

[First Reprint]

SENATE, No. 3281

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 1, 2017

Sponsored by:

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District 34 (Essex and Passaic)

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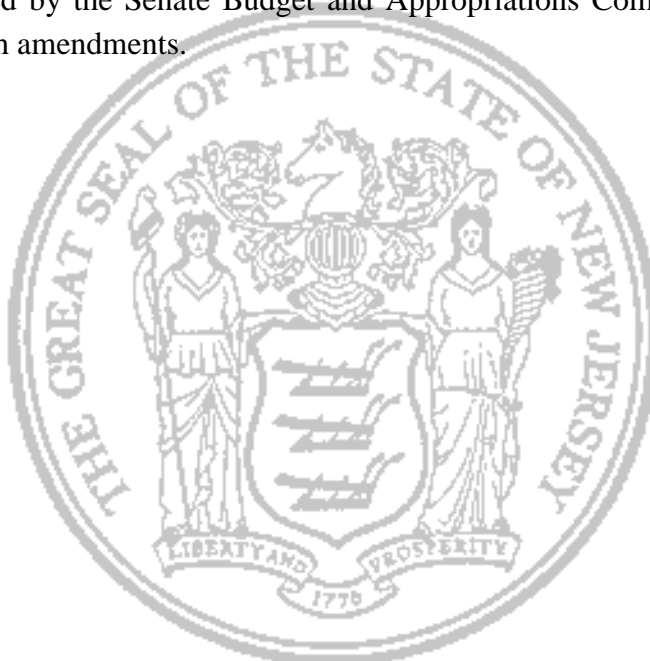
**Senators Weinberg, Pou, Sarlo, Gordon, Bateman, Singer, A.R.Bucco,
T.Kean and Codey**

SYNOPSIS

Establishes Montclair State University as public research university.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 26, 2017, with amendments.



(Sponsorship Updated As Of: 6/27/2017)

1 AN ACT concerning Montclair State University and supplementing
2 and amending Title 18A of the New Jersey Statutes.

3

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

6

7 1. (New section) This act shall be known and may be cited as
8 the "Montclair State University Act."

9

10 2. (New section) The Legislature finds and declares that:

11 a. Montclair State University is a State university located in
12 Montclair, Little Falls, Clifton, and Branchville, New Jersey,
13 currently operating pursuant to the authority granted to State
14 colleges by N.J.S.18A:64-1 et seq. and P.L.1994, c.48 (C.18A:3B-1
15 et seq.).

16 b. Building on a distinguished 108-year history, Montclair
17 State University is a leading institution of higher education in New
18 Jersey. The university's 10 colleges and schools serve 21,000
19 undergraduate and graduate students in more than 300 doctoral,
20 master's, and baccalaureate level programs.

21 c. Montclair State University is currently comprised of the
22 College of Humanities and Social Sciences, the College of Science
23 and Mathematics, the College of Education and Human Services,
24 the Feliciano School of Business, the College of the Arts, the John
25 J. Cali School of Music, the School of Communication and Media,
26 the Graduate School, the School of Nursing, and the New Jersey
27 School of Conservation.

28 d. Effective February 1, 2016, the national Carnegie
29 Classification of Institutions of Higher Education, which is the
30 widely recognized classification of United States institutions of
31 higher education, recognized Montclair State University as a
32 Research Doctoral University, based on the substantial growth at
33 the institution in doctoral-level education and research activity.

34 e. Effective March 31, 2016, the Office of the Secretary of
35 Higher Education officially changed Montclair State University's
36 programmatic mission to a doctoral degree-granting institution.

37 f. Pursuant to the Carnegie Classification of Institutions of
38 Higher Education, doctoral universities are ranked at three levels:
39 Research 1, which have the highest research activity; Research 2,
40 which have higher research activity; and Research 3, which have
41 moderate research activity. Among the public universities in New
42 Jersey, Rutgers-New Brunswick is a Research 1 university; NJIT
43 and Rutgers-Newark are Research 2 universities; and Montclair
44 State University and Rowan University are Research 3 universities.
45 Of these institutions, only Montclair State University has not been

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 26, 2017.

1 recognized as a public research university by the State of New
2 Jersey.

3 g. Montclair State University has successfully expanded its
4 research activities and doctoral programs and its ability to attract
5 federal funds for research from the National Science Foundation,
6 the National Institutes of Health, the National Aeronautics and
7 Space Administration, the United States Department of Education,
8 and other federal agencies.

9 h. Examples of important faculty research initiatives at the
10 university include projects: to develop medical countermeasures for
11 botulinum neurotoxin; to better evaluate drugs that inhibit, and find
12 the causative agents of, Parkinson's Disease; to study the
13 catastrophic collapse of ice shelves in the Antarctic; to solve the
14 challenges of positioning autonomous vehicles in the ocean; to
15 understand how urban students can come to think of themselves as
16 mathematicians; to understand the sociodemographic factors
17 contributing to racial and ethnic disparities in cancer prevention; to
18 study the psychological effects on victims of natural disasters such
19 as Superstorm Sandy; to evaluate the effectiveness of the portfolio
20 management model being utilized in urban elementary schools; and
21 to understand the unpredictable dynamics of stochastic disease
22 spread.

23 i. These contributions to knowledge and the offering of
24 advanced higher education programs are reflective of Montclair
25 State University's historic contributions to New Jersey. Established
26 in 1908, Montclair State University was the first of the State
27 colleges to offer graduate programs in 1932.

28 j. In the past 15 years, Montclair State University has worked
29 strategically and aggressively to grow enrollment, faculty, and
30 facilities, and that growth has enabled the university to expand its
31 educational programs and research initiatives in service to the State
32 and the nation.

33 k. In light of Montclair State University's actual and successful
34 transformation to a public research doctoral university and in
35 recognition of the university's change in programmatic mission, it
36 is appropriate at this time to designate Montclair State University as
37 a public research university.

