assign all or any part of the revenues derived from the operation of such new dormitories as security for the payment of rentals due and to become due under any lease or sublease of such new dormitories under subsection c. of the preceding section.

b. The power to covenant and agree in any lease or sublease of such new dormitories made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of such new dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

c. The power to apply all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

d. The power to pledge and assign all or any part of the revenues derived from the operation of any dormitories to the payment of rentals due and to become due under any lease or sublease made under subsection c. of the preceding section.

e. The power to covenant and agree in any lease or sublease made under subsection c. of the preceding section to impose fees, rentals or other charges for the use and occupancy or other operation of any dormitories in an amount calculated to produce net revenues sufficient to pay the rentals due and to become due under such lease or sublease.

f. The power to indemnify the authority from any liability for loss or damage to any person or property of others resulting from any project financed or to be financed by the authority for the benefit of the college.

L.1967, c.271; amended 1971, c.77, s.2; 1999, c.217, s.13.

18A:72A-27.1. Powers and duties, revenue producing facilities

18A:72A-27.1. In addition to the powers and duties with respect to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the treasurer, the board of governors of the

university, the board of trustees of the New Jersey Institute of Technology, the board of trustees of a State college, the board of trustees of a county college and the board of trustees of the University of Medicine and Dentistry of New Jersey shall also have the same power and be subject to the same duties in relation to any conveyance, lease or sublease made under subsection a., b., or c. of section 18A:72A-26, with respect to revenue producing facilities; that is to say, structures or facilities which produce revenues sufficient to pay the rentals due and to become due under any lease or sublease made under subsection c. of section 18A:72A-26 including, without limitation, student unions and parking facilities.

L.1967, c.271; amended 1971,c.74; 1971,c.77,s.3; 1994,c.48,s.239.

18A:72A-27.2. Powers of board of trustees

In addition to the powers and duties with respect to dormitories and revenue producing facilities given under the provisions of this chapter, the board of trustees of a State college shall have the following powers with respect to any educational facility, as defined in N.J.S. 18A:72A-3:

a. To enter into any conveyance, lease or sublease of the type provided for in N.J.S. 18A:72A-26, 18A:72A-27 and 18A:72A-27.1 with the authority, with respect to the acquisition, construction and financing of any educational facility;

b. To enter into any other agreement with the authority, with respect to the acquisition, construction or financing of an educational facility according to terms and conditions which the authority and the board of trustees shall determine in accordance with the powers of the authority;

c. To pledge and assign all or any part of any funds appropriated to the State college and available for the purposes provided in subsections a. and b. of this section or any other available monies of the State college to the payment of any amount due and owing under any agreement made under subsections a. and b. of this section if that agreement expressly states that the payment of any and all amounts due and owing thereunder shall, to the extent the funds shall be derived from appropriations, depend on appropriations being made by the Legislature.

L. 1988, c. 159, s. 1.

18A:72A-27.3 Submission of proposed projects to the 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 Committee 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 45 days, the proposal shall be deemed to be approved.

L.1988,c.159,s.2; amended 1994, c.48, s.240; 1999, c.46, s.49; 1999, c.217, s.14.

18A:72A-28. Approval of plans, specifications and locations

The board of governors of the university or the board of trustees of the Newark College of Engineering or the board of trustees of a State college or the board of trustees of a county college shall approve the plans and specifications and location of each dormitory undertaken for it or under its control, prior to the undertaking thereof by the authority.

L.1967, c.271; amended by L.1971, c. 77, s. 4, eff. April 5, 1971.

18A:72A-29 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.

L.1967, c.271; amended 1994, c.48, s.241; 1999, c.46, s.50.

18A:72A-30. Additional powers; private colleges

In addition to the foregoing powers, the authority with respect to private colleges, shall have power:

(a) upon application of the participating college to construct, acquire or otherwise provide projects for the use and benefit of the participating college and the students, faculty and staff of such participating college. The participating college for which such a project is undertaken by the authority shall approve the plans and specifications and location of such project;

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

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

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

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

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

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

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

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

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

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

L.1967, c.271.

18A:72A-31. Construction loans; terms

The authority also shall have power:

(a) to make loans to any private college for the construction of projects in accordance with a loan agreement and plans and specifications approved by the authority. No such loan shall exceed the total cost of such project and the equipment therefor as determined by the authority. Each such loan shall be premised upon an agreement between the authority and the private college as to payment, security, maturity, redemption, interest and other appropriate matters.

(b) to make loans to any private college to refund existing bonds, mortgages or advances given or made by such private college for the construction of projects to the extent that this will enable such private college to offer greater security for loans for new project construction.

L.1967, c.271.

18A:72A-32. Power of private colleges to mortgage

For the purpose of obtaining and securing loans under section 18A:72A-31 every private college shall, notwithstanding the provisions of any other law, have power to

mortgage and pledge any of its real or personal property, and to pledge any of its income from whatever source to repay the principal of and interest on any loan made to it by the authority or to pay the interest on and principal and redemption premium, if any, of any note, bond or other evidence of indebtedness evidencing the debt created by any such loan; provided that the foregoing shall not be construed to authorize actions in conflict with specific legislation, trusts, endowment, or other agreements relating to specific properties or funds.

L.1967, c.271.

18A:72A-33. Moneys; separate account

Moneys of the authority received from any private college in payment of any sum due to the authority pursuant to the terms of any loan or other agreement or any bond, note or other evidence of indebtedness, shall be deposited in an account in which only moneys received from private colleges shall be deposited and shall be kept separate and apart from and not commingled with any other moneys of the authority. Moneys deposited in such account shall be paid out on checks signed by the chairman of the authority or by such other person or persons as the authority may authorize.

L.1967, c.271.

18A:72A-34. Authority; construction, operation and management

(a) Whenever the authority under section 18A:72A-30 undertakes to construct, acquire or otherwise provide and operate and manage a project, the authority shall be responsible for the direct operation and maintenance costs of such project, but each private college in connection with which such a project is provided and operated and managed shall be responsible at its own expense for the overall supervision of each project, for the overhead and general administrative costs of the private college which are incurred because of such project and for the integration of each project operation into the institution's educational program.

(b) Whenever the authority under section 18A:72A-30 undertakes to construct, acquire or otherwise provide a project and to lease the same to a private college, the lessee shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the lessee which are incurred because of such project and for the integration of each project operation into the lessee's educational program.

(c) Whenever the authority under section 18A:72A-31 makes loans for the construction of a project, the private college at which such project is located shall be responsible for the direct operation and maintenance costs of such project and, in addition, shall be responsible for the overall supervision of each project, for the overhead and general administrative costs of the private college which are incurred because of such project and for the integration of each project operation into the institution's educational program.

L.1967, c.271.

18A:72A-35. Private colleges; pledges

Any pledge of moneys, earnings, income or revenues authorized with respect to private colleges, pursuant to the provisions of this chapter, shall be valid and binding from the time when the pledge is made. The moneys, earnings, income or revenues so pledged and thereafter received by the pledgor shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the pledgor irrespective of whether such parties have notice thereof. No instrument by which such a pledge is created need be filed or recorded in any manner.

L.1967, c.271.

18A:72A-36. Construction of chapter

This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

L.1967, c.271.

18A:72A-37. No liability or pledge of credit of state

Nothing contained in this chapter shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit, of the state.

L.1967, c.271.

18A:72A-38. Powers supplemental and not derogatory

The foregoing sections of this chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

L.1967, c.271.

18A:72A-39. Inconsistent laws inapplicable

The powers granted to the authority by this chapter may be exercised without regard or reference to any department or agency of the state. All other general or special laws, or parts thereof, inconsistent with this chapter are hereby declared to be inapplicable to the provisions of this chapter.

L.1967, c.271.

18A:72A-40. Short title

1. This act shall be known and may be cited as the "Higher Education Equipment Leasing Fund Act."

L.1993,c.136,s.1.

18A:72A-41. Findings, declarations

2. The Legislature finds and declares that:

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

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

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

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

L.1993,c.136,s.2.

18A:72A-42. Higher education equipment leasing fund; issuance of bonds.

5. a. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, hereinafter referred to as the "authority," a higher education equipment leasing fund to finance the purchase of higher education equipment at public and private institutions of higher education. The authority shall issue bonds to finance the purchase of higher education equipment for lease to public and private institutions of higher education provided that the total outstanding principal amount of the bonds shall not exceed \$100,000,000 and the term of any bond issued shall not exceed 10 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section. In entering into a lease agreement with a public or private institution of higher education, the authority shall include such lease provisions as may be necessary to insure that the institution shall pay an amount equal to 25% of the amount necessary to pay the principal and interest on the bonds and notes of the authority issued pursuant to this section to finance the purchase of higher education equipment at that institution. Upon receipt of such moneys from the public or private institution of higher education, the authority shall remit the moneys immediately to the State Treasurer.

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

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

obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon 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, redemption premium, if any, or the interest on the bonds.

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

L.1993,c.136,s.5.

18A:72A-43. Allocation of moneys

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

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

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

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

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

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

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

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

The State Board of Higher Education may apportion the amounts authorized in subsection g. among any other amounts authorized in subsections a. through f.

The State Board of Higher Education may reallocate any balance in the amounts authorized in subsections a. through g. of this section which have not been fully committed within 18 months of the effective date of this act.

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

L.1993,c.136,s.6.

18A:72A-44. Lease agreements to finance acquisition of higher education equipment

7. The authority may enter into a lease agreement with a public or private institution of higher education to finance the acquisition of higher education equipment by the institution and which provides for the lease of the equipment by the authority to the institution. The higher education equipment shall have a useful life equal to or greater than the term of the bonds issued to finance the purchase of the equipment. During the period of the lease, the authority shall hold title to the equipment. At such time as the liabilities of the authority incurred for the purchase of the higher education equipment have been met and the bonds of the authority issued therefor have been paid, or such liabilities and bonds have otherwise been discharged, the authority shall transfer title to the higher education equipment to the institution to which the equipment is leased. However, if at any time prior thereto the institution ceases to operate, then title shall vest in the authority.

L.1993,c.136,s.7.

18A:72A-45. Approval for lease agreements

8. The authority shall not enter into a lease agreement with an institution of higher education unless the State Board of Higher Education has adopted a resolution which approves the purchase of the higher education equipment by the institution. The State board shall forward a copy of the resolution along with the amount of the approved purchase to the authority.

L.1993,c.136,s.8.

18A:72A-46. Amount retained by State to satisfy deficiency

9. a. To assure the continued operation and solvency of the leasing fund program, the authority shall require that if an institution of higher education fails or is unable to pay to the authority in full, when due, any obligation of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, obligation of the institution means any amount payable by the institution for equipment leasing pursuant to a lease agreement with the authority.

b. The amount retained by the State Treasurer shall be deducted from the corresponding appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, nor entitle the institution to receive, any additional appropriation or apportionment.

L.1993,c.136,s.9.

18A:72A-47. Annual report

10. The State Board of Higher Education shall annually submit a report to the Governor and the Legislature on the higher education equipment purchases at public and private institutions of higher education which have been approved by the State board and financed by the New Jersey Educational Facilities Authority pursuant to lease agreements with the institutions.

L.1993,c.136,s.10.

18A:72A-48. Rules, regulations

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

L.1993,c.136,s.11.

18A:72A-49. Short title

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

L.1993,c.375,s.1.

18A:72A-50. Findings, declarations

2. The Legislature finds and declares that:

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

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

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

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

e. In order to protect the State's economy and preserve and enhance our higher education system in today's global and technological society, there is a crucial need to identify an ongoing funding source to construct, expand, and update instructional, laboratory, communication, and research facilities at New Jersey's public and private institutions of higher education.

L.1993,c.375,s.2.

18A:72A-51. "Higher Education Facilities Trust Fund"

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to N.J.S.18A:72A-1 et seq., the "Higher Education Facilities Trust Fund," hereinafter referred to as the "trust fund." The trust fund shall be maintained as

a separate account and administered by the authority to carry out the provisions of this act. The trust fund shall consist of:

a. moneys received from the issuance of bonds or notes pursuant to section 9 of P.L.1993, c.375 (C.18A:72A-57) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds or notes;

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

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

L.1993,c.375,s.3.

18A:72A-52. Use of trust fund

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

L.1993,c.375,s.4.

18A:72A-53. Allocation of initial grants

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

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

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

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

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

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

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

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

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

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

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

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

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

L.1993,c.375,s.5.

18A:72A-54. Application for grant

6. a. The governing board of a public or private institution of higher education may determine, by resolution, to apply for a grant from the trust fund. Upon adoption of

the resolution, the board shall file an application with the Board of Higher Education, which application shall include a complete description of the project to be financed and an identification of any additional sources of revenue to be used.

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

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

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

L.1993,c.375,s.6.

18A:72A-55. List of selection criteria

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

L.1993,c.375,s.7.

18A:72A-56. "Higher Education Facilities Trust Fund Board"

8. In order to ensure proper oversight and review, there is created the "Higher Education Facilities Trust Fund Board" which shall consist of six members as follows: the Chair and Vice Chair of the Board of Higher Education; the State Treasurer or a designee; the President of the Senate or a designee; the Speaker of the General Assembly or a designee; and the Chancellor of Higher Education who shall serve ex officio without vote. The board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Board of Higher Education. At the end of each three-year period following the approval of this act, the board shall review, in consultation with the Board of Higher Education, the physical plant needs of public and private institutions of higher education in the State and shall recommend to the Governor and the Legislature a plan to increase, as necessary, the availability and uses of grants made from the trust fund.

L.1993,c.375,s.8.

18A:72A-57. Issuance of bonds, notes

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

b. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption

premium, if any, or interest thereon 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, redemption premium, if any, or the interest on the bonds.

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

L.1993,c.375,s.9; amended 1995,c.146.

18A:72A-58. Rules, regulations

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

L.1993,c.375,s.11.

18A:72A-59 Short title.

1. This act shall be known and may be cited as the "Higher Education Technology Infrastructure Fund Act."

L.1997,c.238,s.1.

18A:72A-60 Findings, declarations relative to higher education technology infrastructure.

2. The Legislature finds and declares that:

a. New Jersey's public and independent colleges and universities contribute substantially to the local, State, and national economies by developing the workforce, advancing knowledge through research and scholarship, and serving as a repository for information.

b. An integrated technology infrastructure is increasingly critical to teaching, research, workforce training, and the effectiveness and efficiency of New Jersey's higher education system.

c. Up-to-date telecommunications and information technology, including connectivity within and among institutions and with libraries and elementary and secondary schools, will enable students and faculty to access information and educational opportunities efficiently and effectively and will increase opportunities for institutions to collaborate and share resources.

d. Consortial arrangements and distance learning offer significant potential to reduce costs and increase access, but these new modes of delivery cannot succeed without a technology infrastructure which insures compatibility and connectivity.

e. Colleges and universities must address substantial, yet varying, technological needs in order to participate fully in a comprehensive, current telecommunications network. To strengthen New Jersey's competitiveness and enhance the State's higher education system in a global and highly technological economy, it is essential to establish a dedicated source of funding to support investment by New Jersey's public and independent higher education institutions in technology infrastructure.

L.1997,c.238,s.2.

18A:72A-61 "Higher Education Technology Infrastructure Fund."

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

a. moneys received from the issuance of bonds or notes pursuant to section 7 of P.L.1997, c.238 (C.18A:72A-65);

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

c. all interest and investment earnings received on moneys in the technology fund.

L.1997,c.238,s.3.

18A:72A-62 Use of technology fund.

4. The technology fund shall be used to develop technology infrastructure within and among New Jersey's institutions of higher education in order to provide access effectively and efficiently to information, educational opportunities, and workforce training. Funds may also be used to enhance the connectivity of higher education institutions to libraries and elementary and secondary schools.

As used in this act, "technology infrastructure" means video, voice, and data telecommunications equipment and linkages, including transport services and network interconnections.

L.1997,c.238,s.4.

18A:72A-63 Grant conditions, allocations.

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

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

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

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

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

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

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

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

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

The Commission on Higher Education may reallocate any balance in the amount authorized in subsections a. through g. of this section, which has not been approved by the commission for a grant within 18 months of the effective date of P.L.1997, c.238 (C.18A:72A-59 et seq.).

The commission shall determine the allocation of moneys deposited into the technology fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

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

L.1997,c.238,s.5.

18A:72A-64 Application for grant, conditions.

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

b. The commission shall review the application and, by resolution, approve or disapprove the grant. For each grant which is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the grant to the authority.

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

L.1997,c.238,s.6.

18A:72A-65 Issuance of bonds, notes.

7. a. The authority shall from time to time issue bonds or notes in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds and notes for the purchase of higher education technology infrastructure for public and private institutions of higher education, provided that the total outstanding principal amount of the bonds and notes shall not exceed \$55,000,000 and the term of any bond issued shall not exceed 15 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds or notes which shall be issued for refunding purposes, provided that the refunding shall be determined by the authority to result in a debt service savings. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued pursuant to this section.

b. Bonds or notes issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds or notes, unless funded or refunded by the bonds or notes of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond or note shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon 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, redemption premium, if any, or the interest on the bonds.

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

L.1997,c.238,s.7.

18A:72A-66 Agreements between authority and institutions of higher education.

8. The authority may enter into an agreement with a public or private institution of higher education to finance the acquisition of higher education technology infrastructure by the institution. In entering into an agreement with a public or private institution of higher education, the authority shall include in the agreement such provisions as may be necessary to ensure that the institution shall provide a matching amount at least equal to the amount of the grant provided.

L.1997,c.238,s.8.

18A:72A-67 Approval for entry into agreements.

9. The authority shall not enter into an agreement with an institution of higher education unless the Commission on Higher Education has adopted a resolution which approves the acquisition of the higher education technology infrastructure by the institution.

L.1997,c.238,s.9.

18A:72A-68 Financing of matching amounts.

