

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 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; amended 2017, c.98, s.21.

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 Secretary 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 secretary for a grant within 18 months of the effective date of this act.

The Secretary 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 Secretary of Higher Education shall continue the policy of encouraging institutions to solicit bids from, and award contracts to, minority and women-owned businesses.

L.1993, c.375, s.5; amended 2009, c.308, s.38; 2012, c.42, s.7.

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 Secretary 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 Secretary of Higher Education shall review the application and approve or disapprove the grant. For each grant which is approved, the secretary shall establish the amount and shall send a written certification of such approval including the amount approved to the authority.

c. The Secretary of Higher Education shall submit to the Legislature a copy of the written certification of the approval of the grant and the amount thereof. 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 secretary to the Joint Budget Oversight Committee for its approval prior to the commission's submission of the resolution to the Legislature. The secretary 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; amended 2009, c.308, s.39; 2012, c.42, s.8.

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 Secretary 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; amended 2009, c.308, s.40; 2012, c.42, s.9.

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 four members as follows: the Secretary of Higher Education; the State Treasurer or a designee; the President of the Senate or a designee; and the Speaker of the General Assembly or a designee. The board shall ensure that the revenue provided to the trust fund is adequate to support the grants approved by the Secretary 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 Secretary 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; amended 2009, c.308, s.41; 2012, c.42, s.10.

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, provided that the total outstanding principal amount of the bonds or notes shall not exceed \$220,000,000, 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 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; 2009, c.308, s.42.

18A:72A-58 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.375, s.11; amended 2009, c.308, s.43; 2012, c.42, s.11.