

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 Secretary of Higher Education, who 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; amended 2009, c.308, s.32; 2012, c.42, 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 and to finance the administrative costs associated with the approval process and the issuance of bonds provided that the total outstanding principal amount of the bonds shall not exceed \$100,000,000, except that all administrative costs associated with the

approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued, 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; amended 2009, c.308, s.33.

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 Secretary of Higher Education may apportion the amounts authorized in subsection g. among any other amounts authorized in subsections a. through f.

The Secretary 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 Secretary 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; amended 2009, c.308, s.34; 2012, c.42, s.3.

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 Secretary of Higher Education has approved the purchase of the higher education equipment by the institution. The secretary shall provide a written certification of such approval including the amount approved to the authority.

L.1993, c.136, s.8; amended 2009, c.308, s.35; 2012, c.42, s.4.

18A:72A-45.1 JBOC approval required for lease agreement.

23. The authority shall not enter into a lease agreement with an institution of higher education without the review and approval of the Joint Budget Oversight Committee. The Joint Budget Oversight Committee shall approve or disapprove each lease agreement within 10 working days of receipt of the lease information or the lease agreement shall be deemed approved.

L.2012, c.42, s.23.

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 Secretary 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 secretary and financed by the New Jersey Educational Facilities Authority pursuant to lease agreements with the institutions.

L.1993, c.136, s.10; amended 2009, c.308, s.36; 2012, c.42, s.5.

18A:72A-48 Rules, regulations.

11. The Secretary 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; amended 2009, c.308, s.37; 2012, c.42, s.6.