10. a. To finance the matching amounts for institutions of higher education which have received grants from the technology fund, the authority may from time to time issue bonds or notes in an amount sufficient to finance the purchase of higher education technology infrastructure pursuant to agreements with public and private institutions of higher education and to finance the administrative costs associated with the issuance of bonds or notes. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of P.L.1997, c.238 (C.18A:72A-59 et seq.) and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq. The bonds

or notes issued pursuant to this section shall be repaid by the institutions of higher education from any available funds, except grant funds provided to the institution of higher education pursuant to this act.

b. The authority shall require that if an institution of higher education fails or is unable to pay to the authority in full, when due, any obligation of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution and paid to the authority. As used in this subsection, "obligation of the institution" means any amount payable by the institution for technology infrastructure pursuant to an agreement with the authority.

c. The amount retained by the State Treasurer shall be deducted from the corresponding appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, nor entitle the institution to receive, any additional appropriation or apportionment.

L.1997,c.238,s.10.

18A:72A-69 Criteria for approval, specific information in grant application.

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

L.1997,c.238,s.11.

18A:72A-70 Rules, regulations.

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

L.1997,c.238,s.12.

18A:72A-71 Report to Governor, Legislature.

13. The Commission on Higher Education shall annually submit a report to the Governor and the Legislature on the higher education technology infrastructure purchases at public and private institutions of higher education, which have been approved by the commission and financed by the New Jersey Educational Facilities Authority pursuant to this act.

L.1997,c.238,s.13.

18A:72A-72 Short title.

1. This act shall be known and may be cited as the "Higher Education Capital Improvement Fund Act."

L.1999,c.217,s.1.

18A:72A-73 Findings, declarations relative to facilities improvements at institutions of higher education.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing education and training for the work force of the future, by advancing knowledge and technology through research, and by providing lifelong learning opportunities for all citizens.

b. New Jersey has made a significant investment in its public and private institutions of higher education, and that investment must be protected to insure the continuing availability of affordable, accessible, and excellent higher educational opportunities within the State.

c. If New Jersey is to continue the expansion of its economic development through an adequately trained work force that retains and attracts industry to the State, the facilities and technology infrastructure at New Jersey's public and private institutions of higher education must be preserved and enhanced.

d. In order for New Jersey students and businesses to be competitive with their peers in today's global and technological society, the public and private sectors must continually take steps to preserve and enhance the facilities and technology at our colleges and universities. To do otherwise would result in the loss of potential students to more technologically advanced and well-developed and maintained institutions in other states.

e. In order to support the State's economy and preserve and enhance our higher education system, the State recently provided additional funds to capital needs at the two-year public colleges. There remains, however, a crucial need to provide additional funds to renew, renovate, improve, expand, construct, and reconstruct facilities and technology infrastructure at New Jersey's four-year public and private institutions of higher education.

L.1999,c.217,s.2.

18A:72A-74 "Higher Education Capital Improvement Fund."

3. There is created within the New Jersey Educational Facilities Authority, established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, the "Higher Education Capital Improvement Fund," hereinafter referred to as the "capital improvement fund." The capital improvement fund shall be maintained as a separate account and administered by the authority to carry out the provisions of this act. The capital improvement fund shall consist of:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 7 of P.L.1999, c.217 (C.18A:72A-78) and an annual appropriation from the net proceeds of the State lottery established by P.L.1970, c.13 (C.5:9-1 et seq.) in an amount sufficient to pay the principal and interest on the bonds, notes or other obligations;

b. all moneys appropriated by the State for the purposes of the capital improvement fund; and

c. all interest and investment earnings received on moneys in the capital improvement fund.

L.1999,c.217,s.3.

18A:72A-75 Use of capital improvement fund.

4. The capital improvement fund shall be used to provide grants to New Jersey's four-year public and private institutions of higher education for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure. Each institution shall use the grants for existing renewal and renovations needs at instructional, laboratory, communication, research, and administrative facilities. An institution may use up to 20% of a grant within student-support facilities for renewal and renovation or improvement, expansion, construction, and reconstruction. If all renewal and renovation is completed at instructional, laboratory, communication, research, and administrative facilities or is accounted for through other funding sources, or if an institution is granted an exemption by the Commission on Higher Education for the purpose of maximizing federal grant fund recoveries or for the purpose of replacing a building when projected renewal and renovation costs exceed the projected cost of replacement, then grant funds may be used for the improvement, expansion, construction, and reconstruction of instructional, laboratory, communication, and research facilities, or technology infrastructure.

As used in this act:

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

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

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

L.1999,c.217,s.4; amended 2002, c.96.

18A:72A-76 Allocation of fund.

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

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

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

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

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

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

b. The commission may reallocate any balance in an amount authorized in subsection a. of this section which has not been approved by the commission for grants

within 24 months of the adoption of regulations by the commission. The commission may allocate any additional moneys in the capital improvement fund to institutions for capital improvement projects as the commission determines and shall determine the allocation of moneys deposited into the fund resulting from the issuance by the authority of new bonds because of the retirement of bonds previously issued by the authority.

c. The facilities and technology infrastructure funded by grants from the capital improvement fund shall follow the principles of affirmative action and equal opportunity employment. In furtherance of these principles, the commission shall continue its policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

L.1999,c.217,s.5.

18A:72A-77 Application for grant.

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

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

c. The commission shall review the application and, by resolution, approve or disapprove the grant. When a grant is approved, the commission shall establish the amount and shall forward a copy of the resolution along with the amount of the grant to the authority.

d. The commission shall submit to the Legislature a copy of the resolution approving the grant along with the amount of the grant. If the Legislature does not disapprove the grant by the adoption of a concurrent resolution within 45 days, the grant shall be deemed to be authorized.

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

L.1999,c.217,s.6.

18A:72A-78 Issuance of bonds, notes, other obligations.

7. a. The authority shall from time to time issue bonds, notes or other obligations in an amount sufficient to finance the grants provided under this act and to finance the administrative costs associated with the approval process and the issuance of the bonds, notes, or other obligations, except that the total outstanding principal amount of the bonds, notes or other obligations shall not exceed \$550,000,000, and the term of any bond, note, or other obligation issued shall not exceed 30 years. In computing the foregoing limitation as to amount, there shall be excluded all bonds, notes or other obligations which have been retired or which shall be issued for refunding purposes, provided that the refunding is determined by the authority to result in a debt service savings. The authority shall issue the bonds, notes or other obligations in such manner as it shall determine in accordance with the provisions of P.L.1999, c.217 (C.18A:72A-72 et al.) and the "New Jersey educational facilities law," N.J.S.18A:72A-1 et seq., provided that no bonds, notes or other obligations shall be issued pursuant to this section without the prior written consent of the State Treasurer.

b. The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriations, shall pay the amount necessary to pay the principal and interest on bonds, notes and other obligations of the authority issued pursuant to this act plus any amounts payable in connection with an agreement authorized under subsection e. of this section. The authority shall enter into a contractual agreement with each institution receiving a capital improvement fund grant, and the agreements shall be approved by a resolution of the authority. All agreements with the four-year public institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-third of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. All agreements with the four-year private institutions of higher education shall include provisions as may be necessary to insure that each institution pays an amount equal to one-half of the amount necessary to pay the principal and interest on the bonds, notes and other obligations of the authority issued pursuant to this section to finance the projects approved at the institution plus its share of any amounts payable in connection with an agreement authorized under subsection e. of this section. Upon receipt of the

moneys from the public or private institutions of higher education, the authority shall apply the moneys in a manner specified in the contract with the State Treasurer.

c. Bonds, notes or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by this act. Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, 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, redemption premium, if any, or the interest on the bonds, notes or other obligations.

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

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

L.1999,c.217,s.7.

18A:72A-79 Retention of amount to ensure repayment.

8. a. The authority shall require that if an institution of higher education fails or is unable to pay the authority in full, when due, any obligations of the institution to the authority, an amount sufficient to satisfy the deficiency shall be retained by the State Treasurer from State aid or an appropriation payable to the institution. As used in this section, "obligation of the institution" means any amount payable by the institution for the principal and interest on the bonds, notes or other obligations of the authority for the institution's capital improvement fund grant.

b. The amount retained by the State Treasurer shall be deducted from the appropriation or apportionment of State aid payable to the institution of higher education and shall not obligate the State to make, or entitle the institution to receive, any additional appropriation or apportionment.

L.1999,c.217,s.8.

18A:72A-80 Rules, regulations.

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

L.1999,c.217,s.15.

18A:72B-15. Short title

This act shall be known and may be cited as the "Independent College and University Assistance Act."

L.1979, c. 132, s. 1, eff. July 6, 1979.

18A:72B-16. Legislative findings and determinations

The Legislature finds and determines that:

a. This State remains committed by law and public policy to the development and preservation of a planned and diverse system of higher education which encompasses both public and independent institutions. Independent institutions make an important

contribution to higher education in the State and it is in the public interest to assist these institutions in the provision and maintenance of quality academic programs.

b. The provisions of this act will serve the cause of higher education in this State by assuring maximum educational choice among colleges and universities through the preservation of the vitality and quality of independent institutions of higher education in this State.

L.1979, c. 132, s. 2, eff. July 6, 1979.

18A:72B-17. Definitions

3. As used in this act:

a. "Eligible institution" or "institution" means only those independent institutions of higher education incorporated and located in this State, which, by virtue of law or character or license, are nonprofit educational institutions empowered to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey. "Eligible institution" does not include any educational institution dedicated primarily to the preparation or training of ministers, priests, rabbis, or other professional persons in the field of religion.

b. "New Jersey student" means any resident of this State as defined pursuant to section 1 of P.L.1979, c.361 (C.18A:62-4).

c. "Academic year" means the normal period of attendance, excluding summer session, for a full-time undergraduate student to make a year's progress toward a degree.

d. "Full-time equivalent student in an eligible institution" means a unit of 32 undergraduate student credit hours.

e. "Undergraduate student" means a student enrolled in a program leading to an associate or baccalaureate degree, or to a certificate, diploma or its equivalent, awarded by the institution.

f. "Direct per student support for the State college sector" means the average direct net State support per budgeted full-time equivalent student at the State colleges. This average shall be derived from the General Appropriation Act for the pre-budget year by taking the sum of the total appropriation amounts for all State colleges, except Thomas A. Edison College of New Jersey, subtracting from that sum debt service and capital costs and the sum of anticipated revenues at the State colleges, except Edison College, for tuitions, other student fees, School of Conservation, and miscellaneous; and dividing the remainder by the total number of budgeted full-time equivalent students at the State colleges, as stipulated in language in said Appropriation Act.

g. "Department" means the Department of the Treasury.

h. (Deleted by amendment, P.L.1994, c.48).

i. "Pre-budget year" means the fiscal year preceding the year in which the budget is implemented.

L.1979,c.132,s.3; amended 1994,c.48,s.242.

18A:72B-18. Payment to institutions; formula; distribution of funds

4. The State Treasurer, subject to the availability of appropriations, is authorized to contract with eligible independent colleges and universities in this State to provide educational services to New Jersey students. Payment to the institutions shall be based upon the number of full-time equivalent New Jersey undergraduates enrolled during the pre-budget year in the independent institutions multiplied by 25% of the level of direct per student support for the State college sector during the pre-budget year. The total funding generated by the preceding formula shall be distributed as follows:

a. Ten percent of this total shall be divided equally among the eligible institutions. These "designated" amounts shall be awarded to each institution except in any instance where the amount of dollars designated for a particular institution under this section exceeds the total amount to be awarded to that institution under subsections b. and c. of this section. In such instances, the funds designated under subsection a. shall be reduced to equal the total of subsections b. and c., which shall be the amount awarded to the institution under this section. The difference between the amount designated and the amount awarded under this section shall be returned to the department.

b. Thirty-five percent shall be distributed on the basis of New Jersey students who received State financial aid or aid administered by such institutions of \$1,000.00 or more, in all cases exclusive of loans, during the pre-budget year.

c. Fifty-five percent shall be distributed on the basis of New Jersey full-time equivalent students, as herein defined, enrolled in such institutions during the pre-budget year.

The funds granted under this act may be used by the institutions for any purposes which they deem to be appropriate to maintaining or enhancing the quality of the academic offerings available to New Jersey students, except for purposes of sectarian instruction, the construction or maintenance of sectarian facilities, or for any other sectarian purpose or activity. For the purposes of this act the number of full-time equivalent students at the eight State colleges for the 1979-80 academic year is 54,380.

L.1979,c.132,s.4; amended 1994,c.48,s.243.

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.

L.1979,c.132,s.5; amended 1994,c.48,s.244; 1999,c.46,s.51.

18A:72B-20. Suspension and recovery of funds

6. In the event any institution shall expend such funds in violation of the provisions of this act or the rules or regulations of the treasurer, the treasurer may suspend further aid to such institutions and recover any such funds theretofore misspent.

L.1979,c.132,s.6; amended 1994,c.48,s.245.

18A:72B-21. Inapplicability of prohibition on disbursements to denominational schools
The provisions of N.J.S. 18A:62-2 shall not be applicable to this act.

L.1979, c. 132, s. 7, eff. July 6, 1979.

18A:72B-22. Rules and policies

8. The State Treasurer shall promulgate rules and adopt policies and make all determinations necessary for the proper administration and enforcement of the provisions of this act.

L.1979,c.132,s.8; amended 1994,c.48,s.246.

18A:72B-23. Severability

If any part of this act shall be held invalid, such holding shall not affect the validity of the remaining parts of this act. If a part of this act is invalid in one or more of its applications, the remaining parts of this act shall remain in effect in all valid applications that are severable from the invalid application.

L.1979, c. 132, s. 10, eff. July 6, 1979.

18A:72B-24. Reduction of distributions if funds insufficient

If the funds appropriated for the purposes of this act are insufficient to provide full funding under the formula contained herein, then the funds shall be distributed to eligible institutions on a pro rata basis with each eligible institution receiving a proportionate reduction in funds.

L.1979, c. 132, s. 11, eff. July 6, 1979.

18A:72B-25. "School" defined

1. As used in this act:

"School" means the Morehouse School of Medicine in Atlanta, Georgia.

L.1987,c.312,s.1; amended 1994,c.48,s.247.

18A:72B-26. Contract for acceptance of New Jersey residents

2. The State Treasurer is authorized to contract with the Morehouse School of Medicine for the acceptance of New Jersey residents to study medicine.

L.1987,c.312,s.2; amended 1994,c.48,s.248.

18A:72B-27. Eligibility

3. Commencing with the first year class to be admitted for the 1987-88 academic year, the treasurer shall contract with the school for the acceptance of two to four

medical students. The students shall be residents of New Jersey who are from a disadvantaged or minority background and are certified as eligible by the treasurer. Admission of eligible applicants is based solely on academic merit.

L.1987,c.312,s.3; amended 1994,c.48,s.249.

18A:72B-28. Review of admissions procedures, records

4. The treasurer, at his discretion, shall periodically review the school's admissions procedures and records to determine if these procedures comply with the terms of the contract.

L.1987,c.312,s.4; amended 1994,c.48,s.250.

18A:72B-29. Financial assistance

Any student admitted to the school pursuant to this act is eligible for all financial assistance in the same manner as if the student is attending an institution of higher education in New Jersey.

L. 1987, c. 312, s. 5.

18A:72B-30. \$11,000 per year per student

6. The treasurer shall pay to the school \$11,000.00 per year for each eligible student attending the school pursuant to this act, provided that the school charges the student only the tuition and fees required of resident students. Any showing of a discriminatory practice against a student admitted pursuant to this act in areas such as tuition, financial aid, the quality of instruction or housing or any other area is grounds for termination of the contract by the board.

L.1987,c.312,s.6; amended 1994,c.48,s.251.

18A:72B-31. Conditions

7. a. To be certified by the treasurer as eligible for admission to the school pursuant to this act, the applicant shall (1) be a resident of New Jersey for at least 12 months; and (2) enter into a written agreement to practice medicine for at least four years following the completion of training in an area of the State designated by the Commissioner of Health as one with a shortage of physicians.

b. No student admitted to the study of medicine at a medical school within this State shall be certified by the treasurer as eligible for admission to the school pursuant to this act.

c. Each agreement shall provide (1) that if the applicant fails to complete medical school, the applicant is liable to reimburse the treasurer for the amount paid to the school to support his education, plus interest in an amount equal to the current prevailing market rate; and (2) that if the applicant, upon licensure as a physician, fails to practice in the designated area for four years, the applicant is liable to reimburse the treasurer for the amount paid to the school to support his education, plus interest in an amount equal to twice the current prevailing market rate. The agreement shall also contain a clause under which the applicant consents to the exercise of jurisdiction over the cause of action by the courts of New Jersey and the execution of a judgment rendered by the New Jersey courts in any jurisdiction.

d. The treasurer may waive the requirement of reimbursement upon the death or disability of the individual.

L.1987,c.312,s.7; amended 1994,c.48,s.252.

18A:72B-32. Resident training program

8. The school, at a time agreed upon with the treasurer, shall implement a resident training program with a New Jersey hospital, if it is determined that an appropriate out-of-State training program is not available.

L.1987, c.312, s.8; amended 1994,c.48,s.253.

18A:72C-1. Creation; location

There are hereby created three distinguished chairs which shall be known as Albert Einstein Chairs for Scholarly Studies. One chair shall be located at the Institute for Advanced Study; one shall be located at Rutgers, The State University and one shall be located at the New Jersey Institute of Technology.

L.1979, c. 39, s. 1, eff. March 14, 1979.

18A:72C-2. Selection of scholars; tenure

2. Each institution awarded an Einstein Chair under this act shall select an outstanding scholar to fill the chair on such terms and conditions as may be agreed upon, within the appropriations provided for said chairs. Each person appointed to the Einstein Chair may be granted tenure on appointment.

L.1979,c.39,s.2; amended 1994,c.48,s.254.

18A:72C-3. Use of funds

An institution awarded an Einstein Chair may utilize funds appropriated under this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the research conducted by the holder of the Einstein Chair.