38
39 3. (New section) As used in this act "Montclair State
40 University," hereinafter referred to as "university," shall, unless the
41 context clearly indicates to the contrary, include and mean the
42 public research university herein designated "Montclair State
43 University" as presently and hereafter constituted, including all
44 departments, colleges, schools, centers, branches, educational and
45 other units and extensions thereof, extension and cooperative
46 education programs, continuing education programs and all other
47 departments of higher education maintained by the educational
48 entity of the university.

1 4. (New section) There is hereby established a body corporate
2 and politic to be known as Montclair State University. The exercise
3 by the university of the powers conferred by this act shall be
4 deemed to be public and essential governmental functions necessary
5 for the welfare of the State and the people of New Jersey.

6
7 5. (New section) It is declared to be the public policy of the
8 State that the university shall be given a high degree of self-
9 government and that the governance and conduct of the university
10 shall be free of partisanship.

11
12 6. (New section) The board of trustees of the university is
13 continued and shall have and exercise the powers, authority, rights
14 and privileges and shall be subject to the duties, obligations, and
15 responsibilities set forth in this act.

16
17 7. (New section) a. The composition and size of the board of
18 trustees shall be determined by the board; however, the board shall
19 have not less than seven nor more than 15 members. The members
20 shall be appointed by the Governor with the advice and consent of
21 the Senate. The board of trustees shall recommend potential new
22 members to the Governor. The terms of office of appointed
23 members shall be for six years beginning on July 1 and ending on
24 June 30. Each member shall serve until his successor shall have
25 been appointed and qualified and vacancies shall be filled in the
26 same manner as the original appointments for the remainders of the
27 unexpired terms. Any member of a board of trustees may be
28 removed by the Governor for cause upon notice and opportunity to
29 be heard.

30 b. Members of the board as of the effective date of this act
31 shall continue in office until the expiration of their respective terms
32 and the qualification in office of their successors.

33 c. All voting members of the board of trustees, before
34 undertaking the duties of their office, shall take and subscribe an
35 oath or affirmation to support the Constitution of the State of New
36 Jersey and of the United States, to bear allegiance to the
37 government of the State, and to perform the duties of their office
38 faithfully, impartially and justly, to the best of their ability.

39 d. Members of the board of trustees shall not receive
40 compensation for their services. Each trustee shall be reimbursed
41 for actual expenses reasonably incurred in the performance of his
42 duties or in rendering service as a member of or on behalf of the
43 board or any committee of the board.

44 e. The board of trustees shall elect its chairperson from among
45 its voting members annually in July. The board shall select such
46 other officers from among its members as shall be deemed
47 necessary.

1 f. A voting member of the board of trustees shall not be a
2 salaried official of the State of New Jersey, or receive remuneration
3 for services from the university. If any member of the board shall
4 become ineligible by reason of the foregoing, a vacancy in his
5 office as trustee shall thereby occur.

6 g. The board of trustees shall have the power to appoint and
7 regulate the duties, functions, powers and procedures of
8 committees, standing or special, from its members and such
9 advisory committees or bodies as it may deem necessary or
10 conducive to the efficient management and operation of the
11 university, consistent with this act and other applicable statutes.

12

13 8. (New section) The board of trustees of the university shall
14 provide for the election of two student representatives, who shall be
15 full-time, regularly matriculated students in good academic
16 standing, and who shall be 18 years of age or older and citizens of
17 the United States. The student representatives shall be elected by
18 the members of the student government association to serve on the
19 board of trustees for terms of two years commencing at the next
20 organization of the board.

21 a. A student shall be elected for a two-year term, but shall
22 serve during the first year as an alternate member, and as a voting
23 member during the second year.

24 Any vacancies which occur shall be filled by the student
25 governing body for the unexpired term only.

26 b. The standards for eligibility for student representatives on
27 the board of trustees shall be the same as those required for other
28 student government officers.

29 c. The student members shall be entitled to full participation in
30 all activities of the board except that they shall not participate in:

31 (1) Any matter involving the employment, appointment,
32 termination of employment, terms and conditions of employment,
33 evaluation of the performance of, promotion or disciplining of any
34 specific prospective officer or employee or current officer or
35 employee employed or appointed by the board, unless all the
36 individual employees or appointees whose rights could be adversely
37 affected request in writing that the matter or matters be discussed at
38 a public meeting;

39 (2) Any matter involving the purchase, lease, acquisition or sale
40 of real property with public funds, the setting of banking rates or
41 investment of public funds, where it could adversely affect the
42 public interest if discussion of these matters were disclosed; and

43 (3) Any pending or anticipated litigation in which the board is,
44 or may become, a party, where it could adversely affect the public
45 interest if discussion of these matters were disclosed, or any matters
46 falling within the attorney-client privilege, to the extent that
47 confidentiality is required in order for the attorney to exercise his
48 ethical duties as a lawyer.

1 d. Upon assuming office, the students shall agree to adhere to
2 such standards of responsibility and confidentiality as are
3 established by the board of trustees.

4

5 9. (New section) The board of trustees of Montclair State
6 University shall have the general supervision over and be vested
7 with the conduct of the university. It shall have the power and duty
8 to:

9 a. Adopt and use a corporate seal;

10 b. Determine the educational curriculum and program of the
11 university;

12 c. Determine policies for the organization, administration, and
13 development of the university;

14 d. Study the educational and financial needs of the university,
15 annually acquaint the Governor and Legislature with the condition
16 of the university, and prepare and submit an annual request for
17 appropriation to the Division of Budget and Accounting in the
18 Department of the Treasury in accordance with law;

19 e. Disburse all moneys appropriated to the university by the
20 Legislature and all moneys received from tuition, fees, auxiliary
21 services and other sources;

22 f. Direct and control expenditures and transfers of funds
23 appropriated to the university in accordance with the provisions of
24 the State budget and appropriation acts of the Legislature, and, as to
25 funds received from other sources, direct and control expenditures
26 and transfers in accordance with the terms of any applicable trusts,
27 gifts, bequests, or other special provisions, reporting changes and
28 additions thereto and transfers thereof to the Director of the
29 Division of Budget and Accounting in the Department of the
30 Treasury. All accounts of the university shall be subject to audit by
31 the State at any time;