L.1979, c. 39, s. 3, eff. March 14, 1979.

18A:72E-1. Richard J. Hughes Chair for Constitutional and Public Law Service, creation
There is created at the Seton Hall University School of Law a distinguished chair which shall be known as The Richard J. Hughes Chair for Constitutional and Public Law and Service.

L.1980, c. 154, s. 1, eff. Nov. 26, 1980.

18A:72E-2. Selection of scholar

2. Subject to available appropriations, Seton Hall shall select an outstanding scholar to fill the chair on such terms and conditions as may be agreed upon. The person appointed to the Hughes Chair may be granted tenure on appointment.

L.1980,c.154,s.2; amended 1994,c.48,s.270.

18A:72E-3. Support necessary for research conducted by holder of chair

Seton Hall University may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the research conducted by the holder of the Hughes Chair, and for development and scholarly use of the Hughes Archives.

L.1980, c. 154, s. 3, eff. Nov. 26, 1980.

18A:72E-4. Inapplicability of prohibition of disbursements to denominational schools
The provisions of N.J.S. 18A:62-2 shall not be applicable to this act.

L.1980, c. 154, s. 4, eff. Nov. 26, 1980.

18A:72F-1 Short title.

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

L.1984,c.189,s.1; amended 1999, c.46, s.52.

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.

L.1984,c.189,s.2; amended 1994, c.48, s.271; 1999, c.46, s.53.

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.

L.1984,c.189,s.3; amended 1994, c.48, s.272; 1999, c.46, s.54.

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.

L.1984,c.189,s.4; amended 1994, c.48, s.273; 1999, c.46, s.55.

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.

L.1984,c.189,s.5; amended 1994, c.48, s.274; 1999, c.46, s.56.

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.

L.1984,c.189,s.6; amended 1994, c.48, s.275 1999, c.46, s.57.

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.

L.1984,c.189,s.7; amended 1994, c.48, s.276; 1999, c.46, s.58.

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.

L.1984,c.189,s.8; amended 1994, c.48, s.277; 1999, c.46, s.59.

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.

L.1984,c.189,s.9; amended 1994, c.48, s.278; 1999, c.46, s.60.

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.

L.1984,c.189,s.10; amended 1994, c.48, s.279; 1999, c.46, s.61.

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.

L.1984,c.189,s.11; amended 1994, c.48, s.280; 1999, c.46, s.62.

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.

L.1999,c.46,s.18.

18A:72G-1. Durant Chair

There is created at Saint Peter's College a distinguished chair which shall be known as the Will and Ariel Durant Chair in Humanities.

L. 1985, c. 365, s. 1, eff. July 1, 1985.

18A:72G-2. Selection of scholar

2. Saint Peter's College shall select an outstanding scholar to fill the chair on such terms and conditions as may be agreed upon, subject to available appropriations. The person appointed to the Durant Chair may be granted tenure on appointment.

L.1985,c.365;s.2; amended 1994,c.48,s.281.

18A:72G-3. Use of funds

Saint Peter's College may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the research conducted by the holder of the Durant Chair.

L. 1985, c. 365, s. 3, eff. July 1, 1985.

18A:72H-1. Short title

This act shall be known and may be cited as the "Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Act."

L. 1985, c. 493, s. 1, eff. Jan. 21, 1986.

18A:72H-2. Findings, declarations

The Legislature finds and declares that:

a. It is a fundamental aspiration of the people of New Jersey that individuals are afforded the opportunity to be educated to an extent consistent with their potential and desire;

b. Accordingly, it is an appropriate act of State government, in furtherance of this aspiration, to make available appropriate support services to those individuals who are able to attend college by virtue of their potential and desire, but whose educational progress and success is hampered by conditions of visual impairment, auditory impairment or a specific learning disability; and

c. It is the intent and purpose of the Legislature that the implementation of this act shall significantly improve the access to, and appropriate supportive services for, college education in the State for individuals with a specific learning disability, visual impairment or auditory impairment who are otherwise able to attend college; and it is reasonably anticipated that, in addition to the primary benefits accruing to individuals who receive direct services, the implementation of this act will produce significant benefits in New Jersey for all handicapped individuals, including increasing the understanding of handicapping conditions, promoting research and development of techniques and approaches to offset handicapping conditions, and providing for the integration of comprehensive supportive services in institutions of higher education.

L. 1985, c. 493, s. 2, eff. Jan. 21, 1986.

18A:72H-3. Definitions

3. As used in this act:

a. "Auditorily impaired" means a hearing impairment of such severity that the individual depends primarily upon visual communication.

b. "Competent authority" means any doctor of medicine or any doctor of osteopathy licensed to practice medicine and surgery in this State.

c. (Deleted by amendment, P.L.1994, c.48).

d. "Eligible student" means any student "admitted to a public or independent institution of higher education who is" suffering from a visual impairment, auditory impairment or a specific learning disability within guidelines established by the Commission on Higher Education pursuant to regulations promulgated under this act.

e. "Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is

a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

f. "Learning disability" means a significant barrier to learning caused by a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The disorder includes conditions such as perceptual handicap, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. This term shall not include learning problems which are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbances, or environmental, cultural, or economic disadvantage.

g. "Program" means the Higher Education Services for Visually Impaired, Auditorily Impaired and Learning Disabled Students Program established pursuant to this act.

h. "Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the State colleges and the county colleges.

i. "Support services" or "supportive services" means services that assist eligible students in obtaining a college education and include, but are not limited to, interpreters, note takers, and tutors.

j. "Visually impaired" means a vision impairment where the better eye with correction does not exceed 20/200 or where there is a field defect in the better eye in which the diameter of the field is no greater than 20 degrees.

L.1985,c.493,s.3; amended 1994,c.48,s.282.

18A:72H-4. Higher Education Services for Visually Impaired, Auditorily and Learning Disabled Students Program

4. There is established a Higher Education Services for Visually Impaired, Auditorily and Learning Disabled Students Program within the Commission on Higher Education. The program shall provide appropriate support services for eligible students attending a public or independent institution of higher education within the State and promote research and development of techniques and approaches to offset handicapping conditions. All appropriate public and private groups, organizations and agencies shall be consulted in preparing programs and services for these students.

L.1985,c.493,s.4; amended 1994,c.48,s.283.

18A:72H-5. Documentation required

In order for a learning disabled student to qualify as an eligible student, the student shall submit to the department documentation by a competent authority of the learning disability and that it results from organic dysfunction. The authority may consult with colleagues in associated disciplines in order to prepare the documentation.

L. 1985, c. 493, s. 5, eff. Jan. 21, 1986.

18A:72H-6. Duties of commission

6. The Commission on Higher Education shall:

a. Enter into agreements with any individual, agency or public or independent institution of higher education in this State, under which the individual, agency or institution shall undertake to provide direct support services to eligible students, provided these services do not duplicate or replace any services for which these students are currently eligible.

b. Enter into contractual agreements with any public or independent institution of higher education to establish and maintain within that institution offices to facilitate the provision and coordination of support services to eligible students.

c. Authorize the payment to those individuals, agencies and institutions as set forth in subsections a. and b. of this section of funds appropriated or otherwise made available to the department under this act or any other law, or from any other lawful source.

d. Assess, evaluate and review the extent of the visual or auditory impairments or the learning disabilities which shall qualify students for eligibility for services pursuant to the regulations promulgated under this act.

e. Develop and coordinate a comprehensive support plan for eligible students specifying the needs of the eligible students.

f. Provide the supportive services outlined in the support plan, directly or through contractual agreements with individuals, institutions, agencies and others, as appropriate.

g. Foster awareness of, and sensitivity to, the students' handicapping conditions through seminars, presentations, bulletins and other activities for instructional, administrative and other staff of public and independent higher educational institutions.

h. Encourage and facilitate the use of a variety of instructional materials and methods by disseminating to professional staff of public and independent institutions of higher education information on techniques, materials and sources relating to curricular specialities.

i. Annually review and report to the Governor and the State Legislature on the services and activities funded by the department each year under this act.

L.1985,c.493,s.6; amended 1994,c.48,s.284.

18A:72H-7. Advisory board

7. To assist in fulfilling the duties and responsibilities relating to this act, the commission shall appoint an advisory board, which shall be broadly representative of those individuals and organizations having an active interest in, and academic or practical knowledge and experience in, the abilities and needs of visually impaired, auditorily impaired and learning disabled students; the methods and techniques of evaluation of handicapping conditions and curricular support development, including, without limitation, representatives from professional organizations, parent/student organizations, institutional administrations, academic personnel, student personnel services staff, and students. A representative from the Departments of Labor and Human Services shall serve on the advisory board.

L.1985,c.493,s.7; amended 1994,c.48,s.285.

18A:72H-8. Rules, regulations

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

L.1985,c.493,s.8; amended 1994,c.48,s.286.

18A:72H-9. Use of funds

If in any fiscal year, the funds made available under this act are not sufficient to fully fund all services and activities required pursuant to this act, the department shall utilize the available funds in such a manner and for such purposes as it determines will best meet the needs of eligible students under this act.

L. 1985, c. 493, s. 9, eff. Jan. 21, 1986.

18A:72I-1. Wallenberg professorship

There is created at Rutgers, The State University within the Department of History a distinguished visiting professorship which shall be known as the Raoul Wallenberg Visiting Professorship in Human Rights.

L. 1986, c. 55, s. 1, eff. July 28, 1986.

18A:72I-2. Selection by Rutgers

Rutgers, The State University shall select an outstanding individual whose scholarship, teaching and public service reflect the humanitarian ideals of Raoul Wallenberg to serve as the Raoul Wallenberg Visiting Professor. The university may establish the terms of employment but no individual may serve as the Raoul Wallenberg Visiting Professor for a period greater than 24 months.

L. 1986, c. 55, s. 2, eff. July 28, 1986.

18A:72I-3. Use of funds

Rutgers, The State University may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and other support for the Raoul Wallenberg Visiting Professor.

L. 1986, c. 55, s. 3, eff. July 28, 1986.

18A:72J-1. Short title

This act shall be known and may be cited as the "Martin Luther King Physician-Dentist Scholarship Act of 1986."

L. 1987, c. 183, s. 1.

18A:72J-2. Martin Luther King Physician-Dentist Scholarships

There are created the Martin Luther King Physician-Dentist Scholarships which shall be maintained by the State and awarded and administered pursuant to this act to students

from disadvantaged or minority backgrounds enrolled in the University of Medicine and Dentistry of New Jersey and the Fairleigh Dickinson University School of Dentistry.

L. 1987, c. 183, s. 2.

18A:72J-3. Annual scholarships

A Martin Luther King Physician-Dentist Scholarship shall be awarded annually by the board of directors of the New Jersey Educational Opportunity Fund to 15 New Jersey medical and dental students from disadvantaged or minority backgrounds selected by the university in which the student is enrolled.

L. 1987, c. 183, s. 3.

18A:72J-4. Requirements

No person shall be awarded a Martin Luther King Physician-Dentist Scholarship unless:

- a. The person has been a resident of New Jersey for a period of not less than two years immediately prior to receiving the scholarship;
- b. The person has demonstrated financial need for the scholarship in accordance with standards to be established by the board of directors of the New Jersey Educational Opportunity Fund;
- c. The person has demonstrated high moral character, good citizenship, and dedication to American ideals; and
- d. The person has complied with all rules and regulations adopted pursuant to this act by the board of directors of the New Jersey Educational Opportunity Fund for the award, regulation and administration of the scholarship.

L. 1987, c. 183, s. 4.

18A:72J-5. Amount of scholarship

The amount of a Martin Luther King Physician-Dentist Scholarship shall be established by the board of directors of the New Jersey Educational Opportunity Fund but shall not exceed the maximum amount of tuition charged at the university in which the student is enrolled.

L. 1987, c. 183, s. 5.

18A:72J-6. Renewal

Each Martin Luther King Physician-Dentist Scholarship shall be renewable annually for up to four years except that each scholarship shall remain in effect only if the holder of the scholarship continues to have financial need, achieves satisfactory academic progress as defined by the institution, continues to meet the eligibility criteria and guidelines established by the board of directors of the New Jersey Educational Opportunity Fund, and is regularly enrolled as a full-time student.

L. 1987, c. 183, s. 6.

18A:72J-7. Rules, regulations

The board of directors of the New Jersey Educational Opportunity Fund 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.

L. 1987, c. 183, s. 7.

18A:72K-1. Chair in Women's Studies

There is created at Douglass College at Rutgers, The State University a distinguished chair which shall be known as the Chair in Women's Studies.

P.L. 1988, c. 42, s. 1.

18A:72K-2. Selection of scholar

2. Douglass College shall select a distinguished scholar to fill the chair for a term of up to two years upon such terms and conditions as may be agreed upon subject to available appropriations. The purpose of the chair shall be to fund research, teaching and lectures in Women's Studies by an outstanding scholar at Douglass College.

L.1988,c.42,s.2; amended 1994,c.48,s.287.

18A:72K-3. Use of funds

Douglass College may utilize funds appropriated for the purpose of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the research conducted by the holder of the Women's Studies Chair.

P.L. 1988, c. 42, s. 3.

18A:72L-1. Millicent Fenwick Research Professorship in Education and Public Issues

1. There is established at Monmouth College a distinguished professorship which shall be known as the Millicent Fenwick Research Professorship in Education and Public Issues.

L.1991,c.435,s.1.

18A:72L-2. Monmouth College to select professor

2. Monmouth College shall select the individuals to fill the professorship for such periods of time and upon such terms and conditions as may be agreed upon, subject to available appropriations. The incumbent of the research professorship shall devote his or her time to teaching, active research, educational policy analysis, program development and public service.

L.1991,c.435,s.2; amended 1994,c.48,s.288.

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.

L.1991,c.485,s.1; amended 1994, c.48, s.289; 1999, c.46, s.63.

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.

L.1991,c.485,s.2; amended 1994, c.48, s.290; 1999, c.46, s.64.

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.

L.1991,c.485,s.3; amended 1994, c.48, s.291; 1999, c.46, s.65.

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.

L.1991,c.485,s.4; amended 1999, c.46, s.66.

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.

L.1991,c.485,s.5; amended 1994, c.48, s.292; 1999, c.46, s.67.

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.

L.1991,c.485,s.6; amended 1994, c.48, s.293; 1999, c.46, s.68.

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.

L.1991,c.485,s.7; amended 1994, c.48, s.294; 1999, c.46, s.69.

18A:72N-1 Senator Wynona Lipman Chair in Women's Political Leadership.

1. There is established at the Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University, a distinguished chair which shall be known as the Senator Wynona Lipman Chair in Women's Political Leadership. The chair shall be a permanent faculty chair which shall be initially held on a rotating basis by a scholar or practitioner who is involved in issues related to the development of political leadership.

L.1999,c.323,s.1.

18A:72N-2 Selection of scholar, practitioner to fill chair.

2. Subject to available appropriations, the Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University shall select an outstanding scholar or practitioner to fill the chair under such terms and conditions as may be agreed upon.

L.1999,c.323,s.2.

18A:72N-3 Utilization of funds appropriated.

3. The Center for the American Woman and Politics at the Eagleton Institute of Politics at Rutgers, The State University may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the holder of the chair.

L.1999,c.323,s.3.

18A:72O-1 Henry John Raimondo Chair in Urban Public Policy Research.

1. There is established at New Jersey City University a distinguished chair which shall be known as the Henry John Raimondo Chair in Urban Public Policy Research. The purpose of the chair shall be to support research, teaching, lectures and policy analysis on public policy issues of critical importance to the economic revitalization of urban New Jersey.

L.2000,c.41,s.1.

18A:72O-2 Selection, responsibilities of person appointed to chair.

2. Subject to available appropriations, New Jersey City University shall select an outstanding scholar to fill the chair for a term of up to two years under such terms and conditions as may be agreed upon. The person appointed to the chair shall devote his time to teaching, research, policy analysis, program development, and public service on issues associated with the economic revitalization of urban New Jersey.

L.2000,c.41,s.2.

18A:72O-3 Utilization of funds appropriated.

3. New Jersey City University may utilize funds appropriated for the purposes of this act for the provision of equipment, supplies, clerical and research assistants and such other appropriate support as is necessary for the holder of the chair.

L.2000,c.41,s.3

18A:73-20 State museum under control of New Jersey State Museum.

18A:73-20. The present State museum, including all of its collections and exhibits, shall be under the control and management of the New Jersey State Museum and its board of trustees, established pursuant to P.L.1999, c.437 (C.52:16A-60 et al.).

L.1967, c.271; amended 1999, c.437, s.13.

18A:73-20.2. Findings, declarations

The Legislature finds and declares that:

a. The Medal of Honor, instituted in 1861 for the Navy and in 1862 for the Army, is awarded by the Congress to members of the United States Armed Forces for "conspicuous gallantry and intrepidity at the risk of life, above and beyond the call of duty, in action involving actual conflict with an opposing armed force."

b. Since this great honor was established, only 3,412 such medals have been awarded to deserving members of the armed forces for extremely heroic acts which typically involve suffering severe wounds or death, making this the highest decoration given by the United States Government.

c. Eight men from New Jersey received this outstanding honor for their conspicuous bravery in World War II, the Korean Conflict or the Vietnam Conflict.

d. It is fitting and proper that this State honor these exemplary men and keep alive for future generations of New Jersey residents the story of their heroic bravery.

L.1989, c.334, s.1.

18A:73-20.3 New Jersey State Museum to collect Medals of Honor and related memorabilia

a. The New Jersey State Museum, in cooperation with the Department of Military and Veterans' Affairs, shall develop and implement a program to collect Medals of Honor and appropriate memorabilia related to the awarding of the medals from those persons, or the relatives or friends of those persons, who have been awarded the medal since its establishment and who at one time resided or continue to reside in New Jersey.

b. The medals and memorabilia related to the awarding of the medals shall be collected from the owners of those materials on a voluntary basis.

c. The museum is directed to record, document and preserve the collection and to make it accessible through a long-term interpretive exhibition which will include portions of the collection shown on a rotating basis.

L.1989, c.334, s.2.

18A:73-21. Preamble, purpose of article

The legislature finds that:

(a) The public pride in the history of New Jersey generated by temporary historical commissions, especially the civil war centennial commission and the tercentenary commission has proved to be effective in providing a direct link and close association between the state government and New Jersey citizens of all ages, occupations and social backgrounds which warrants continuation by a permanent agency to promote the activities of various state agencies, educational institutions, historic, civic and patriotic societies and libraries concerned with New Jersey history; and

(b) Important research and publishing ventures have recently been launched under state auspices and great public interest in historic sites has been inspired by the work of the historic sites section of the department of conservation and economic development and there is foreseen a need for continued promotion of the state's rich historical heritage through additional commemorative projects and publications; and

(c) Recently enacted legislation (HR 6237) provides generous federal grants for qualified state historical agencies with qualified publication programs; and

(d) There is foreseen a growing commitment to the teaching and interpretation of New Jersey history in the schools; and

(e) It is the obligation of state government to inspire pride of citizenship in New Jersey, one of the 13 original states.

L.1967, c.271.

18A:73-22. Membership of New Jersey Historical Commission

18A:73-22. There is hereby established in the Department of State, a division called the New Jersey Historical Commission to be composed of 17 members as follows:

(a) The Secretary of State, the State Librarian and the Chief of the Office of New Jersey Heritage in the Department of Environmental Protection, or their designees, who shall serve ex officio; and

(b) Ten citizens of the State to be appointed by the Governor with the advice and consent of the Senate, all of whom shall be chosen by reason of their expertise in New Jersey history and qualified by academic achievement or professional affiliation, who

shall serve for terms of three years and until the appointment and qualification of their successors except that of the members first appointed two shall be appointed for terms of one year, two for terms of two years and two for terms of three years. Of the four members first appointed pursuant to this amendatory act, one shall be appointed for a term of one year, one shall be appointed for a term of two years and two shall be appointed for a term of three years. Public members of the commission shall be selected so as to provide a balanced representation of the various geographic regions of the State.

(c) Two members of the Senate to be appointed by the President thereof, and two members of the General Assembly to be appointed by the Speaker thereof. No more than one of the Senate and Assembly members shall be members of the same political party. Anyone appointed pursuant to this subsection shall serve as a member of the commission until the expiration of his term as Senator or Assemblyman, as the case may be, during which he was appointed.

L.1967, c.271; amended 1969,c.126,s.6; 1970,c.54; 1990,c.106,s.1.

18A:73-22.1. Findings, declarations relative to support of activities in New Jersey history

1. The Legislature finds and declares that:

a. The Task Force on New Jersey History was established pursuant to P.L.1994, c.146 to study the ways history services are delivered to the people of this State and to make recommendations for improvements in the delivery of such services;

b. The Task Force conducted a detailed and comprehensive study and submitted its report to the Legislature and the Governor in June of 1997;

c. The report includes 36 recommendations for ways to strengthen the structure and function of agencies and organizations that provide New Jersey history services to the public;

d. In combination with other recent studies of aspects of New Jersey history and the cultural life of New Jersey, the Task Force's report provides indisputable proof that New Jersey's program of history services has suffered for many years from severe underfunding, especially in comparison with funding provided to other cultural interests in the State and to history services in other states; and

e. This underfunding has resulted in deteriorating historic sites and collections of historical artifacts and materials; inadequate education of collections management personnel in the techniques of collection preservation; inadequate training of volunteers who staff historic sites; insufficient research and publication on New Jersey history; inadequate maintenance and interpretation of State-owned and other historic sites; and low levels of innovation in and support of the tourism industry on New Jersey's heritage.

The Legislature therefore deems it necessary that the residents of a democratic and increasingly diverse society such as the State of New Jersey be provided with greater access to the materials of their history in order to understand how our society developed and to safeguard its continued free and open evolution; and that increased funding for history services is needed so that the agencies and organizations that provide these services can provide them more adequately to the people of New Jersey and their historical institutions.

L.1999,c.131,s.1.

18A:73-22.2. Definitions relative to support of activities in New Jersey history

2. For the purposes of this act:

"General operating support" means support for expenses incurred in categories such as, but not limited to: wages, salaries and fringe benefits; insurance; utilities; installation and maintenance of appropriate environmental conditions in which to maintain collections; facility and equipment leases and rentals; facility maintenance; materials, supplies, and equipment; and staff training in museum operations, collections acquisition and maintenance, or management, exhibition, and presentation of educational programs for the public by historical agencies, organizations or entities;

"Historic site" means a structure or a site associated with the history of New Jersey that is on the State or National Register of Historic Places, or is eligible for placement on the State or national register, and that is owned or administered by a not-for-profit organization or by an agency of county or local government;

"Historical society" or "historical library" or "history museum" means a not-for-profit organization or an agency of county or local government that, within a museum or library environment, houses collections of New Jersey historical materials, presents historical collections to the public in the form of exhibitions or educational programs, and makes such collections available to the public for research; and

"Related agency or organization" means a not-for-profit entity that performs functions similar to those carried out by history museums, historic sites, historical societies, historical libraries, or historical agencies of local or county government for

the purpose of providing history services, and that adheres to the same standards of performance as those museums, libraries, sites, societies or agencies, although its primary mission may not be the provision of New Jersey history services to the public.

L.1999,c.131,s.2.

18A:73-22.3. Establishment of programs

3. a. The New Jersey Historical Commission within the Department of State shall establish:

(1) A program for the purpose of awarding grants from the fund established pursuant to subsection a. of section 4 of this act for general operating support to public or private historical libraries, history museums, historical societies, historic sites, historical agencies of county or local governments, or any related agency or organization; and

(2) A program for the purpose of awarding grants from the fund established pursuant to subsection a. of section 4 of this act to organizations, entities or individuals in support of research and publication on New Jersey history.

b. (1) The commission shall develop guidelines and criteria for each program established pursuant to subsection a. of this section. The guidelines and criteria shall include, but not be limited to: eligibility requirements for applicants; conditions under which applications will be approved; conditions which may be required to be met by approved applicants; forms for applications; application contents; an application acceptance and review process; the manner of awarding of monies to approved applicants; and oversight or accountability for the expenditure of monies awarded to approved applicants. The commission shall establish program guidelines and criteria and advertise the programs in such a way as to develop a pool of applicants that reflects the racial, ethnic, and geographical diversity of the State.

(2) The commission shall develop the guidelines and criteria for each program utilizing the definitions set forth in section 2 of this act and in consultation with: Advocates for New Jersey History; New Jersey State Archives; Association of New Jersey County Cultural and Historic Agencies; Division of Parks and Forestry, Department of Environmental Protection; Genealogical Society of New Jersey; Historic Preservation Office, Department of Environmental Protection; League of Historical Societies of New Jersey; Newark Public Library; New Jersey Association of Museums; New Jersey Caucus, Mid-Atlantic Regional Archives Conference; New Jersey Council for the Humanities; New Jersey Council for the Social Studies; New Jersey Historic Trust; New Jersey Historical Society; New Jersey Library Association; New Jersey State Library; New Jersey State Museum; New Jersey Studies Academic Alliance; Northern New Jersey Museum Round Table; Preservation New Jersey; and Special Collections and University Archives, Rutgers University Libraries. In addition, the commission shall consult with at least three historians distinguished by their knowledge of New Jersey history and their record of publication in the field in developing the guidelines and criteria for the program established pursuant to paragraph (2) of subsection a. of this section.

c. (1) All applications received by the commission for grants to be awarded under the programs established pursuant to this section shall be reviewed and evaluated by a panel of reviewers selected by the commission. A separate panel of reviewers shall be selected for each program. The commission shall identify a pool of potential panel reviewers for each program and shall select from that pool the panel for each program to review the applications received for the program. Each panel shall be composed of persons who are experts in the area for which the program provides support. The panel of reviewers for each program shall evaluate each application received for a grant to be awarded under the program and make recommendations to the commission.

(2) The commission shall make the final decision on each application received, taking into consideration the recommendations of the panel of reviewers. The commission, may within its discretion, offer an approved applicant an award amount less than the amount requested by the applicant.

d. (1) The commission shall inform the public about the programs established pursuant to subsection a. of this section in a manner determined by the commission to result in as wide a dissemination of information as possible within the limits of monies available to the commission for this purpose. The commission may utilize such methods for the dissemination of information as may be available to State agencies for the dissemination of information on other such programs.

(2) At the request of the applicant, the commission shall provide advice, in any manner the commission deems appropriate, to interested applicants on the preparation of their applications.

L.1999,c.131,s.3.

18A:73-22.4. Establishment of fund, uses

4. a. There is hereby established within the Department of State a revolving, nonlapsing fund which shall be credited with the monies appropriated in section 5 of this act and such other monies as may be appropriated or made available to the New Jersey Historical Commission for the purposes of the programs established pursuant to subsection a. of section 3 of this act. The fund shall be administered by the Secretary

of State and all disbursements from the fund shall be made by the secretary at the request of the commission. Disbursements from the fund shall be solely for the purposes of the programs established in subsection a. of section 3 of this act and disbursements for a program shall be made from the separate account in the fund created for the purposes of that program. Any interest that shall accrue on the monies in the fund shall be credited to the fund, and to each separate account within the fund as determined by the secretary.

b. The secretary shall create two separate accounts within the fund. The first of the accounts shall be credited with the monies appropriated or made available for the purposes of the program established pursuant to paragraph (1) of subsection a. of section 3 of this act. The second of the accounts shall be credited with the monies appropriated or made available for the purposes of the program established pursuant to paragraph (2) of subsection a. of section 3 of this act.

c. Of the monies credited to the account created for the purposes of the program established pursuant to paragraph (2) of subsection a. of section 3 of this act, the commission may annually expend an amount of up to 10 % of the monies in the account to undertake special initiatives to stimulate research and publication in the field of New Jersey history.

d. (1) Of the monies credited to the account created for the purposes of the program established pursuant to paragraph (1) of subsection a. of section 3 of this act, the commission may expend annually an amount of up to 1.75 % of the monies in the account for necessary expenses incurred for the administration of that program, including expenses in categories such as, but not limited to: salary and fringe benefits for one assistant grant administrator; office equipment and supplies; printing and postage to publish program guidelines and criteria and advertise the program; and travel and maintenance for the members of the review panel selected pursuant to paragraph (1) of subsection c. of section 3 of this act.

(2) Of the monies credited to the account created for the purposes of the program established pursuant to paragraph (2) of subsection a. of section 3 of this act, the commission may expend annually an amount of up to 2.0 % of the monies in the account for necessary expenses incurred for the administration of that program, including expenses in categories such as, but not limited to, office equipment and supplies; printing and postage to publish program guidelines and criteria and advertise the program; and travel and maintenance for the members of the review panel selected pursuant to paragraph (1) of subsection c. of section 3 of this act.

L.1999,c.131,s.4.

18A:73-23. Expenses of members; no compensation; vacancies

The members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred by them in performing their duties as members of the commission. Any vacancies in the membership of the commission shall be filled for the unexpired term in the same manner as the original appointments were made.

L.1967, c.271.

18A:73-24. Organization

The commission shall meet, as soon as may be following appointment of its members, at the call of the commissioner.

L.1967, c.271.

18A:73-25. Advisory capacity to public and private agencies

(a) The commission shall be responsible for serving in an advisory capacity to State departments and agencies and public educational institutions in connection with activities concerned with State history. It shall advise such public and private agencies in respect to programs of historic research and publication, education, commemorative observances, preservation of historic sites and buildings, public exhibitions and other programs pertaining to the history of New Jersey and enlist the talents of historians, librarians and members of historic, patriotic and civic organizations concerned with the State history in connection therewith.

(b) The commission is authorized, within the limits of such funds as may be appropriated or otherwise available to it, to plan and execute programs for:

1. the production, publication and distribution of books, pamphlets, films and other educational materials relating to historical subjects;

2. conference, convocations, lectures, seminars and other similar activities relating to historical subjects;

3. the development of libraries, museums, historic sites and exhibits, including mobile exhibits;

4. ceremonies and celebrations and other commemorative activities commemorating specific historical events.

(c) In carrying out duties and functions as provided in this act the commission is authorized to employ such assistants and incur such expenses as may be necessary therefor and as may be within the limits of funds appropriated or otherwise made available to it for said purpose.

(d) The commission may receive gifts of money, property and personal services for carrying out the provisions of this act.

L.1967, c.271; amended by L.1969, c. 126, s. 7, eff. July 2, 1969.

18A:73-25.1. Legislative findings and declarations
The Legislature finds and declares that:

a. The Afro-American population of the State of New Jersey and the United States of America has made unique and indispensable contributions to the history of the State of New Jersey and the United States;

b. For many generations the role of Afro-Americans has been largely neglected in the writing and teaching of history, to the educational detriment of all Americans;

c. It is the responsibility of the government of this State to provide the people of New Jersey with opportunities to learn about the history of the State and the nation in an accurate and comprehensive manner; and

d. This Legislature has vested in the New Jersey Historical Commission the authority to plan and carry out programs to advance public knowledge of the history of New Jersey and the United States.

L.1983, c. 339, s. 1, eff. Sept. 6, 1983.

18A:73-25.2. New Jersey Afro-American history program; establishment; purpose
There is established a New Jersey Afro-American History Program to be directed, administered and conducted by the New Jersey Historical Commission. It is the purpose of the program to promote the advancement of public knowledge of the history of Afro-Americans in this State.

L.1983, c. 339, s. 2, eff. Sept. 6, 1983.

18A:73-25.3. Activities
The program shall include such activities as the commission deems desirable and practicable and shall include:

a. Conducting, sponsoring and assisting scholarly research and publication;

b. Conducting, sponsoring and assisting such public programs as conferences, symposia, seminars, workshops, exhibitions and performing arts programs;

c. Conducting and assisting oral history projects;

d. Producing student and teacher resource materials for use in teaching Afro-American history in the public schools of this State pursuant to N.J.S. 18A:35-1 and serving as a repository for these materials;

e. Assisting New Jersey libraries, museums and historical agencies in their efforts to collect materials relative to the history of Afro-Americans in this State;

f. Assisting historic preservation agencies and organizations in their efforts to preserve and interpret significant sites associated with Afro-American history in New Jersey; and

g. Serving as an information center and liaison among the various organizations and institutions in New Jersey concerned with Afro-American history.

L.1983, c. 339, s. 3, eff. Sept. 6, 1983.

18A:73-25.4. Program director and other employees
The New Jersey Historical Commission shall employ a program director and such other personnel as may be necessary to implement the provisions of this act and as may be within the limits of funds appropriated or otherwise made available to it for this purpose.

L.1983, c. 339, s. 4, eff. Sept. 6, 1983.

18A:73-26 Responsibility for administration of State Library.

11. Upon the enactment of P.L.2001, c.137 (C.18A:73-42.1 et al.), Thomas Edison State College shall be responsible for the administration of the State Library. The State Library shall be in, but not of, the Department of State.

L.1969, c.158, s.11; amended 2001, c.137, s.3.

18A:73-27 State Library personnel.

12. The State Library shall consist of the State Librarian and an advisory council and such other personnel as the President of Thomas Edison State College may deem necessary for the efficient administration thereof.

L.1969, c.158, s.12; amended 1977, c.322, s.3; 2001, c.137, s.4.

18A:73-28 Advisory Council of the State Library.

13. There shall be within the State Library an advisory council which shall be designated as the Advisory Council of the State Library. Such advisory council shall consist of eight members. The President of Thomas Edison State College or the designee thereof shall serve as a member ex officio. The other seven members shall be appointed by the Governor by and with the advice and consent of the Senate for a term of five years, beginning on July 1, and ending June 30, except as hereinafter provided. Each member shall serve until his successor has been appointed and qualified. In case of a vacancy, however, occurring, the successor shall be appointed in like manner for the unexpired term only. The council shall meet at least 4 times a year. It shall frame and modify bylaws for its own government, and elect its chairman and other officers. Any member of the advisory council may be removed from office by the Governor for cause, upon notice and opportunity to be heard.

L.1969,c.158,s.13; 2001, c.137, s.5.

18A:73-30 Reimbursement to advisory council for expenses.

15. The members of the advisory council shall serve without compensation, but shall be reimbursed by Thomas Edison State College for necessary expenses incurred in the performance of their duties under this act. The expenses shall be paid from the direct State services portion of the annual appropriation for the State Library.

L.1969,c.158,s.15; amended 2001, c.137, s.6.

18A:73-31 Duties of advisory council.

16. The advisory council shall give advice and make recommendations to:

(a) The President of Thomas Edison State College with regard to the appointment of the State Librarian;

(b) The President of Thomas Edison State College and the State Librarian with regard to

(1) The policies and operations of the State Library and the State's library program;

(2) The adoption, amendment or rescission of such rules and regulations as may be necessary for the implementation of this act;

(3) Minimum standards of library service;

(4) The apportionment of State aid to libraries;

(5) Contractual arrangements for library services to which the State Library is a party.

L.1969,c.158,s.16; amended 2001, c.137, s.7.

18A:73-31.1. Additional duties of advisory council

In addition to the duties prescribed in section 16 of P.L.1969, c. 158 (C. 18A:73-31) the advisory council shall give advice and make recommendations regarding the policies, operations, and funding of the library network.

L.1983, c. 486, s. 7, eff. Jan. 17, 1984.

18A:73-32 State Librarian, qualifications.

17. The State Librarian shall be a graduate of an accredited university or college and shall, prior to the appointment, have graduated from a school of library service accredited by the American Library Association, and have had at least four years of library experience in a responsible administrative capacity.

L.1969, c.158,s.17; amended 1977, c.322, s.4; 2001, c.137, s.8.

18A:73-33 Position of State Librarian established, duties.