32 g. In accordance with the provisions of the State budget and
33 appropriation acts of the Legislature, appoint and fix the
34 compensation and term of office of a president of the university
35 who shall be the executive officer of the university and an ex officio
36 member of the board of trustees, without vote, and shall serve at the
37 pleasure of the board of trustees;

38 h. In accordance with the provisions of the State budget and
39 appropriation acts of the Legislature, appoint, upon nomination of
40 the president, such deans and other members of the academic,
41 administrative, and teaching staffs as shall be required and fix their
42 compensation and terms of employment;

43 i. Consistent with the provisions of its budget, this act and any
44 and all controlling collective bargaining agreements, have the
45 power, upon nomination or recommendation of the president, to
46 appoint, remove, promote and transfer all other officers, agents, or
47 employees which may be required to carry out the provisions of this
48 act and prescribe qualifications for those positions, and assign

- 1 requisite duties and determine and fix respective compensation for
2 those positions in accordance with duly adopted salary program
3 parameters;
- 4 j. Grant diplomas, certificates or degrees;
- 5 k. Enter into contracts and agreements with the State or any of
6 its political subdivisions or with the United States, or with any
7 public body, department or other agency of the State or the United
8 States or with any individual, firm or corporation which are deemed
9 necessary or advisable by the board for carrying out the provisions
10 of this act. A contract or agreement pursuant to this subsection may
11 require a municipality to undertake obligations and duties to be
12 performed subsequent to the expiration of the term of office of the
13 elected governing body of such municipality which initially entered
14 into or approved said contract or agreement, and the obligations and
15 duties so incurred by such municipality shall be binding and of full
16 force and effect, notwithstanding that the term of office of the
17 elected governing body of such municipality which initially entered
18 into or approved said contract or agreement, shall have expired;
- 19 l. Exercise the right of eminent domain, pursuant to the
20 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
21 (C.20:3-1 et seq.), to acquire any property or interest therein;
- 22 m. Adopt, after consultation with the president and faculty,
23 bylaws and make and promulgate such rules, regulations, and
24 orders, not inconsistent with the provisions of this act as are
25 necessary and proper for the administration and operation of the
26 university and the carrying out of its purposes;
- 27 n. Establish fees for room and board sufficient for the
28 operation, maintenance, and rental of student housing and food
29 services facilities;
- 30 o. Fix and determine tuition rates and other fees to be paid by
31 students;
- 32 p. Accept from any government or governmental department,
33 agency or other public or private body or from any other source
34 grants or contributions of money or property which the board may
35 use for or in aid of any of its purposes;
- 36 q. Acquire, by gift, purchase, condemnation or otherwise, own,
37 lease, dispose of, use and operate property, whether real, personal
38 or mixed, or any interest therein, which is necessary or desirable for
39 university purposes;
- 40 r. Employ architects to plan buildings; secure bids for the
41 construction of buildings and for the equipment thereof; make
42 contracts for the construction of buildings and for equipment; and
43 supervise the construction of buildings;
- 44 s. Manage and maintain, and provide for the payment of all
45 charges on and expenses in respect of, all properties utilized by the
46 university;
- 47 t. Borrow money and to secure the same by a mortgage on its
48 property or any part thereof, and to enter into any credit agreement

1 for the needs of the university, as deemed requisite by the board, in
2 such amounts and for such time and upon such terms as may be
3 determined by the board, provided that no such borrowing shall be
4 deemed or construed to create or constitute a debt, liability, or a
5 loan or pledge of the credit or be payable out of property or funds,
6 other than moneys appropriated for that purpose, of the State;

7 u. Authorize any new program, educational department or
8 school consistent with the programmatic mission of the institution
9 or approved by the Secretary of Higher Education;

10 v. Adopt standing operating rules and procedures for the
11 purchase of all equipment, materials, supplies and services;
12 however, no contract on behalf of the university shall be entered
13 into for the purchase of services, materials, equipment and supplies,
14 for the performance of any work, or for the hiring of equipment or
15 vehicles, where the sum to be expended exceeds \$33,000 or the
16 amount determined by the Governor as provided herein, unless the
17 university shall first publicly advertise for bids and shall award the
18 contract to that responsible bidder whose bid, conforming to the
19 invitation for bids, will be most advantageous to the university,
20 price and other factors considered. Such advertising shall not be
21 required in those exceptions created by the board of trustees of the
22 university, which shall be in substance those exceptions contained
23 in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10) and section
24 5 of P.L.1986, c.43 (C.18A:64-56) or for the supplying of any
25 product or the rendering of any service by a public utility subject to
26 the jurisdiction of the Board of Public Utilities of this State and
27 tariffs and schedules of the charges made, charged, or exacted by
28 the public utility for any such products to be supplied or services to
29 be rendered are filed with the said board. Commencing July 1, 2017
30 and every two years thereafter, the Governor, in consultation with
31 the Department of the Treasury, shall adjust the threshold amount
32 set forth in this paragraph in direct proportion to the rise or fall of
33 the consumer price index for all urban consumers in the New York
34 City and the Philadelphia areas as reported by the United States
35 Department of Labor. The Governor shall notify the university of
36 the adjustment. The adjustment shall become effective on July 1 of
37 the year in which it is reported.