18. The position of State Librarian is hereby established.

The President of Thomas Edison State College shall appoint the State Librarian. The State Librarian shall head the State Library and shall, with the approval and under the supervision of Thomas Edison State College:

- (a) Direct and administer the work of the library;
- (b) Administer all laws which are by their terms included under the jurisdiction of the library;
- (c) Establish and organize the bureaus therein;
- (d) Allocate the duties to be performed by the personnel of the State Library and the bureaus established within the library;
- (e) Prescribe such rules and regulations, not inconsistent with law, as may be necessary to effectuate his powers and duties under this act;
- (f) Prescribe minimum standards of service for libraries in the State of New Jersey as may be necessary to effectuate the State Librarian's powers under the law.

L.1969,c.158,s.18; amended 2001, c.137, s.9.

18A:73-33.1 Annual report.

6. a. In addition to the duties prescribed in section 18 of P.L.1969, c.158 (C.18A:73-33), the State Librarian shall on or before October 31 of each year prepare an annual report on the activities of the library network for the preceding year. The report shall be transmitted to the President of Thomas Edison State College who, upon the approval of the report thereby, shall transmit it to the Governor, the Thomas Edison State College Board of Trustees and the Chairman of the State Government Committee, or successor committee, of each House of the Legislature. The report shall set forth a complete operating and financial statement covering the library network's operation during the preceding year.

b. (Deleted by amendment, P.L.2001, c.137).

L.1983,c.486,s.6; amended 2001, c.137, s.10.

18A:73-34 Appointment of staff, compensation.

19. a. The President of Thomas Edison State College or the designee thereof shall, with the advice of the State Librarian, appoint all professional staff in the library, and fix the compensation of all such persons thus appointed. The President of Thomas Edison State College or the designee thereof shall appoint such other personnel as that person may consider necessary for the efficient performance of the work of the library and fix their compensation. All persons thus appointed shall be subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes.

b. For all purposes, the employees of the State Library shall be considered employees of Thomas Edison State College.

c. Thomas Edison State College shall maintain, in a manner acceptable to the Civil Service Commission, the personnel records of all employees and positions currently on staff and funded. All such records shall be subject to audit by the Civil Service Commission.

d. The State shall be responsible for paying the entire employer contribution of the pension and benefits costs for the State Library employees whose salaries are funded from the direct State services portion of the annual appropriation for the State Library.

L.1969, c.158, s.19; amended 2001, c.137, s.11; 2008, c.29, s.86.

18A:73-35 Duties of State Library.

20. The State Library shall:

- (a) Maintain library resources and information services over a broad range of subjects which affect the educational, intellectual, cultural, economic and political life of the State;
- (b) Provide special library services for the legislative, executive and judicial branches of State Government, supplemental library service for New Jersey libraries and citizens and direct library service for the handicapped;
- (c) Purchase or otherwise acquire, and maintain a general collection of books, periodicals, newspapers, maps, slides, films and other library materials for the use of State and local governments, libraries, and the public generally; and exchange, discard, sell, or otherwise dispose of books and library materials as required within the purposes stated herein and all moneys to be secured from such sales shall be paid into the treasury to be used for the benefit of the State Library when appropriated to that purpose;
- (d) Maintain as part of the State Library, a general reference service; a legislative reference service; a law library service; a documents depository service; an archival service for New Jersey materials; a records management service for State and local governments; a deposit and exchange service for library materials; an interlibrary

loan service; an advisory service for public libraries, school libraries, libraries of institutions of higher education, industrial, commercial and other special libraries, State department and agency libraries, and the libraries the State maintains within the institutions carrying out its health, welfare and correctional programs; and a library service for the handicapped; and provide such other services as may be required by law;

(e) Preserve the records of the history of New Jersey through its official archives and other materials and promote interest and research in the history of the State;

(f) Coordinate a Statewide system of libraries in New Jersey, and administer State and federal programs for the development of libraries, library facilities, library resources and library services in New Jersey, and require such reports as are necessary for the proper administration of its duties and for the gathering and publishing of annual and occasional statistics on libraries in the State;

(g) Promote and demonstrate library service throughout the State, and study library problems and needs in New Jersey and make the resultant findings known generally.

L.1969,c.158,s.20; amended 2001, c.137, s.12.

18A:73-35a. Short title

This act shall be known and may be cited as the "Library Network Law."

L.1983, c. 486, s. 1, eff. Jan. 17, 1984.

18A:73-35b Findings, declarations concerning a Statewide library network.

2. The Legislature finds and declares that promoting cooperation among the various types of libraries in New Jersey will provide this State's residents with full and equal access to library materials and programs not currently available within their communities; that increased cooperation and access will help control the cost of maintaining local libraries, while providing for improved services; that establishing a library network can best be accomplished by assisting libraries to form cooperatives on a regional basis and by having the State Library promote, coordinate and fund such cooperative efforts, as well as provide and coordinate library services on a Statewide basis.

L.1983,c.486,s.2; amended 1986, c.174, s.1; 2001, c.137, s.13.

18A:73-35c Definitions relative to the library network.

3. As used in this act:

a. "President" means the President of Thomas Edison State College or the designee thereof;

b. "State Library" means the State's research library and depository for State and federal documents affiliated with Thomas Edison State College;

c. "Library" means any library eligible for advisory service from the State Library as provided in subsection d. of section 20 of P.L.1969, c.158 (C.18A:73-35); any county audiovisual aids center established pursuant to N.J.S.18A:51-1 et seq.; and any educational information and resource center established pursuant to P.L.1983, c.486 (C.18A:73-35a et seq.);

d. "Library region" means a geographic area designated by the State Librarian pursuant to this act within which libraries may establish a regional library cooperative;

e. "Library network" means all libraries in all regional library cooperatives, the State Library, and any library providing services to other libraries; and

f. "Regional library cooperative" means a membership organization of libraries within a library region which has agreed to provide and receive cooperative library services.

L.1983,c.486,s.3; amended 2001, c.137, s.14.

18A:73-35d Additional duties concerning the network.

4. In addition to the duties prescribed in section 20 of P.L.1969, c.158 (C.18A:73-35), the State Library shall establish, organize, supervise and fund the library network, as well as provide library services on a regional as well as a Statewide basis. To effectuate the purposes of this act, the State Library shall: a. establish library regions to encompass all of the State's territory; b. provide for the creation, structure, funding, and governance of a regional library cooperative for each library region; c. enter into contracts with any library or service-providing agency to provide cooperative library services to any members of the library network; d. determine the kinds of cooperative services to be provided and received by members of the network; and e. provide direct services to members of the network, on a regional as well as a Statewide basis.

L.1983,c.486,s.4; amended 1986, c.174, s.2; 2001, c.137, s.15.

18A:73-35e. Cooperative services

Any library eligible for participation in the library network is authorized to enter into agreements with other such libraries to provide and receive cooperative library services on a regional as well as Statewide basis. Libraries entering into an agreement pursuant to this act shall form an organization which may incorporate as a nonprofit corporation for the purposes of providing and receiving cooperative services on a regional as well as Statewide basis.

L. 1983, c. 486, s. 5, eff. Jan. 17, 1984. Amended by L. 1986, c. 174, s. 3, eff. Dec. 8, 1986.

18A:73-35f State funding restriction.

8. To provide an efficient and effective library network in accordance with objectives of this act, no regional library cooperative or any library with which the State Library contracts to provide cooperative services on a regional as well as a Statewide basis to the library network shall participate in any apportionment of State funds pursuant to this act unless it operates in compliance with the rules and regulations which have been, or may be, prescribed by law or promulgated by the State Librarian with the approval of the President of Thomas Edison State College.

L.1983,c.486,s.8; amended 1986, c.174, s.4; 2001, c.137, s.16.

18A:73-35g Budget estimates.

9. On or before November 15 in each year, the State Librarian, with the approval of the President, shall estimate the amount necessary to be appropriated to carry out the provisions of this act for the succeeding fiscal year and shall determine for budget purposes the amount estimated to be payable to each regional library cooperative or library with which the State Library contracts to provide cooperative service to the library network for that year and the amount necessary for supplemental library services provided directly. The amount requested for direct services shall not exceed 20% of the total amount appropriated. The State Librarian shall make such determination for budget purposes upon the basis of appropriations for library network purposes made by the Legislature in the current calendar year.

On or before September 15 of each succeeding year, the State Librarian shall make a final determination of the payments to be made under this act.

L.1983,c.486,s.9; amended 1986, c.174, s.5; 2001, c.137, s.17.

18A:73-35g1 Funding of library network.

8. Notwithstanding the provisions of any other law to the contrary, all funds previously appropriated to fund area libraries pursuant to N.J.S.18A:74-4 and research library centers pursuant to N.J.S.18A:74-5 are appropriated to the State Library, for the purpose of funding the library network.

In succeeding fiscal years the State Librarian shall make the budget determinations required by section 9 of P.L.1983, c.486 (C.18A:73-35g), based on previous appropriations for library network purposes, which shall include the transfer of area library and research library center appropriations made pursuant to this section.

L.1986,c.174,s.8;amended 2001, c.137, s.18.

18A:73-35h Payments.

10. The sums payable pursuant to this act shall be payable on October 1 following the final determination in each year. Payments shall be made by Thomas Edison State College. Payment shall be made to the receiving officer designated by each regional library cooperative, each library with which the State Library contracts to provide cooperative service to the library network and to the State library for the cost of providing direct Statewide library services to the library network.

L.1983,c.486,s.10; amended 1986, c.174, s.6; 2001, c.137, s.19.

18A:73-35i Rules, regulations.

11. The State Librarian may, with the approval of the President, promulgate pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as the State Librarian deems necessary to effectuate the purposes of this act.

L.1983,c.486,s.11; amended 2001, c.137, s.20.

18A:73-35j Appropriations.

12. There shall be appropriated in the first fiscal year following the receipt by the Legislature of the first annual report and in each fiscal year thereafter following

the receipt by the Legislature of each subsequent annual report required pursuant to section 6 of P.L.1983, c.486 (C.18A:73-33.1), such sums as may be necessary for the operations of the library network. If the sums appropriated at any time are insufficient to carry out in full the provisions of this act, the President, with the approval of the Thomas Edison State College Board of Trustees, shall allocate such sums on a pro rata basis. A sum not to exceed 1% of such total or supplemental appropriation for the purposes of this act may be allocated for the administrative cost thereof.

L.1983,c.486,s.12; amended 2001, c.137, s.21.

18A:73-35.1 Purchases without advertisement for bids.

1. The State Librarian may, within the limits of funds appropriated or otherwise made available to the State Library, purchase the following without advertising for bids: library materials including books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter, and audiovisual and other materials of a similar nature and necessary binding or rebinding of library materials.

L.1980,c.149,s.1; amended 2001, c.137, s.22.

18A:73-36. Publications from custodian of State House

The State Librarian shall annually receive from the custodian of the State House for reference use and for deposit and exchange purposes not less than 75 bound copies and not less than 75 unbound copies of all pamphlet laws, compilations and similar publications, published by or under the authority of this State or the Legislature thereof, or of which the State has become a purchaser, and 75 bound copies each of the journals of the Senate and the minutes of the General Assembly.

L.1969, c. 158, s. 21, eff. Sept. 9, 1969.

18A:73-37. Informative materials accessible to legislature

The State Librarian shall collect and keep up to date and readily accessible to the Legislature, and to other persons within proper regulations, such materials as will furnish the fullest information practicable pertaining to current or proposed legislation or any legislative or administrative problems, and he shall prepare and submit digests of such informative materials upon the request of any member or committee of the Legislature.

L.1969, c. 158, s. 22, eff. Sept. 9, 1969.

18A:73-38 Hours of operation of State Library.

23. The State Library shall be kept open during the normal working hours of State Government and at all times during which the Legislature and the courts of this State and of the United States which sit at Trenton are in session, and at such other times as the State Librarian, with the approval of the President of Thomas Edison State College, shall prescribe.

L.1969,c.158,s.23; amended 2001, c.137, s.23.

18A:73-38.1 Certain buildings to remain State property, use of property.

59. The State Library building located at 185 East State Street in Trenton, Mercer County, and the State Library for the Blind and Handicapped, located at 2300 Stuyvesant Avenue in Trenton, Mercer County, shall remain the property of the State of New Jersey. Each building shall be maintained by the Department of the Treasury and be entitled to all of the services provided to other State buildings in the Capitol Complex. Any additional costs incurred by the State Library for services at those buildings shall be paid by Thomas Edison State College from the direct State services portion of the annual appropriation for the State Library. The contents of the buildings, including but not limited to the furniture, equipment, State Library collection and library materials, shall be the property of the State of New Jersey, but shall be available to Thomas Edison State College for the use of the State Library and the employees thereof.

L.2001,c.137,s.59.

18A:73-39 Application, acceptance of grants, funds.

24. The President of Thomas Edison State College may apply for and accept on behalf of the State of New Jersey and, through the State Library, administer for the State, any funds, books and library facilities applicable to public or school library purposes, granted or provided by the Federal Government, or any agency or officer thereof, under or pursuant to any Federal Law heretofore or hereafter enacted authorizing grants to the States for such purposes or for similar purposes.

L.1969,c.158,s.24; amended 2001, c.137, s.24.

18A:73-40 Designation of agency to carry out purpose of law.

25. In the event that under or pursuant to any such Federal law it is required that a State agency be designated to carry out the purpose of such law, including the administration or suspension of administration of any plan or program pursuant thereto, Thomas Edison State College shall be the sole agency in this State for carrying out such purposes. The Governor is hereby authorized to make such designation, and Thomas Edison State College is hereby empowered to act as the sole agency in this State for carrying out such purposes.

L.1969,c.158,s.25; amended 2001, c.137, s.25.

18A:73-41 Custody, use of federal funds.

26. Thomas Edison State College shall receive and provide for the proper custody of any funds granted by the Federal Government for such public or school library purposes, under or pursuant to any Federal law. All moneys so received shall be used exclusively for the purposes of any such law. Such moneys shall be expended in the same manner as any funds of the State are expended, upon vouchers certified or approved by the President of Thomas Edison State College or the duly authorized representative thereof, as provided by law.

Thomas Edison State College shall submit to the State Treasurer copies of any final financial status reports submitted to the federal government for grants or other funds received by the college.

L.1969,c.158,s.26; amended 2001, c.137, s.26.

18A:73-42.1 Rules for administration of State Library.

58. Unless provided for elsewhere to the contrary, the State Library, with the approval of the President of Thomas Edison State College, may promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules as the State Librarian deems necessary for the administration of the State Library.

L.2001,c.137,s.58.

18A:73-43. Legislative joint committee; review of library and programs; recommendations

A joint committee of the Legislature shall be appointed which shall examine and review the library and its programs, particularly the legislative reference services, make recommendations for their development and improvement, and report to the Legislature.

L.1969, c. 158, s. 28, eff. Sept. 9, 1969.

18A:73-43.1. "Library," "library record" defined

For the purposes of this act:

a. "Library" means a library maintained by any State or local governmental agency, school, college, or industrial, commercial or other special group, association or agency, whether public or private.

b. "Library record" means any document or record, however maintained, the primary purpose of which is to provide for control of the circulation or other public use of library materials.

L. 1985, c. 172, s. 1, eff. May 31, 1985.

18A:73-43.2. Confidentiality; exceptions

Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:

a. The records are necessary for the proper operation of the library;

b. Disclosure is requested by the user; or

c. Disclosure is required pursuant to a subpoena issued by a court or court order.

L. 1985, c. 172, s. 2, eff. May 31, 1985.

18A:73-43.3. Rules, regulations

The State Librarian shall adopt pursuant to section 18 of P.L. 1969, c. 158 (C. 18A:73-33) and the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) rules and regulations necessary to effectuate the purposes of this act.

L. 1985, c. 172, s. 3, eff. May 31, 1985.

18A:73-43.4 Disbursement of funds appropriated for State Library to Thomas Edison State College.

60. a. The State Treasurer shall disburse to Thomas Edison State College the amount of funds appropriated in the direct State services portion of the annual appropriation for the State Library. The funds shall be paid to the college in four equal installments

beginning on July 1 of each year. Thomas Edison State College shall deposit all such funds into separate accounts to be used solely for State Library purposes.

b. The State Treasurer shall disburse to Thomas Edison State College the amount of funds appropriated in the State aid portion of the annual appropriation for the State Library. The funds shall be paid to the college on a drawdown schedule to be prepared by Thomas Edison State College and approved by the Office of Management and Budget. Thomas Edison State College shall deposit all such funds into separate accounts to be used solely for State Library purposes.

c. Each year, Thomas Edison State College shall prepare and submit to the Office of Management and Budget in the Department of the Treasury a proposed budget for the operation of the State Library during the following fiscal year at the same time that Thomas Edison State College prepares and submits to the Secretary of State for submission to Office of Management and Budget a proposed budget for the operation of the college during the following fiscal year.

d. Funds disbursed to Thomas Edison State College for the operations of the State Library, although maintained in separated accounts, shall be considered college funds for all purposes related to purchasing, including for the purposes of the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.).

e. Thomas Edison State College is authorized to accept donations on behalf of the State Library and those donated funds shall be maintained in separate accounts to be used solely for State Library purposes.

f. Thomas Edison State College shall be entitled to use, solely for State Library purposes, the interest income from any public or private fund established to support the programs and services of the State Library to the extent permitted by law and the terms of the fund.

g. Thomas Edison State College shall conduct an independent financial audit of the State Library accounts each year, including accounts that receive federal funds, and shall submit copies of the same to the Department of the Treasury, with the cost of such audits funded from the direct State services portion of the annual appropriation for the State Library.

h. Thomas Edison State College shall be responsible for the maintenance of all financial records that involve the operations of the State Library, including those records that relate to federal funds.

L.2001,c.137,s.60.

18A:73-44. Short title

This act shall be known as and may be cited as the "New Jersey Educational Research and Museum Development Act."

L.1977, c. 399, s. 1, eff. Feb. 23, 1978.

18A:73-45. Legislative findings and determinations

The Legislature hereby finds and determines that it is in the interest of the citizens of the State of New Jersey to encourage the development of public and nonprofit museums and the loan and contribution of museum collections within the State to help preserve the heritage of the people of this State as well as of this nation and the world and that worthwhile endeavors of such sort, including related activities such as educational and scientific research, library, workshops, museum shops, data collection and museum promotion, should be encouraged. The Legislature further finds and determines that the Department of Education and the Division of the State Museum should be authorized to cooperate and assist, within the limits of available appropriations and resources, public and nonprofit groups in the pursuit of this objective.

L.1977, c. 399, s. 2, eff. Feb. 23, 1978.

18A:73-46. Encouragement of development of public and nonprofit museums

The Department of Education and the commissioner thereof acting through the agencies of said department including the Divisions of the State Museum and Research, Planning and Evaluation are hereby authorized to encourage the development of public and nonprofit museums, including museum buildings, and museum collections and activities related thereto including, but not limited to, scientific and educational research, library, workshops, museum shops and museum promotion.

L.1977, c. 399, s. 3, eff. Feb. 23, 1978.

18A:73-47. Agreements for cooperation and assistance by department and division

In furtherance of the objectives of this act, the commissioner or, with his approval, the Director of the State Museum may enter into agreements providing for the cooperation and assistance of the department and the division with any public or nonprofit agency, foundation or organization engaging in some or all of the activities set forth in section 3 of this act. Such cooperation and assistance may include financial assistance, provided, however, that any financial assistance shall be only to the extent that appropriations or other available resources will permit.

If the department shall determine that the acquisition of any museum or museum activity is in the public interest it may enter into agreements for such purposes. Any agreements which would obligate the State or any of its agencies to assume financial responsibility for the operation or the acquisition of any museum or museum collection or other activities shall be approved in writing by the commissioner and the Governor.

L.1977, c. 399, s. 4, eff. Feb. 23, 1978.

18A:73-48. State museum defined

For the purposes of this act and the statutes herein supplemented, the State Museum shall consist of the existing State Museum and such other museums and museum collections as shall be approved and acquired pursuant to the provisions of this act.

L.1977, c. 399, s. 5, eff. Feb. 23, 1978.

18A:74-1. Short title

This chapter shall be known as the "state library aid law."

L.1967, c.271.

18A:74-2. Definitions

For the purposes of this chapter, unless the context clearly requires a different meaning:

"Annual expenditure for library services" shall mean the sum expended during the last completed fiscal year by a municipality or county for library services, as certified by the governing body of the municipality or county to the commissioner, excluding any sum paid to the municipality or county under the provisions of this chapter.

"Equalized valuation" shall mean the equalized valuation of the municipality, as certified by the director of the State Division of Taxation for the year preceding that in which the calculation of State aid hereunder is made.

"Per capita" shall mean for each of the number of inhabitants of a municipality or county, as shown by the latest federal census effective in this State; provided that upon application by a municipality or county to the commissioner, any special census of population taken by the United States Bureau of the Census subsequent to its latest effective census shall determine such number of inhabitants.

L.1967, c.271; amended by L. 1986, c. 174, s. 7, eff. Dec. 8, 1986.

18A:74-3. State aid to libraries

18A:74-3. State funds shall be provided annually as follows:

a. Each municipality or county that supports, in whole or in part, library service from municipal or county tax sources pursuant to chapter 33 or 54 of Title 40 of the Revised Statutes shall qualify for one of the following:

(1) \$0.50 per capita if its annual expenditure for library services is less than 1/5 mill per dollar upon the equalized valuation;

(2) \$0.75 per capita if its annual expenditure for library services is equal to or more than 1/5 mill, but less than 1/4 mill per dollar upon equalized valuation;

(3) \$1.00 per capita if its annual expenditure for library services is equal to or more than 1/4 mill, but less than 1/3 mill per dollar upon equalized valuation;

(4) \$1.25 per capita if its annual expenditure for library services is equal to or more than 1/3 mill, but less than 1/2 mill per dollar upon equalized valuation;

(5) \$1.50 per capita if its annual expenditure for library services is equal to or more than 1/2 mill per dollar upon equalized valuation; provided, however, that payments hereunder to a municipality or county shall not be less than the amount which such municipality or county received in State library aid in the year preceding July 1, 1967, except that in no case shall payments under this section exceed one-half of the annual expenditure for library services by the municipality or the county, as the case may be.

b. For those municipalities which provide tax support for both a local library and a county library, the per capita aid provided for in subsection a. of this section shall be determined as follows: the total expenditure for library service pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes shall be used to determine the scale of per capita aid. In counties in which the free county library has been reorganized pursuant to P.L. 1977, c. 300 (C. 40:33-15 et seq.), the total payments shall be made to the municipality. In those counties which have established county libraries pursuant to P.L. 1963, c. 46 (C. 40:33-5.1), the payment to the municipality and the county shall be made according to section 2 of P.L. 1983, c. 487 (C. 18A:74-3.1). In all other counties the payment to the municipality and to the county, respectively, shall be apportioned in the same ratio as each expenditure bears to the total expenditure.

L.1967, c.271; amended by L. 1977, c.300, s.10; 1983, c.487, s. 1; 1987, c. 313 s. 1.

18A:74-3.1. Counties with libraries, apportionment of per capita aid

2. In those counties which have established county libraries pursuant to the provisions of P.L.1963, c.46 (C.40:33-5.1), the apportionment of per capita aid shall be as follows:

a. Each municipality which provides tax support for a local library shall qualify for per capita aid based on the formula in subsection a. of N.J.S.18A:74-3. This aid shall be paid to the governing body of the municipality.

b. Each county shall qualify for per capita aid based on the tax support provided by each municipality within the county for the county library pursuant to the formula in subsection a. of N.J.S.18A:74-3, except that aid shall be based upon the number of inhabitants of only those municipalities in the county which do not operate libraries established pursuant to R.S.40:54-1 et seq. This aid shall be paid to the treasurer of the county.

L.1983,c.487,s.2; amended 1993,c.71,s.1.

18A:74-3.2 Distribution of State aid.

1. Thomas Edison State College shall annually, within the limitations of amounts appropriated by the Legislature, distribute funds pursuant to rules and regulations adopted according to N.J.S.18A:74-1 et seq. upon certification of the State Library;

a. To any municipality which receives State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) and supports, in whole or in part, a municipal library which maintains one or more branch libraries, to assist solely in maintaining, operating and improving those branch libraries to meet community needs;

b. To any county or municipality which supports, in whole or in part, library services from county or municipal tax revenues to evaluate and develop the collections of any library receiving such funds; and

c. To any library in the State which houses and maintains a collection of historical or special interest, to be used to house, protect, preserve, repair, restore and maintain the collection.

Funds allocated pursuant to this section shall be distributed as grants to qualifying applicants, based on competitive criteria and a selection process established by the State Library. No rule or regulation shall be adopted nor any application approved nor grant made under this section which creates or implies, by its nature or purpose, a continuing assistance grant or entitlement of indefinite length.

L.1985,c.297,s.1; amended 2001, c.137, s.27.

18A:74-3.3 Distribution of funds for audiovisual services.

2. Thomas Edison State College, after consultation with the State Librarian, shall annually, within the limitations of amounts appropriated by the Legislature, distribute funds pursuant to rules and regulations adopted according to N.J.S.18A:74-1 et seq., for audiovisual public library services.

L.1985,c.297,s.2; amended 2001, c.137, s.28.

18A:74-3.4 Services for institutionalized persons.

3. Thomas Edison State College, after consultation with the State Librarian, shall annually, within the limitations of amounts appropriated by the Legislature, distribute funds pursuant to rules and regulations adopted according to N.J.S.18A:74-1 et seq., for library services to persons institutionalized in health, mental health, mental retardation, veterans', residential, correctional and other similar facilities which are operated by or under contract to the State or to county or municipal governments.

L.1985,c.297,s.3; amended 2001, c.137, s.29.

18A:74-4.1 Provision of optical scanners.

1. The Thomas Edison State College, after consultation with the State Librarian, and after consultation with the Commission for the Blind and Visually Impaired, shall purchase and provide to designated area libraries or other public facilities accessible to the blind or visually impaired that may be appropriate an optical scanner, which converts printed materials into synthetic speech for the benefit of the blind and visually impaired. The President of Thomas Edison State College shall provide for the training of personnel in the proper use of these devices.

L.1981,c.225,s.1; amended 2001, c.137, s.30.

18A:74-6 Emergency aid; incentive grant.

18A:74-6. There shall be appropriated annually the sum of \$200,000.00 to be distributed by Thomas Edison State College and in accordance with its rules and regulations to meet unforeseeable conditions in any municipality or county, and to

encourage the formation and development of larger units of service pursuant to law. The amount of such emergency aid or incentive grant shall be payable by the President of Thomas Edison State College upon certification by the State Librarian.

L.1967, c.271; amended 2001, c.137, s.31.

18A:74-7 Determination of appropriation.

18A:74-7. On or before November 15 in each year, the State Library shall estimate the amount necessary to be appropriated to carry out the provisions of this chapter for the succeeding fiscal year and shall determine for budget purposes the amount estimated to be payable to each of the counties and municipalities under this chapter for such succeeding year. The State Library shall make such determination for budget purposes upon the basis of the annual appropriations for library purposes for the current calendar year.

On or before September 15 of each succeeding year, the State Library shall make the final determination of the payments to be made under this chapter upon the basis of the annual expenditures for library purposes for the preceding calendar year.

L.1967, c.271; amended 2001, c.137, s.32.

18A:74-8 Payment of State aid; date, method.

18A:74-8. The sums payable as State aid, as finally determined by the State Library shall be payable on October 1 following the final determination in each such year. Payments shall be made by the state treasurer upon certificate of the President of Thomas Edison State College, the State Librarian, and warrant of the director of the division of budget and accounting. Payment shall be made to the governing body of each municipality qualifying for aid under this chapter and to the treasurer of each county which supports a regional or county library system, and to the receiving officer designated by each research library center.

L.1967, c.271; amended 2001, c.137, s.33.

18A:74-9. Application of benefits to library services

Benefits received pursuant to this chapter shall not be applied to any other purpose than library services maintained pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes and pursuant to this chapter.

L.1967, c.271.

18A:74-10 Compliance with regulations, standards.

18A:74-10. In order to participate in any apportionment made according to the provisions of this chapter, municipalities and counties shall comply with the regulations and standards which have been, or which may be, prescribed by law or recommended by the advisory council of the State Library for the operation and improvement of free public libraries to provide efficient and effective library services, to insure public benefit and convenience therefrom and to achieve the objects of this chapter.

L.1967, c.271; amended 2001, c.137, s.34.

18A:74-11. Annual reports

On or before March 1 in each year each library receiving state aid according to the provisions of this chapter shall make and transmit a report to the state librarian of such information, based upon the records and statistics of the preceding calendar year, as the state librarian shall require.

L.1967, c.271.

18A:74-12 Enforcement of law and regulations.

18A:74-12. The Department of the Treasury, at the request of the State Librarian, is hereby empowered to withhold any form of State Library aid from any municipality, county, or area library which does not comply with the provisions of chapters 33 and 54 of Title 40 of the Revised Statutes and chapter 132 of the laws of 1947 (C.45:8A-1 et seq.) wherever applicable, or with any rules and regulations duly adopted pursuant to said statutes or this chapter, or which reduces its annual expenditures for library services pursuant to chapters 33 and 54 of Title 40 of the Revised Statutes below the average of those expenditures for normal, recurring, operating costs made during the three years previous to receipt of the first State aid under this chapter.

L.1967, c.271; amended 2001, c.137, s.35.

18A:74-13 Appropriations, allocation.

18A:74-13. There is hereby appropriated for the purposes of this chapter such sums as may be included therefor in any annual or supplemental appropriation. In the event the sums appropriated at any time are insufficient to carry out in full the provisions of this chapter, the State Library shall allocate such sums on the basis of the method of allocation described in this chapter to the extent deemed advisable and practicable. A

sum not to exceed 1% of such total annual or supplemental appropriation for the purposes of this chapter may be allocated to Thomas Edison State College for the administrative costs thereof.

L.1967, c.271; amended 2001, c.137, s.36.

18A:74-14. Short title

This act shall be known as the "New Jersey Library Construction Incentive Act."

L.1973, c. 381, s. 1, eff. July 1, 1973.

18A:74-15. Public policy

It is hereby declared to be the public policy of the State of New Jersey to encourage, promote and support the extension of public library services by aiding in the construction and expansion of public library buildings.

L.1973, c. 381, s. 2, eff. July 1, 1973.

18A:74-16 Definitions relative to library construction.

3. For the purposes of this act unless the context clearly indicates otherwise:

a. "Act" means the "New Jersey Library Construction Incentive Act."

b. "Area" means all or part of one or more political subdivisions of the State of New Jersey.

c. "Project," "construction project," "rehabilitation project," "expansion" or "acquisition," means a project which is eligible for a grant under regulations and standards promulgated under this act. When used alone, "project" means any construction, expansion, or rehabilitation project or acquisition.

d. "Public library" means a library that serves free of charges all residents of an area without discrimination and receives its financial support, in whole or in part, from public funds. "Public library" does not include any special-purpose library, such as a law, medical, school or academic library, which are organized to serve a special clientele or purpose.

e. "Authorized applicant" means a public library as defined in paragraph d. hereof.

f. "Eligible project costs" means costs incurred in a project approved by the President of Thomas Edison State College, a portion of which may be reimbursed.

g. "President" means the President of Thomas Edison State College.

h. "Fiscal year" means the period between July 1 of any calendar year and June 30 of the next succeeding calendar year.

L.1973,c.381,s.3; amended 2001, c.137, s.37.

18A:74-17 Administration of act.

4. The administration of this act shall be governed by rules and regulations, recommended by the Advisory Council of the State Library, and promulgated by the State Librarian with the approval of the President of Thomas Edison State College.

L.1973,c.381,s.4; amended 2001, c.137, s.38.

18A:74-18 Participation in grants.

5. In order to participate in any grant made according to the provisions of this act, the applicant shall comply with the rules and regulations adopted as provided in section 4 of this act. Application for grants under this act shall be made to the President on forms specified in said rules and regulations. Applications shall be approved by the President in accordance with said rules and regulations. The President is hereby empowered to withhold any grants from any public library which does not comply with said rules and regulations.

L.1973,c.381,s.5; amended 2001, c.137, s.39.

18A:74-19 Reimbursement for project costs.

6. The President shall reimburse each authorized applicant whose application has been approved for a portion of its eligible project costs, determined in accordance with the rules and regulations promulgated pursuant to this act.

L.1973,c.381,s.6; amended 2001, c.137, s.40.

18A:74-20 Project costs eligible for grants.

7. The following project costs shall be eligible for grants, at the discretion of the President, when incurred after the date of project approval, or after such date as is indicated in paragraphs 3 and 5 of this section:

- a. Construction of new buildings to be used for public library purposes.
- b. Expansion, rehabilitation or acquisition of existing buildings to be used for public library purposes.
- c. Expenses (other than interest and the carrying charge on bonds) related to the acquisition of land on which there is to be construction of new buildings or expansion of existing buildings to be used for public library purposes which are incurred within the three fiscal years preceding the fiscal year in which the project is approved by the President, provided such expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions.
- d. Site grading and improvement of land on which buildings used for public library purposes are located or are to be located.
- e. Architectural, engineering, consulting and inspection services related to the specific project for which application for financial assistance is made, provided the costs of such services are incurred within three fiscal years preceding the year in which the project is approved by the President.
- f. Expenses (other than interest and the carrying charges on bonds) related to the acquisition of existing buildings to be used for public library purposes, provided such expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions.
- g. Expenses relating to the acquisition and installation of initial equipment to be located in public library facilities, provided by a construction project, including all necessary building fixtures and utilities, office furniture and public library equipment, such as library shelving and filing equipment, card catalogs, cabinets, circulation desks, reading tables, study carrels, booklifts, elevators and information retrieval devices (but not books or other library materials).

L.1973,c.381,s.7; amended 2001, c.137, s.41.

18A:74-21 Projects to be accessible, usable by handicapped persons.

8. The President shall require that projects constructed with the use of State funds under this act shall, to the extent appropriate be accessible to and usable by handicapped persons.

L.1973,c.381,s.8; amended 2001, c.137, s.42.

18A:74-22 Credit to State for unused facilities, equipment, land.

9. Whenever public library facilities, items of equipment or land to which the State has contributed funds under this act are not used for the purposes authorized by the act, the President may require that the State be credited with its proportionate share of the fair market value of such facilities, equipment, or land. All moneys so credited shall be remitted to the Treasurer of the State of New Jersey. In no event, however, may the President require that the State be so credited when such facilities, equipment or land have been used in excess of 20 years for the purposes authorized by this act.

L.1973,c.381,s.9; amended 2001,c.137,s.43.

18A:74-23. Costs of administration and supervision of act; limitation

All costs attributable to the administration and supervision of this act and the rules and regulations promulgated thereunder shall not exceed 8% of the total amount appropriated annually for the purposes of this act.

L.1973, c. 381, s. 10, eff. July 1, 1973.

18A:74-24. Definitions relative to public library project grant program

1. For the purposes of this act:

"Area" means all or part of one or more political subdivisions of the State of New Jersey;

"Authority" means the "New Jersey Educational Facilities Authority" established pursuant to N.J.S.18A:72A-1 et seq.;

"Board" means the Public Library Construction Advisory Board established pursuant to section 3 of P.L.1999, c.184 (C.18A:74-26);

"Eligible project costs" means costs incurred in a project approved by the board;

"Fund" means the "Public Library Project Fund" established pursuant to section 2 of P.L.1999, c.184 (C.18A:74-25);

"Project" means any construction, expansion, rehabilitation or acquisition project eligible for a grant under regulations promulgated under section 3 of P.L.1999, c.184 (C.18A:74-26);

"Public library" means a library that serves free of charge all residents of an area as established pursuant to chapter 33 or chapter 54 of Title 40 of the New Jersey Statutes; or a library established pursuant to N.J.S.15A:1-1 et seq. and receiving public funds pursuant to R.S.40:54-35;

"Secretary" means the Secretary of State of the State of New Jersey or the Secretary's designated representative.