38 This subsection shall not prevent the university from having any
39 work performed by its own employees, nor shall it apply to repairs,
40 or to the furnishing of materials, supplies or labor, or the hiring of
41 equipment or vehicles, when the safety or protection of its or other
42 public property or the public convenience requires or the exigency
43 of the university's service will not admit of such advertisement. In
44 such case, the university shall, by resolution passed by the
45 affirmative vote of its board of trustees, declare the exigency or
46 emergency to exist, and set forth in the resolution the nature and
47 approximate amount to be expended; shall maintain appropriate
48 records as to the reason for such awards; and shall report regularly

1 to its board of trustees on all such purchases, the amounts and the
2 reasons therefor;

3 w. Invest certain moneys in such obligations, securities and
4 other investments as the board shall deem prudent, consistent with
5 the purposes and provisions of this act and in accordance with State
6 and federal law, as follows:

7 Investment in not-for-profit corporations or for-profit
8 corporations organized and operated pursuant to the provisions of
9 subsection x. of this section may utilize income realized from the
10 sale or licensing of intellectual property as well as the reinvestment
11 of earnings on intellectual property. Investment in not-for-profit
12 corporations may also utilize income from overhead grant fund
13 recovery as permitted by federal law as well as other university
14 funds except those specified in paragraph 5 of subsection x. of this
15 section;

16 x. (1) Participate as the general partner or as a limited partner,
17 either directly or through a subsidiary corporation created by the
18 university, in limited partnerships, general partnerships, or joint
19 ventures engaged in the development, manufacture, or marketing of
20 products, technology, scientific information or services and create
21 or form for-profit or not-for-profit corporations to engage in such
22 activities; provided that any such participation shall be consistent
23 with the mission of the university and the board shall have
24 determined that such participation is prudent;

25 (2) The decision to participate in any activity described in
26 paragraph (1) of this subsection, including the creation or formation
27 of for-profit or not-for-profit corporations, shall be articulated in the
28 minutes of the board of trustees meeting in which the action was
29 approved;

30 (3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.)
31 shall continue to apply to the university, its employees, and
32 officers;

33 (4) Nothing herein shall be deemed or construed to create or
34 constitute a debt, liability, or a loan or pledge of the credit or be
35 payable out of property or funds of the State;

36 (5) Funds directly appropriated to the university from the State
37 or derived from the university's academic programs shall not be
38 utilized by the for-profit or not-for-profit corporations organized
39 and operated pursuant to this subsection in the development,
40 manufacture, or marketing of products, technology or scientific
41 information;

42 (6) Employees of any joint venture, subsidiary corporation,
43 partnership, or other jural entity entered into or owned wholly or in
44 part by the university shall not be deemed public employees;

45 (7) A joint venture, subsidiary corporation, partnership, or other
46 jural entity entered into or owned wholly or in part by the university
47 shall not be deemed an instrumentality of the State of New Jersey;

- 1 (8) Income realized by the university as a result of participation
2 in the development, manufacture, or marketing of products,
3 technology, or scientific information may be invested or reinvested
4 pursuant to subsection w. of this section or any other provision of
5 this act or State or federal law or retained by the board for use in
6 furtherance of any of the purposes of this act or of other applicable
7 statutes;
- 8 (9) The board shall annually report to the State Treasurer on the
9 operation of all joint ventures, subsidiary corporations,
10 partnerships, or such other jural entities entered into or owned
11 wholly or in part by the university;
- 12 y. Sue and be sued in its own name;
- 13 z. Retain independent counsel including representation by the
14 Attorney General in accordance with subsection h. of section 6 of
15 P.L.1994, c.48 (C.18A:3B-6);
- 16 aa. (1) Procure and enter into contracts for any type of insurance
17 and indemnify against loss or damage to property from any cause,
18 including loss of use and occupancy, against death or injury of any
19 person, against employees' liability, against any act of any member,
20 officer, employee or servant of the university, whether part-time,
21 full-time, compensated or non-compensated in the performance of
22 the duties of his office or employment or any other insurable risk.
23 In addition, the university shall carry its own liability insurance or
24 maintain an actuarially sound program of self insurance. Any joint
25 venture, subsidiary corporation, or partnership or such other jural
26 entity entered into or owned wholly or in part by the university shall
27 carry insurance or maintain reserves in such amounts as are
28 determined by an actuary to be sufficient to meet its actual or
29 accrued claims;
- 30 (2) Moneys in the fund known as the Self-Insurance Trust Fund
31 administered by the State Treasurer shall continue to be available to
32 the university solely to indemnify and defend claims against the
33 university and its employees, officers and servants but only to the
34 extent that the university has elected on behalf of itself and its
35 employees to obtain representation from the Attorney General
36 pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-
37 6) and such entity or individuals would have been entitled to
38 defense and indemnification pursuant to the "New Jersey Tort
39 Claims Act," N.J.S.59:1-1 et seq., as a State entity or State
40 employee but for the provision of subsection z. of this section. Any
41 expenditure of such funds shall be made only in accordance with
42 the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et
43 seq., including but not limited to the provisions of chapters 10, 10A
44 and 11 of Title 59 of the New Jersey Statutes. Nothing herein shall
45 be construed to authorize the use of the Self-Insurance Trust Fund
46 to indemnify or insure in any way, directly or indirectly the
47 activities of any joint venture, partnership or corporation entered

1 into or created by the university pursuant to subsection x. of this
2 section;

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

5 cc. Adopt a code of ethics that complies with the requirements
6 of all statutes applicable to the institution, including, but not
7 limited, to the "Higher Education Restructuring Act of 1994,"
8 P.L.1994, c.48 (C.18A:3B-1 et al.), the "New Jersey Conflicts of
9 Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.), regulations of
10 the State Ethics Commission, and any applicable executive orders;
11 and

12 dd. Establish a procedure for the confidential, anonymous
13 submission of employee concerns regarding alleged wrongdoing at
14 the university.

15

16 10. (New section) Notwithstanding the provisions of section 43
17 of P.L.2009, c.90 (C.18A:64-85) to the contrary, the university may
18 enter into a public-private partnership agreement in accordance with
19 the provisions of that section.

20

21 11. (New section) a. The university is authorized to be a
22 participating contracting unit in a cooperative pricing system
23 established pursuant to the laws of this State.

24 b. The university may make purchases and contract for services
25 through the use of a nationally-recognized and accepted cooperative
26 purchasing agreement, including a cooperative purchasing
27 agreement in existence as of the effective date of P.L.2016, c.50
28 (C.18A:64-63.1 et al.), in accordance with the provisions of
29 paragraph (3) of subsection b. of section 7 of P.L.1996, c.16
30 (C.52:34-6.2).

31 c. The State Treasurer may promulgate rules and regulations
32 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes
34 of this section.

35

36 12. (New section) All functions, powers and duties relating to
37 the investment or reinvestment of funds other than those funds
38 specified in subsection w. of section 9 of P.L. , c. (C.)
39 (pending before the Legislature as this bill) within the jurisdiction
40 of the board of trustees including the purchase, sale, or exchange of
41 any investments or securities may be exercised and performed by
42 the Director of the Division of Investment in the Department of the
43 Treasury in accordance with the provisions of P.L.1950, c.270
44 (C.52:18A-79 et seq.) if so authorized by the board. Before any
45 such investment, reinvestment, purchase, sale, or exchange shall be
46 made by the director for or on behalf of the board of trustees, the
47 Director of the Division of Investment shall submit the details
48 thereof to the board, which shall, itself or by its finance committee,

1 within 48 hours, exclusive of Sundays and public holidays, after
2 such submission to it, file with the director its written acceptance or
3 rejection of such proposed investment, reinvestment, purchase, sale,
4 or exchange; and the director shall have authority to make such
5 investment, reinvestment, purchase, sale, or exchange for or on
6 behalf of the board, unless there shall have been filed with him a
7 written rejection thereof by the board or its finance committee as
8 herein provided. The board of trustees shall determine from time to
9 time the cash requirements of the various funds and accounts
10 established by it and the amount available for investment, all of
11 which shall be certified to the State Treasurer and the Director of
12 the Division of Investment.

13 The finance committee of the board of trustees shall consist of
14 three members of the board who shall be appointed in the same
15 manner and for the same term as other committees of the board are
16 appointed.

17

18 13. (New section) The university shall maintain an Internet
19 website for the board of trustees. The purpose of the website shall
20 be to provide increased public access to board operations and
21 activities. The following information shall be posted on the board's
22 website:

23 a. the board's rules, regulations, resolutions, and official policy
24 statements;

25 b. notice, posted at least five business days prior to a meeting
26 of the board or any of its committees, setting forth the time, date,
27 location, and agenda of the meeting;

28 c. the minutes of each meeting of the board and its committees;
29 and

30 d. information on any contract entered into by the board that
31 was not competitively bid and the statutory authority for the
32 contracting process.

33 The website shall be updated on a regular basis.

34

35 14. (New section) The board of trustees, in addition to the other
36 powers and duties provided herein, shall be vested with the right of
37 perpetual succession and shall have and exercise all the powers,
38 rights, and privileges that are incident to the proper governance,
39 conduct, and management of the university and the control of its
40 properties and funds and such powers granted to the university or
41 the board or reasonably implied, may be exercised without recourse
42 or reference to any department or agency of the State, except as
43 otherwise provided by this act.

44

45 15. (New section) The board shall appoint and fix the
46 compensation of a president of the university. The president shall
47 be responsible to the board of trustees and shall have such powers
48 as shall be requisite for the executive management and conduct of

1 the university in all departments, branches and divisions, and for the
2 execution and enforcement of bylaws, ordinances, rules,
3 regulations, statutes, and orders governing the management,
4 conduct and administration of the university.

5
6 16. (New section) No trustee or officer of the university shall be
7 personally liable for any debt, obligation, or other liability of the
8 university or incurred by or on behalf of the university or any
9 constituent unit thereof.

10
11 17. (New section) The board of trustees shall advise the
12 Governor and Legislature, in consultation with the Secretary of
13 Higher Education and the President's Council and successor bodies,
14 on the manner in which the facilities and services of the university
15 may be utilized so as to increase the efficiency of the public
16 education system and provide, maintain, and improve upon the
17 quality of higher education for the people of the State. The board of
18 trustees shall make recommendations to the Governor and the
19 Legislature respecting the needs for the facilities and services of the
20 university as an educational instrumentality of the State for that
21 purpose.

22
23 18. (New section) Subject to the provisions of P.L.1969, c.242
24 (C.18A:66-167 et seq.) and except as otherwise provided by law,
25 the university shall be deemed to be an employer for the purposes
26 of the "Public Employees' Retirement System Act," P.L.1954, c.84
27 (C.43:15A-1 et seq.), and shall also be deemed to be a "public
28 agency or organization" within the meaning of section 71 of that act
29 (C.43:15A-71). Further, the university's commissioned police
30 officers shall be eligible for participation in and subject to the
31 provisions of the "Police and Firemen's Retirement Systems Act,"
32 P.L.1944, c.255 (C.43:16A-1 et seq.), and the university shall be
33 deemed an employer within the meaning of that act.

34
35 19. (New section) Nothing herein contained shall be construed
36 to impair, annul or affect any vested rights, grants, privileges,
37 exemptions, immunities, powers, prerogatives, franchises, or
38 advantages heretofore obtained or enjoyed by the university or any
39 constituent unit thereof, under any authority or any act of this State
40 or under any grant, deed, conveyance, transfer, lease, estate,
41 remainder, expectancy, trust, gift, donation, legacy, devise,
42 endowment or fund, all of which are hereby ratified and confirmed
43 except insofar as the same may have expired, be or have been
44 repealed or altered, or may be inconsistent with this act or with
45 existing provisions of law; subject however, thereto and to all of the
46 rights, obligations, relations, conditions, terms, trust, duties, and
47 liabilities to which the same are subject.

1 20. (New section) The enactment and adoption of this act shall
2 not, of itself, affect the official, operational, or organizational status
3 of any officer of the university or any and all outstanding
4 authorizations of any officer, agent, or employee to take specified
5 action, or any and all outstanding commitments or undertakings of
6 or by the university, except and only to the extent that any of the
7 same may be inconsistent with this act.