L.1999,c.184,s.1; amended 2001, c.148.

18A:74-25 "Public Library Project Fund."

2. The "Public Library Project Fund" is established as a separate account in the New Jersey Educational Facilities Authority to carry out the purposes of P.L.1999, c.184 (C.18A:74-24 et al.). The fund shall be administered by the authority and shall be credited with:

a. moneys received from the issuance of bonds, notes or other obligations issued pursuant to section 5 of P.L.1999, c.184 (C.18A:74-28);

b. moneys appropriated by the State for the purposes of the fund; and

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

L.1999,c.184,s.2.

18A:74-26 Public Library Construction Advisory Board.

3. There is created a Public Library Construction Advisory Board to be comprised of seven members as follows: the Secretary of State or the secretary's designee who shall serve as the chair; the State Librarian or the librarian's designee; a member of the State Library Advisory Council established pursuant to section 13 of P.L.1969, c.158 (C.18A:73-28), or the council's designee, who shall be chosen by the council and shall serve at the pleasure of the council and until a successor is chosen; and four persons with library, construction, or finance experience who shall be appointed by the Governor with the advice and consent of the Senate and who shall serve at the pleasure of the Governor and until their successors are appointed and shall have qualified.

Moneys in the fund shall be distributed as grants to public libraries for part of eligible project costs as enumerated in section 4 of P.L.1999, c.184 (C.18A:74-27), based on criteria and a competitive selection process established by the board. The board shall promulgate regulations prescribing procedures for applying for a grant and the terms and conditions for receiving a grant. A grant application shall include a complete description of the project to be financed and an identification of additional sources of revenue to be used. An application shall be reviewed, and approved or denied by the board in accordance with uniform procedures by resolution of the board. When a grant is approved by the board, the board shall establish the recommended grant amount and shall submit to the Joint Budget Oversight Committee, or its successor, the board's approved amount of the grant and a brief description of the project for approval by the committee. Any grant not disapproved by the Joint Budget Oversight Committee within 30 days of such submission shall be deemed approved by the committee. After a grant application is approved by the committee, the board shall forward a copy of the application and certify the approved amount of the grant to the authority.

L.1999,c.184,s.3.

18A:74-27 Project costs eligible for grants.

4. The following project costs shall be eligible for grants, at the discretion of the board:

a. Construction of new buildings to be used for public library purposes;

b. Expansion, rehabilitation or acquisition of existing buildings to be used for public library purposes;

c. Expenses, other than interest and the carrying charge on bonds, incurred after the effective date of P.L.1999, c.184 (C.18A:74-24 et al.), related to the acquisition of land on which there is to be construction of new buildings or expansion of existing buildings to be used for public library purposes, provided the expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions;

d. Site grading and improvement of land on which buildings used for public library purposes are located or are to be located;

e. Architectural, engineering, consulting and inspection services related to the specific project for which application for financial assistance is made;

f. Expenses, other than interest and the carrying charges on bonds, related to the acquisition of existing buildings to be used for public library purposes, provided the expenses constitute an actual cost or a transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions; and

g. Expenses relating to the acquisition and installation of equipment to be located in public library facilities, including all necessary building fixtures and utilities, office furniture and public library equipment, such as library shelving and filing equipment, catalogs, cabinets, circulation desks, reading tables, study carrels, and information retrieval devices including video, voice, and data telecommunications equipment and linkages with a useful life of 10 years or more necessary for Internet access, but not including books or other library materials.

L.1999,c.184,s.4.

18A:74-28 Issuance of bonds, notes, other obligations; cap.

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

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

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

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

d. Bonds, notes or other obligations issued pursuant to P.L.1999, c.184 (C.18A:74-24 et al.) shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof, or be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof, but all bonds, notes or other obligations, unless funded or refunded by the bonds, notes or other obligations of the authority, shall be payable solely from revenues of funds pledged or available for their payment as authorized by P.L.1999, c.184 (C.18A:74-24 et al.). Each bond, note or other obligation shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof, redemption premium, if any, or the interest thereon only from revenue or funds of the authority, and that neither the State nor any political subdivision thereof is obligated to pay the principal thereof, redemption premium, if any, or interest thereon, 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, redemption premium, if any, or the interest on the bonds, notes or other obligations.

e. The State of New Jersey does hereby pledge to and covenant and agree with the holders of any bonds, notes or other obligations issued pursuant to the authorization of P.L.1999, c.184 (C.18A:74-24 et al.) that the State shall not limit or alter the rights or powers hereby vested in the authority to perform and fulfill the terms of any agreement made with the holders of the bonds, notes or other obligations, or to fix,

establish, charge and collect such rents, fees, rates, payments, or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and to fulfill the terms of any agreement made with the holders of the bonds, notes and other obligations together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the holders, until the bonds, notes and other obligations, together with interest thereon, are fully met and discharged or provided for.

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

L.1999,c.184,s.5.

18A:75-1. Compact; preamble

The Compact for Education is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

COMPACT FOR EDUCATION

Preamble

Whereas, The proper education of all citizens is one of the most important responsibilities of the states to preserve a free and open society in the United States; and,

Whereas, The increasing demands of our whole national life for improving and expanding educational services require a board exchange of research data and information concerning the problems and practices of education; and,

Whereas, There is a vital need for strengthening the voices of the states in the formulation of alternative nationwide educational policies,

The states affirm the need for close and continuing consultation among our several states on all matters of education, and do hereby establish this Compact for Education.

L.1967, c.271.

18A:75-2. Article I. Purpose and policy

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire county, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

B. It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

C. The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

L.1967, c.271.

18A:75-3. Article II. State defined

As used in this compact, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

L.1967, c.271.

18A:75-4. Article III. The commission

A. The Education Commission of the states, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed 10 nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

B. The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to article IV and adoption of the annual report pursuant to article III(j).

C. The commission shall have a seal.

D. The commission shall elect annually, from among its members a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

E. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

F. The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

G. The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the commissioner. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

H. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

I. The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

J. The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

L.1967, c.271.

18A:75-5. Article IV. Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate government units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

L.1967, c.271.

18A:75-6. Article V. Cooperation with federal government

A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

B. The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

L.1967, c.271.

18A:75-7. Article VI. Committees

A. To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One fourth of the voting membership of the steering committee shall consist of Governors, 1/4 shall consist of legislators and the remainder shall consist of other members of the commission. A Federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of 2 years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for 1 year and 16 for 2 years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than 2 terms as a member of the steering committee: provided that service for a partial term of 1 year or less shall not be counted toward the 2-term limitation.

B. The commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to 2 or more of the party States.

C. The commission may establish such additional committees as its bylaws may provide.

L.1967, c.271; amended by L.1968, c. 68, s. 1, eff. June 21, 1968.

18A:75-8. Article VII. Finance

A. The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

B. The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

C. The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III(g) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article III(g) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

D. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

E. The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

F. Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

L.1967, c.271.

18A:75-9. Article VIII. Eligible parties; entry into and withdrawal

A. This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C. of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

L.1967, c.271.

18A:75-10. Article IX. Construction and severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

L.1967, c.271.

18A:75-11. New Jersey members; appointment; compensation, etc.

New Jersey shall be represented on the commission established by Article III of the compact by the governor, four members appointed by the governor from among the citizens

of this state who will serve at the pleasure of the governor, and one senator to be named by the president of the senate and one assemblyman to be named by the speaker of the general assembly. Legislative members of the commission shall be appointed for terms coincident with the terms for which they were elected to the senate or general assembly. The New Jersey members will serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred in the performance of their duties. Vacancies in the membership shall be filled in the same manner as the original appointments were made.

L.1967, c.271.

18A:75-12. Bylaws and amendments filed

Pursuant to Article III(I) of the compact, the commission shall file a copy of its bylaws and any amendments thereto with the secretary of state.

L.1967, c.271.

18A:76-1. Construction

This law is a revision law and the provisions hereof, not inconsistent with prior laws, shall be construed as a continuation of such prior laws and its enactment shall not:

1. Abolish or require the reestablishment of any office, position or employment lawfully existing upon the effective date of this law or affect the term or tenure, compensation and pension rights, if any, of any lawful holder thereof upon said date; or

2. Abolish or require the reestablishment or reorganization of any board, commission or public body, lawfully existing on said date, or affect the term or tenure, compensation and pension rights, if any, of any member thereof, nor shall any provision of this law for the appointment or election of the first members of any such board, commission or public body be construed to require that any members lawfully in office upon the effective date of this law or their successors shall be reappointed by staggered terms or in any other manner than for the full terms prescribed by this law, but every such board, commission or public body, shall, after the effective date of this law, be governed and administered under the provisions of this law; or

3. Affect or impair or make invalid any provision of any ordinance, resolution, order, rule or regulation, lawfully adopted and in force upon the effective date of this law, except so far as the same is inconsistent with any of the provisions of this law; or

4. Require that any proceeding, begun by the adoption of any resolution, passage on first reading of any ordinance, or the adoption of any proposal, proposition or question, under and in accordance with the law in effect at the time this law becomes effective, shall be carried on to its final conclusion in accordance with this law but the same may be carried to final conclusion under the law under which it was begun as though this law had not been enacted; or

5. Require the resubmission to the voters of any statute or proposal adopted by such voters prior to, and effective upon, the effective date of this law or in any manner affect the validity and operation of such statute after said date, except so far as the same is inconsistent with any of the provisions of this law; or

6. Discharge, release or affect any liability, penalty or forfeiture, civil or criminal, committed prior to the effective date of this law but all proceedings for the enforcement of any such liability, penalty or forfeiture shall be commenced and continued and be proceeded with in all respects in accordance with the law in effect when the same was incurred and notwithstanding that such law, or any part thereof, has been repealed or altered by the enactment of this law; or

7. Revive any common law right or remedy by reason of the repeal of any law by this law.

L.1967, c.271.

18A:76-2. Provisions severable

If any provision of any section, article, subarticle, chapter or title of this law shall be adjudged by any court of competent jurisdiction to be ineffective, such determination shall not affect or impair the remaining provisions thereof but shall be confined in its operation to the provisions directly involved in a controversy in which said determination shall have been rendered.

L.1967, c.271.

18A:76-3. Repealers

All acts and parts of acts inconsistent with this revision law except those specifically saved from repeal are hereby superseded and repealed, and without limiting the general effect of this law in superseding and repealing acts so inconsistent herewith, the following acts and parts of acts together with all amendments and supplements thereto are specifically repealed:

Title 18 of the Revised Statutes, excepting those sections saved from repeal in this law and in the Revised Statutes;

Laws of 1939, Chapter 148 (C. 18:5-51.1);

Laws of 1941, Chapter 161 (C. 18:13-102.1);

Laws of 1941, Chapter 373 (C. 18:23-19-C. 18:23-21 incl.);

Laws of 1942, Chapter 165 (C. 18:5-100-C. 18:5-103 incl.);

Laws of 1942, Chapter 233 (C. 18:13-102.2);

Laws of 1944, Chapter 140 (C. 18:16-27.1-C. 18:16-27.2);

Laws of 1945, Chapter 49 (C. 18:22-15.1-C. 18:22-15.13 incl.);

Laws of 1945, Chapter 50 (C. 18:24-1-C. 18:24-23 incl.);

Laws of 1946, Chapter 64 (C. 18:14A-1-C. 18:14A-18 incl.);

Laws of 1946, Chapter 217 (C. 18:22-15.14-C. 18:22-15.15);

Laws of 1947, Chapter 109 (C. 18:14-89.1-C. 18:14-89.3 incl.);

Laws of 1947, Chapter 139 (C. 18:22-15.16-C. 18:22-15.17);

Laws of 1947, Chapter 140 (C. 18:22-15.18-C. 18:22-15.22 incl.);

Laws of 1947, Chapter 307 (C. 18:22-48-C. 18:22-52 incl.);

Laws of 1948, Chapter 14 (C. 18:16-32.1);

Laws of 1948, Chapter 15, section 2 (C. 18:15-46.1);

Laws of 1948, Chapter 107 (C. 18:24-24-C. 18:24-26 incl.);

Laws of 1948, Chapter 131 (C. 18:14-12.5);

Laws of 1948, Chapter 195 (C. 18:22-53-C. 18:22-57 incl.);

Laws of 1948, Chapter 228 (C. 18:14-78.1-C. 18:14-78.2);

Laws of 1948, Chapter 427 (C. 18:5-29.1);

Laws of 1950, Chapter 116 (C. 18:22-15.23-C. 18:22-15.24);

Laws of 1951, Chapter 128 (C. 18:8-23-C. 18:8-24);

Laws of 1951, Chapter 308 (C. 18:7-3.2-C. 18:7-3.4 incl.);

Laws of 1952, Chapter 160 (C. 18:5-50.17-C. 18:5-50.18);

Laws of 1953, Chapter 401 (C. 18:5-51.3);

Laws of 1954, Chapter 70 (C. 18:16-20.1);

Laws of 1954, Chapter 85, sections 1-17 incl., 19 (C. 18:10-29:30-C. 18:10-29.46 incl., C. 18:10-29.48);

Laws of 1955, Chapter 37 (C. 18:13-112.3-C. 18:13-112.75 incl.);

Laws of 1956, Chapter 33 (C. 18:14-86.1-C. 18:14-86.2);

Laws of 1956, Chapter 35 (C. 18:15-26.1);

Laws of 1956, Chapter 61 (C. 18:22-15.25-C. 18:22-15.61 incl.);

Laws of 1956, Chapter 158 (C. 18:13-4.1-C. 18:13-4.3 incl.);

Laws of 1957, Chapter 181, sections 1, 2, 3, 5, 6 (C. 18:14-64.1a-C. 18:14-64.1c incl., C. 18:14-64.1e-C. 18:14-64.1f);

Laws of 1959, Chapter 46 (C. 18:22-14.2-C. 18:22-14.17 incl.);

Laws of 1959, Chapter 104 (C. 18:14-71.36-C. 18:14-71.48 incl.);

Laws of 1959, Chapter 121 (C. 18:22A-1-C. 18:22A-27 incl.);

Laws of 1959, Chapter 177 (C. 18:24A-1-C. 18:24A-14 incl.);

Laws of 1962, Chapter 41 (C. 18:22-100-C. 18:22-124 incl.);

Laws of 1962, Chapter 172 (C. 18:22-125-C. 18:22-127 incl.);

Laws of 1962, Chapter 212, sections 1, 3 (C. 18:5-51.10-C. 18:5-51.11);

Laws of 1962, Chapter 232 (C. 18:14-71.35a-C. 18:14-71.35f incl.);

Laws of 1964, Chapter 232 (C. 18:22-15.63-C. 18:22-15.67 incl.);

Laws of 1964, Chapter 285 (C. 18:16-50);

Laws of 1965, Chapter 224 (C. 18:5-29.2);

Laws of 1965, Chapter 229 (C. 18:24-10.1-C. 18:24-10.5 incl.);

Laws of 1966, Chapter 26 (C. 18:14-8.2-C. 18:14-8.3);

Laws of 1966, Chapter 75 (C. 18:26-1-C. 18:26-12 incl.);

Laws of 1966, Chapter 106 (C. 18:22B-1-C. 18:22B-35 incl.);

Laws of 1966, Chapter 302, sections 1-33 incl., (C. 18:21A-1-C. 18:21A-33 incl.);

Laws of 1966, Chapter 303 (C. 18:1A-1-C. 18:1A-4 incl.);

Laws of 1967, Chapter 60 (C. 18:22-128-C. 18:22-131 incl.);

Laws of 1967, Chapter 192 (C. 18:22-15.11a-C. 18:22-15.11 1 incl.).

L.1967, c.271.

18A:76-4. Effective date

This law shall take effect January 1, 1968.

L.1967, c.271.

18A:3-5 1966, c. 302, article (C. 18:21A-34 to C. 18:21A-44 incl.)

ARTICLE V

34. All appropriations and other moneys available and to become available to any department, division, bureau or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education, are hereby transferred to the Department of Higher Education established hereunder, and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by State or Federal law.

35. Such employees of any department, commission, council, board, authority, office or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education or to any office, authority or agency designated, continued or constituted therein, as the Board of Higher Education may determine are needed for the proper performance of the functions and duties imposed upon the Department of Higher Education, or such office, authority or agency therein, are hereby transferred to the department, office, authority or agency to which such functions, powers and duties have been herein assigned or transferred.

36. Nothing in this act shall be construed to deprive any person of any tenure rights or of any right or protection provided him by Title 11, Civil Service, of the Revised Statutes, or under any pension law or retirement system.

37. All files, books, papers, records, equipment and other property of any department, commission, council, board, office, authority or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education or to any office, authority or agency designated, continued or constituted hereunder, shall upon the effective date of this act be transferred to the department, office, authority or agency to which such assignment or transfer has been made hereunder.

38. This act shall not affect the orders, rules and regulations heretofore made or promulgated by any department, commission, council, board, authority, officer or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education or to any officer, authority or agency designated, continued or constituted hereunder; but such orders, rules and regulations shall continue with full force and effect until amended or repealed pursuant to law.

39. This act shall not affect actions or proceedings, civil or criminal, brought by or against any department, commission, council, board, authority, officer or other agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education or to any officer, authority or agency designated, continued or constituted hereunder, and pending on the effective date of this act, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the department, officer, authority or agency to which such assignment or transfer has been made hereunder, as if the foregoing provisions had not

taken effect; nor shall any of the foregoing provisions affect any order or recommendation made by, or other matters or proceedings before, any department, commission, council, board, officer, authority or agency, the functions, powers and duties of which have been herein assigned or transferred to the Department of Higher Education or to any officer, authority or agency designated, continued or instituted hereunder, and all such matters or proceedings pending before such department, commission, council, board, officer, authority or other agency on the effective date of this act shall be continued by the department, officer, authority or agency to which such assignment or transfer has been made hereunder, as if the foregoing provisions had not taken effect.