8
9 21. (New section) Upon the establishment of the body corporate
10 and politic known as Montclair State University:

11 a. All appropriations, grants, debt service, research funds, and
12 other monies available to Montclair State University prior to the
13 effective date of this act and to become available shall be
14 transferred to the university by the Director of the Division of
15 Budget and Accounting in the Department of the Treasury and shall
16 be available for the objects and purposes for which appropriated,
17 subject to any terms, restrictions, limitations or other requirements
18 imposed by the State budget;

19 b. All other grants, gifts, other moneys and property available
20 to Montclair State University prior to the effective date of this act
21 and to become available to or for Montclair State University shall
22 be transferred to the university and shall be available for the objects
23 and purposes of the university, subject to any terms, restrictions,
24 limitations or other requirements imposed by State and federal law
25 or otherwise;

26 c. All employees of Montclair State University prior to the
27 effective date of this act shall become employees of the university.
28 Nothing in this act shall be construed so as to deprive any person of
29 any right of tenure or under any retirement system or to any
30 pension, disability, social security or similar benefit, to which the
31 person is entitled by law or contractually ¹. All persons employed
32 at Montclair State University shall continue to be represented by the
33 majority representative that represented them on the effective date
34 of this act, shall continue to be represented by the executive branch
35 Statewide collective negotiations units they were in on the effective
36 date of this act, and shall continue to be covered by the collective
37 negotiations agreements that were in effect on the effective date of
38 this act. Pursuant to section 12 of P.L.1986, c.42 (C.18A:64-21.1),
39 the Governor shall continue to function as the public employer
40 under the "New Jersey Employer-Employee Relations Act,"
41 P.L.1941, c.100 (C.34:13A-1 et seq.), for persons employed at
42 Montclair State University. The executive branch Statewide
43 collective negotiations units referenced in this section are the units
44 specified in subsection b. of section 1 of P.L.2005, c.142
45 (C.34:13A-5.10). The employees of Montclair State University
46 employed on the effective date of this act shall not be considered
47 new employees for any purpose and shall retain any accrued
48 seniority, rank, and tenure, which shall be applied when

1 determining eligibility for all benefits, including all paid leave time,
2 longevity increases, promotions and health benefits. Nothing in this
3 act shall be construed to deprive any person employed at Montclair
4 State University of any tenure rights or to in any manner affect the
5 tenure, rank, or academic track of any employees holding a faculty
6 position. Such tenure, rank and academic track shall continue to be
7 through Montclair State University and shall be held or granted
8 pursuant to the authority of the board of trustees of Montclair State
9 University for all current and future employees employed at
10 Montclair State University. Nothing in this act shall be construed to
11 deprive any officers or employees employed at Montclair State
12 University of their rights, privileges, obligations or status under any
13 pension, retirement, health benefits system, civil service law or any
14 other law of this State¹;

15 d. All files, papers, records, equipment and other personal
16 property of Montclair State University shall be transferred to the
17 university; and

18 e. All orders, rules or regulations theretofore made or
19 promulgated by Montclair State University shall continue in full
20 force and effect as the orders, rules and regulations of the university
21 until amended or repealed by the university.

22
23 22. (New section) This act shall not affect actions or
24 proceedings, civil or criminal, brought by or against Montclair State
25 University, but such actions or proceedings may be prosecuted or
26 defended in the same manner and to the same effect by the
27 university as if the foregoing provisions had not taken effect; nor
28 shall any of the foregoing provisions affect any order or regulation
29 made by, or other matters or proceedings before, Montclair State
30 University, and all such matters or proceedings pending before
31 Montclair State University on the effective date of this act shall be
32 continued by the university, as if the foregoing provisions had not
33 taken effect.

34
35 23. (New section) Whenever in any law, rule, regulation,
36 contract, document, judicial or administrative proceeding or
37 otherwise, reference is made to Montclair State University, the
38 same shall mean and refer to Montclair State University, herein
39 referred to as "university," established as a public research
40 university pursuant to the provisions of this act.

41
42 24. (New section) The general powers of supervision and
43 control of the Secretary of Higher Education at the request of the
44 Governor over Montclair State University include the power to visit
45 the university to examine into its manner of conducting its affairs
46 and to enforce an observance of its laws and regulations and the
47 laws of the State.

1 25. (New section) Notwithstanding any of the provisions of the
2 "New Jersey Contractual Liability Act" (N.J.S.59:13-1 et seq.) to
3 the contrary, contract claims and suits against the university shall be
4 governed by that act.

5
6 26. (New section) Every contract or agreement negotiated,
7 awarded or made pursuant to this act shall contain a suitable
8 warranty by the contractor that no person or selling agency has been
9 employed or retained to solicit or secure such contract upon an
10 agreement or understanding for a commission, percentage,
11 brokerage or contingent fee, except bona fide employees or bona
12 fide established commercial or selling agencies maintained by the
13 contractor for the purpose of securing business, for the breach or
14 violation of which warranty the university shall have the right to
15 annul such contract without liability or in its discretion to deduct
16 from the contract price or consideration the full amount of such
17 commission, percentage, brokerage or contingent fee.

18
19 27. (New section) Any person willfully authorizing, consenting
20 to, making or procuring to be made payment of university funds for
21 or on account of any purchase, contract or agreement known to him
22 to have been made or entered into in violation of any of the
23 provisions of this act shall be guilty of a misdemeanor.

24
25 28. (New section) The payment of any fee, commission or
26 compensation of any kind or the granting of any gift or gratuity of
27 any kind, either directly or indirectly, whether or not in connection
28 with any purchase, sale or contract, to any person employed by
29 Montclair State University, having any duties or responsibilities in
30 connection with the purchase or acquisition of any property or
31 services by the university, by or on behalf of any seller or supplier
32 who has made, negotiated, solicited or offered to make and contract
33 to sell or furnish real or personal property or services to the
34 university is hereby prohibited. Any person offering, paying,
35 giving, soliciting or receiving any fee, commission, compensation,
36 gift or gratuity in violation of this section shall be guilty of a
37 misdemeanor.

38
39 29. (New section) The provisions of this act shall not alter the
40 term of any member of the board, not specifically abolished herein,
41 lawfully in office as of the effective date of this act, or require the
42 reappointment thereof.

43
44 30. (New section) No provision of this act shall be deemed or
45 construed to create or constitute a debt, liability, or a loan or pledge
46 of the credit, of the State of New Jersey.

1 31. (New section) This act, being deemed and declared
2 necessary for the welfare of the State and the people of New Jersey
3 to provide for the development of public higher education in the
4 State and thereby to improve the quality and increase the efficiency
5 of the public system of educational services of the State, shall be
6 liberally construed to effectuate the purposes and intent thereof.

7
8 32. (New section) In accordance with the provisions of section
9 27 of P.L.1994, c.48 (C.18A:3B-27), the university is allocated to
10 the Department of State for the purposes of complying with the
11 provisions of Article V, Section IV, Paragraph 1 of the New Jersey
12 Constitution. Notwithstanding this allocation, the university shall be
13 independent of any supervision or control of the Department of
14 State or any board, commission, or officer thereof and the allocation
15 shall not in any way affect the principles of institutional autonomy
16 established by that act and as otherwise enumerated herein.

17
18 33. (New section) Nothing in P.L. , c. (C.) (pending
19 before the Legislature as this bill) shall be construed to modify or
20 contravene the rights and obligations of employers or employees
21 under the “New Jersey Employer-Employee Relations Act,”
22 P.L.1941, c.100 (C.34:13A-1 et seq.).

23
24 34. N.J.S.11A:6-6 is amended to read as follows:

25 11A:6-6. State administrative leave. Administrative leave for
26 personal reasons including religious observances for full-time State
27 employees or those employees of Rutgers, The State University,
28 New Jersey Institute of Technology **[and]**, Rowan University, and
29 Montclair State University who perform services similar to those
30 performed by employees of the New Jersey State colleges who are
31 in the career service shall be three working days per calendar year.
32 Administrative leave shall not be cumulative and any administrative
33 leave unused by an employee at the end of any year shall be
34 cancelled.

35 (cf: P.L.2012, c.45, s.64)

36
37 35. N.J.S.11A:6-17 is amended to read as follows:

38 11A:6-17. Supplemental compensation; employees of Rutgers,
39 The State University, New Jersey Institute of Technology, **[and]**
40 Rowan University, and Montclair State University. The
41 supplemental compensation provided under this chapter shall also
42 be paid to each employee of Rutgers, The State University, New
43 Jersey Institute of Technology, **[and]** Rowan University, and
44 Montclair State University who performs services similar to those
45 performed by employees of the New Jersey State colleges who are
46 in the career service or who have been granted sick leave under
47 terms and conditions similar to career service employees, including

1 those employees of Rutgers, The State University who are members
2 of the Newark Employees' Retirement System.

3 (cf: P.L.2012, c.45, s.65)

4

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

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

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

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

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

15 "Council of County Colleges" means the New Jersey Council of
16 County Colleges established pursuant to N.J.S.18A:64A-26;

17 "County college" means an educational institution established by
18 one or more counties, pursuant to chapter 64A of Title 18A of the
19 New Jersey Statutes;

20 "Educational research and services corporation" means a
21 nonprofit corporation whose voting members are public research
22 universities, State colleges, county colleges, public institutions of
23 higher education primarily located in the State of New Jersey, and
24 nonprofit independent institutions of higher education that receive
25 direct State aid;

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

31 "Public Research University" means Rutgers, The State
32 University of New Jersey, Rowan University, **[and]** the New Jersey
33 Institute of Technology, and Montclair State University;

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

38 (cf: P.L.2015, c.140, s.1)

39

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

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

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

- 1 b. To have authority over all matters concerning the
2 supervision and operations of the institution including fiscal affairs,
3 the employment and compensation of staff not classified under Title
4 11A of the New Jersey Statutes, and capital improvements in
5 accordance with law;
- 6 c. To set tuition and fees; however, prior to the date of the
7 adoption of a tuition or fee schedule or an overall institutional
8 budget, and with reasonable notice thereof, the governing board
9 shall conduct a public hearing at such times and places as will
10 provide those members of the college community who wish to
11 testify with an opportunity to be heard;
- 12 d. To establish admission standards and requirements and
13 standards for granting diplomas, certificates and degrees;
- 14 e. To recommend for appointment by the Governor, members
15 to the institution's governing board. The recommendation shall be
16 made with regard to the mission of the institution and the diversity
17 of the community to be served;
- 18 f. To have final authority to determine controversies and
19 disputes concerning tenure, personnel matters of employees not
20 classified under Title 11A of the New Jersey Statutes, and other
21 issues arising under Title 18A of the New Jersey Statutes involving
22 higher education except as otherwise provided herein. Any matter
23 arising under this subsection may be assigned to an administrative
24 law judge, an independent hearing officer or to a subcommittee of
25 the governing board for hearing and initial decision by the board,
26 except for tenure hearings under N.J.S.18A:6-18. Any hearings
27 conducted pursuant to this section shall conform to the requirements
28 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
29 1 et seq.). The final administrative decision of a governing board of
30 a public institution of higher education is appealable to the Superior
31 Court, Appellate Division;
- 32 g. To invest and reinvest the funds of the institution; however,
33 institutions which invest the funds of the institution through the
34 Director of the Division of Investment in the Department of the
35 Treasury on or before the effective date of this act shall continue to
36 do so, unless this requirement is waived by the State Treasurer on
37 an annual basis, which waiver shall not be unreasonably withheld;
- 38 h. To retain legal counsel of the institution's choosing. State
39 entities may choose representation by the Attorney General;
40 however, as to claims of a tortious nature, the institution shall elect
41 within 75 days of the effective date of this act whether it, and its
42 employees, shall be represented in all such matters by the Attorney
43 General. If the institution elects not to be represented by the
44 Attorney General, it shall be considered and its employees
45 considered employees of a sue and be sued entity for the purposes
46 of the "New Jersey Tort Claims Act" only. The institution shall be
47 required in that circumstance to provide its employees with defense
48 and indemnification consistent with the terms and conditions of the

1 Tort Claims Act in lieu of the defense and indemnification that such
2 employees would otherwise seek and be entitled to from the
3 Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972,
4 c.48 (C.59:10A-1 et seq.);

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

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

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

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

18 These powers and duties are in addition to and not a limitation of
19 the specific powers and duties provided for the governing board of
20 each public institution under chapter 64, 64A, 64G, 64E, or 64M of
21 Title 18A of the New Jersey Statutes, or P.L. , c. (C.) (pending
22 before the Legislature as this bill). If the provisions of this section
23 are inconsistent with these specific powers and duties, the specific
24 powers and duties shall govern.