40. Unless specifically otherwise provided in this act or by any operative law, whenever, pursuant to existing law, reports, certifications, applications or requests are required or permitted to be made to the department, board, division, commission, office or officer, whose powers and duties are herein assigned or transferred, such reports and certifications shall hereafter be required to be filed with, and such applications or requests shall hereafter be made to, the department, officer or agency to which such assignment or transfer has been made hereunder.

41. Whenever the term "State Board of Education" occurs or any reference is made thereto, the same shall be deemed to mean or refer to the Department of Higher Education and whenever the term "commissioner" occurs or any reference is made thereto, the same shall be deemed to mean or refer to the chancellor in any statute in Title 18 of the Revised Statutes which is applicable to any public institution of higher education.

42. This act being deemed and hereby declared necessary for the welfare of the State and the people of New Jersey to provide for the development of public higher education in the State and thereby to increase the efficiency of the public school system of the State, shall be liberally construed to effectuate the purposes and intent thereof.

43. All acts and parts of acts inconsistent with any of the provisions of this act are, to the extent of such inconsistency, hereby repealed; provided, however, that nothing in this act shall be construed as expressly or impliedly repealing any provision of the "Rutgers, The State University Act of 1956," P.L.1956, c. 61.

44. There is hereby appropriated to the Department of Higher Education the sum of \$75,000.00 to carry out the purpose of this act for the fiscal period ending June 30, 1967.

45. This act shall be known as, and may be cited as, the "Higher Education Act of 1966."

46. Section 44 of this act shall take effect immediately and the remainder of this act shall take effect on July 1, 1967, except that any appointment, and any confirmation or approval of any appointment, permitted by this act may be made prior to such date and the Department of Higher Education may expend such funds prior to said date as may be necessary to provide for the orderly transfer to the department of the powers and duties herein prescribed.

18A:6-32 1943, c. 187 (C. 18:5-50.14 to C. 18:5-50.16 incl.)

1. Any person holding office, position or employment under the government of any public school district or county vocational school system of this State or in any public educational institution under the control of the Commissioner of Education or the State Board of Education, who, after July first, one thousand nine hundred and forty, has entered, or hereafter shall enter, full time service of the American Red Cross, in time of war or an emergency, shall be entitled to all of the benefits and privileges concerning tenure and pensions as in this act provided.

2. Any such person who at the time of such entry was or is a member in good standing of the Teachers' Pension and Annuity Fund, if he was or shall be granted leave of absence to enter such service, shall not be subject to subsections "a" and "b" of section 18:13-41 of the Revised Statutes, and shall not lose his membership status which he enjoyed at the time of entering the service of any of said organizations providing he terminates his service with such organization within two years after the termination of such state of war or of emergency and resumes service under the government of any public school district or county vocational school system or in any public institution under the control of the Commissioner of Education or the State Board of Education within six months after the date of the termination of his service with the American Red Cross, and such person may contribute to said fund on the same basis as if said person had not entered said service or such contributions may be made for him by the board of education of said school district or by the board of education of said county vocational school system or by the State, as the case may be, during his said absence and until he shall resume the office, position or employment held by him as provided in this act or such person may within six months after resuming such office, position or employment make such contribution to said fund as may be requisite to complete his contributions to said fund to the date of the making of such contribution.

3. Any such person, being under tenure at the time of entering the service of the American Red Cross, who was or shall be granted a leave of absence by his employer or employing body for the length of such service; provided, he terminates such service within two years of the termination of such state of war or of emergency, and for six

months after the date of the termination of his service and shall be protected in the tenure rights which he possessed at the time of entering such service and shall be entitled to resume the office, position or employment, held by him at the time he entered such service, within three months from the time of making application therefor, provided such application is made within three months from the date of the termination of such service and provided that he terminates such service within two years after the termination of such state of war or of emergency.

18A:6-33 1944, c. 226 (C. 18:4A-1 to C. 18:4A-4 incl.)

1. Every person holding office, position or employment other than for a fixed term or period in the public school system of this State who, after July first, one thousand nine hundred and forty, has entered, or hereafter shall enter, the active military or naval service of the United States or of this State, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service, or who, after July first, one thousand nine hundred and forty, has entered or hereafter, in time of war, shall enter the active service of the Women's Army Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy, shall be entitled to all of the benefits and be subject to all of the terms and conditions of chapter one hundred nineteen of the laws of one thousand nine hundred and forty-one as amended and supplemented, except that if and in event that during his said leave of absence the salary of any such person was or shall be increased, or salary increments arising from the carrying out of a scale of salary increments in full force and effect applying to all persons employed in the same classification as such person, were or shall be granted, which such person would have enjoyed had he not entered such service, such person after resuming his said office, position or employment shall be entitled to said increased salary and shall be entitled to the benefit of said increased salary during his said leave of absence if his leave of absence was or is granted with pay.

2. Every person holding office, position or employment for a fixed term or period under the government of any school district of this State or in any public educational institution under the control of the Commissioner of Education or the State Board of Education, who, after July first, one thousand nine hundred and forty, has entered or hereafter shall enter, the active military or naval service of the United States or of this State, in time of war or an emergency, or for or during any period of training, or pursuant to or in connection with the operation of any system of selective service or who, after July first, one thousand nine hundred and forty, has entered or hereafter, in time of war, shall enter the active service of the Women's Army Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy, shall be granted leave of absence for the period of such service and for a further period of three months after receiving his discharge from such service. If any such person shall be incapacitated by wound or sickness at the time of his discharge from such service, his leave of absence shall be extended until three months after his recovery from such wound or sickness, or until the expiration of two years from the date of his discharge from such service, whichever shall first occur.

In no case shall such person be discharged or separated from his office, position or employment during such period of leave of absence because of his entry into such service. Such person shall be entitled to resume the office, position or employment held by him at the time of his entrance into such service; provided, he shall apply therefor before the expiration of his leave of absence; and provided, he shall be honorably discharged from such service, and shall be entitled to continue in such office, position or employment for a period of time equivalent to that part of the term or period for which he was employed, which had not expired at the time of his entering into such service and shall be re-employed in such office, position or employment for such additional period, if any, as when added thereto shall equal one year from the date of his resumption of such office, position or employment and in any such case the period or periods of employment served in said school district or public educational institution before entering such service and after his resumption of said office, position or employment shall be counted in determining his right to tenure in said office, position or employment in the same manner as though they had not been interrupted by his said leave of absence and if and in event that during his said leave of absence any such person's salary was or shall be increased or if salary increments arising from the carrying out of a scale of salary increments in full force and effect applying to all persons employed in the same classification as such person, were or shall be granted, which such person would have enjoyed had he not entered such service, such person after resuming his said office, position or employment shall be entitled to said increased salary and shall be entitled to the benefit of said increased salary during his leave of absence if his leave of absence was or is granted with pay. Upon resumption of his office, position or employment the service in such office, position or employment of the person temporarily filling the same shall immediately cease.

3. Any person holding any office, position or employment in the public school system of this State who, heretofore and subsequent to July first, one thousand nine hundred and forty, entered or hereafter, in time of war, shall enter the active military or naval service of the United States or the active service of the Women's Army Corps, the Women's Reserve of the Naval Reserve or any similar organization authorized by the United States to serve with the Army or Navy and who, at the time of such entry was or is a member in good standing of any pension, retirement or annuity fund, shall retain and have all of the rights, benefits and privileges in said pension, retirement or annuity fund prescribed by chapter two hundred fifty-two of the laws of one thousand nine hundred and forty-two as amended and supplemented and shall be subject to all the conditions and

provisions thereof except that if and in event that during his said leave of absence the salary of any such person was or shall be increased or if salary increments arising from the carrying out of a scale of salary increments in full force and effect in the school district or public educational institution in which such person was employed and applying to all persons so employed in the same classification as such person, were or shall be granted, which such person would have enjoyed had he not entered such service, his right to participate in the benefits of said pension, retirement or annuity fund and the amount of the contributions required by said act to be made to said pension, retirement or annuity fund shall be calculated on the basis of such increased salary.

4. The act entitled "An act concerning the holders of offices, positions and employments in the public schools of this State, concerning re-employment, acquisition of tenure and protecting pension rights when the holders of such offices, positions or employments enter the military or naval services of the United States, and supplementing Title 18 of the Revised Statutes," approved May nineteenth, one thousand nine hundred and forty-one (P.L.1941, c. 134), as said title was amended by chapter one hundred nineteen of the laws of one thousand nine hundred and forty-two (P.L.1942, c. 119) is repealed.

18A:8-39 R.S. 18:5-18

Districts consolidated prior to 1903, continued. Wherever prior to October nineteenth, one thousand nine hundred and three, any township, incorporated town or borough school district had been consolidated with an adjoining township, incorporated town, or borough school district, by an election of the legal voters of the township, incorporated town, or borough school district, so that on that date the same formed one combined or consolidated school district, and the legal voters of such district have not, since that time, rejected a proposition to confirm or continue the consolidation at an election called for that purpose, and the district has been, since that date, maintained and governed as one consolidated school district, such district shall continue to exist as a consolidated school district in the same manner as though the consolidated school district had been established by an election of the legal voters of the district held pursuant to section 18:5-14 of this title.

18A:8-40. R.S. 18:5-19

Bonds issued prior to 1903 by consolidated district. Where any school district issued bonds prior to October nineteenth, one thousand nine hundred and three, for the erection of a graded or high school building therein, and at the time of the issuance of the bonds and the erection of the building, the district comprised the territory of two adjoining municipalities the voters of which joined or participated in the election authorizing the issuance of the bonds, and the district was governed as a consolidated district on that date, such school district shall continue to be governed as a consolidated district in the same manner as though the consolidation had been effected in the manner provided by section 18:5-14 of this title, and the bonds so issued shall be deemed to have been and shall continue to be a lien upon the inhabitants and property of the municipalities comprising the school district at the time of the issuance thereof, notwithstanding any other provision of this title.

18A:8-41 1947, c. 86, s. 29 (C. 18:5-17.29)

29. Sections 18:5-14 to 18:5-17, both inclusive, of the Revised Statutes and "An act relating to the public schools of this State, and supplementing chapter five of Title 18 of the Revised Statutes," approved May seventh, one thousand nine hundred and thirty-eight, are repealed.

18A:24-4.1 1967, c. 75

1. Whenever it shall be determined that it is necessary to raise in any school district, additional sums of money, over and above the amount fixed and determined in the annual school budget of the 1967-68 fiscal year for the transportation of children to and from school, when the necessity of such transportation and the cost and method thereof have been approved by the county superintendent of schools of the county in which the district paying the cost of such transportation is situated, the board of education of the district is authorized to borrow in anticipation of the taxes to be raised, levied and collected to provide for said expenditures, such sum or sums as it may determine to be necessary for said purpose, upon its promissory notes bearing interest at a rate or rates not to exceed 6% per annum maturing not later than December 31, 1969.

2. The secretary of the board of education shall certify the amount to be raised to the county board of taxation within 5 days after the date of the borrowing.

3. In the case that such certificate shall be delivered to the county board of taxation on or prior to April 1, 1968, the amount so certified shall be raised, levied and collected by the taxes within that year and in case any such certificate shall be delivered to said board after April 1, 1968, the amount so certified shall be raised, levied and collected by taxes in the next year.

4. The amount so raised, levied and collected shall be paid to the custodian of school moneys of the district as other school moneys are paid and shall be used to pay the principal and interest due upon such notes as they mature.

5. The amounts paid for interest upon said notes shall be reimbursed in full by the State to a school district for the fiscal year in which said payment is made and the county superintendent of schools of the county in which the district paying such interest is situated shall upon the receipt of a claim from the school district certify

this amount to the Commissioner of Education. Payments shall be made by the State Treasurer to each school district upon certificate of the Commissioner of Education and warrant of the Director of the Division of Budget and Accounting. Said payments shall be made as follows: interest paid prior to June 30, 1968 on August 1, 1968; interest paid from July 1, 1968 to June 30, 1969 on August 1, 1969; and interest paid from July 1, 1969 to December 31, 1969 on February 1, 1970.

18A:24-28.1 1964, c. 73, s. 8 (C. 18:5-84.2)

8. Proceedings for the authorization of bonds by any school district initiated by adoption of a resolution of the board of education of the school district calling a special school district meeting or election, or initiated by endorsement of a bonding proposal by the Commissioner of Education pursuant to section 18:5-86 of the Revised Statutes, or initiated by passage on first reading of an ordinance of any municipality authorizing bonds for school purposes pursuant to section 18:6-61 of the Revised Statutes, may in each instance proceed to the completion of the authorization of such bonds in accordance with the provisions of Title 18, Education, of the Revised Statutes, as if this act had not taken effect, and any such bonds, or promissory notes or temporary loan bonds in anticipation of such bonds so authorized, and any bonds, promissory notes or temporary loan bonds of any school district.

18A:24-62 R.S. 18:7-84

Notes for certain purposes; bonds to redeem notes. Whenever the board of education of a school district has heretofore issued and sold or shall hereafter issue and sell a note or notes for the purpose of purchasing land, the erection of a schoolhouse, the purchase of furniture and equipment for such schoolhouse, the erection of an addition to any schoolhouse, or the repair or improvement of any schoolhouse, and such note or notes are now or shall hereafter be outstanding and unpaid, the board of education may issue bonds for the purpose of redeeming and paying such notes. Such bonds shall be authorized and issued in the same manner as bonds for the erection or improvement of schoolhouses are authorized to be issued in the district.

18A:28-7 1957, c. 181, s. 4 (C. 18:14-64.1d)

4. Section 18:14-64.1 of the Revised Statutes is repealed, provided that the repeal of the said act shall not in any manner affect any tenure of service or tenure of service rights to which any person was entitled thereunder on the effective date of this act but said tenure of service and tenure of service rights shall continue with the same force and effect as though said act had not been repealed.

18A:58-19 1954, c. 85, s. 18 (C. 18:10-29.47)

18. Repealers. The following acts and parts of acts and all amendments and supplements thereto are hereby repealed:

P.L.1946, c. 63; P.L.1948, c. 66; P.L.1951, c. 227.

Sections 18:10-49, 18:12-4 through 18:12-9, and 18:15-6 through 18:15-16 of the Revised Statutes.

18A:65-9.1 1956, c. 61, s. 36 (C. 18:22-15.60)

36. (a) Section 3 of Chapter 49 of the Laws of 1945, approved March 26, 1945 (R.S. 18:22-15.3), is hereby repealed, effective September 1, 1956;

(b) The resolutions adopted by the Corporation on February 18, 1927 and on April 8, 1932, certificates of which were filed in the office of the Secretary of State on February 21, 1927 and April 25, 1932, respectively, increasing the number of ex-officio Trustees, shall, effective September 1, 1956, be of no further force or effect, except so much thereof as applies to the Commissioner of Education; and

(c) All acts and parts of acts inconsistent with the provisions of this Act are hereby repealed, effective September 1, 1956; and all provisions of the Charter and resolutions of the Board of Trustees of the Corporation inconsistent with the provisions of this Act shall be of no further force or effect on and after September 1, 1956.

18A:66-91 1955, c. 37, s. 3 (C. 18:13-112.5)

3. Sections 24 to 110, inclusive, of chapter 13 of Title 18 of the Revised Statutes of New Jersey with all amendments and supplements thereto are repealed as of the effective date of this act; provided, however, that the Teachers' Pension and Annuity Fund is hereby continued with the membership, all securities, investments and other assets and, except as provided herein, all obligations and liabilities existing as of the effective date of this act, to be hereafter administered in accordance with the provisions of this act. Any benefits and allowances granted under the statutes repealed by this section prior to the effective date of this act shall be continued in the same manner and under the same conditions as originally granted.

18A:66-92 1966, c. 66, s. 11 (C. 18:13-112.70f)

11. The following acts and parts of acts are repealed, effective July 1, 1966:

P.L.1955, c. 37, s. 68;

P.L.1956, c. 218;

P.L.1960, c. 123;

P.L.1962, c. 108; and

P.L.1964, c. 190.

The repeal of the aforesaid section and acts shall not be construed to provide for any retroactive effect. Where a member's retirement allowance was reduced by the amount of the old age insurance benefit under Title II of the Social Security Act, paid or payable to him, whether received or not, or if such reduction is to be made upon the member's attainment of 65, on or after July 1, 1966 such reductions shall cease or no reduction shall be made.

18A:66-93 1966, c. 66, s. 12 (C. 18:13-112.35a)

12. The liabilities established pursuant to section 33(a) of the act to which this act is amendatory and supplementary on account of veteran members employed as teachers on January 1, 1955 shall be proportionately increased for each such school district to cover the additional liabilities created by section 11 of this act for all veterans who were employed as teachers on January 1, 1955 and who are employed as teachers on June 30, 1966. Such increased liabilities shall be paid annually in the manner prescribed by section 33(a) of the act to which this act is amendatory and supplementary over the remainder of the 30-year period established for the liquidation of the liabilities.

1966, c. 66, s. 13 (C. 18:13-112.35b)

13. a. In addition to the amounts required of the State and other employers pursuant to sections 18 and 33 of the act to which this act is amendatory and supplementary, the additional liabilities created by the provisions of this amendatory and supplementary act, except for those provided for under section 12 of this act, shall be computed by the actuary and shall be paid by the State beginning July 1, 1967 through (1) an increase in the normal rate of contribution and (2) an accrued liability contribution, which, if paid in each fiscal year, for a period of 30 years, will provide for this accrued liability.

b. The liability created by P.L.1962, chapter 108, shall be recomputed by the actuary and added to the additional liabilities created by the provisions of this amendatory and supplementary act. The recomputed liability shall be paid by the State as part of the payment established by subsection (a) of this section, allowing a credit for the payments already made by the State towards the funding of this liability.