25 (cf: P.L.2013, c.227, s.1)

26

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

29 12. a. There shall be established an executive board which
30 performs such duties as determined by the council. The executive
31 board shall be composed of **【15】** 16 members as follows:

32 The president of Rutgers, The State University;

33 The president of New Jersey Institute of Technology;

34 The president of Rowan University;

35 The president of Montclair State University;

36 Three presidents of State Colleges who shall be selected by the
37 presidents of this sector;

38 Five presidents of county colleges who shall be selected by the
39 presidents of this sector;

40 Three presidents of independent institutions who shall be
41 selected by the presidents of this sector;

42 One president of the proprietary schools which have been
43 authorized to offer licensed degree programs who shall be selected
44 by the presidents of these proprietary schools.

45 b. The chair of the executive board shall be rotated among the
46 following: one of the presidents of Rutgers, The State University of
47 New Jersey, the president of Rowan University, **【and】** the president
48 of New Jersey Institute of Technology, and the president of

1 Montclair State University; a president selected by the presidents of
2 the State Colleges; a president selected by the presidents of the
3 county colleges; and a president selected by the presidents of the
4 independent institutions. The chair of the executive board shall
5 serve for a two-year period. Biennially, the executive board shall
6 select the chair in the manner provided above, but not necessarily in
7 the order provided above.

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

10 (cf: P.L.2012, c.45, s.68)

11

12 39. Section 1 of P.L.2009, c.308 (C.18A:3B-46) is amended to
13 read as follows:

14 1. As used in this act:

15 "Commission" means the New Jersey Commission on Higher
16 Education established pursuant to section 13 of P.L.1994, c.48
17 (C.18A:3B-13);

18 "Public research university" means Rutgers, The State University
19 of New Jersey, Rowan University, **[and]** the New Jersey Institute
20 of Technology, and Montclair State University;

21 "State college" means the State colleges or universities
22 established pursuant to chapter 64 of Title 18A of the New Jersey
23 Statutes.

24 (cf: P.L.2012, c.45, s.69)

25

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

28 1. There is established a body corporate and politic, with
29 corporate succession, to be known as the New Jersey Association of
30 State Colleges and Universities. New Jersey City University, Kean
31 University, **[Montclair State University,]** Ramapo College of New
32 Jersey, Richard Stockton College of New Jersey, Thomas Edison
33 State College, The College of New Jersey and The William
34 Paterson University of New Jersey shall constitute the membership
35 of the association.

36 (cf: P.L.2012, c.45, s.71)

37

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

40 2. The association shall consist of **[eight]** seven voting
41 members to be appointed as follows: one member from each
42 member institution's boards of trustees, appointed by the members
43 thereof. In addition the presidents of the member institutions shall
44 serve as ex officio, nonvoting members.

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

47 (cf: P.L.2012, c.45, s.72)

1 42. Section 1 of P.L.1981, c.148 (C.18A:64I-1) is amended to
2 read as follows:

3 1. The 240 acre tract of land known as the New Jersey School
4 of Conservation, located in Stokes State Forest, Sussex county,
5 New Jersey, together with all the buildings thereon, and under the
6 management and control of the Division of Parks, Forestry and
7 Recreation in the Department of Environmental Protection, shall be
8 used in perpetuity as a school for environmental field study under
9 the direction of the Board of Trustees of Montclair State **【College】**
10 University.

11 (cf: P.L.1981, c.148, s.1)

12

13 43. Section 2 of P.L.1981, c.148 (C.18A:64I-2) is amended to
14 read as follows:

15 2. The Board of Trustees of Montclair State **【College】**
16 University shall expend such sum or sums of money as may be
17 included in any annual appropriations act for the expenses
18 necessary for the educational program of the New Jersey School of
19 Conservation, including the maintenance of the buildings and
20 grounds necessary for that program.

21 (cf: P.L.1981, c.148, s.2)

22

23 44. Section 2 of P.L.1985, c.103 (C.18A:64J-2) is amended to
24 read as follows:

25 2. For the purposes of this act:

26 a. "Advanced technology center" means one or more
27 outstanding programs or departments at New Jersey's public and
28 private institutions of higher education, which are provided
29 substantial and concentrated financial support to promote their
30 development into national-level bases for innovative technology
31 research.

32 b. "Business incubation facilities" means low-cost, short-term
33 occupancy, rental spaces wherein assistance is granted to a targeted
34 network of new companies employing selected technologies
35 congruent with the strengths of the State's public and private
36 institutions of higher education.

37 c. "Commission" means the Governor's Commission on
38 Science and Technology as created by Executive Order No. 12 of
39 1982 or its successor which is established by the Legislature.

40 d. "Consortium" means a cooperative arrangement between two
41 or more institutions of higher education to pursue a program for
42 strengthening academic programs, improving administration or
43 providing for other special needs.

44 e. "Innovation partnership grants" means matching grants to
45 academic researchers performing applied research in emerging
46 technologies at any of the State's public and private institutions of
47 higher education, which are of strategic importance to the New
48 Jersey economy, under regulations adopted by the commission

1 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
2 (C.52:14B-1 et seq.).

3 f. "Private institutions of higher education" means independent
4 colleges, universities or institutes incorporated and located in New
5 Jersey, which by virtue of law or character or license are nonprofit
6 educational institutions authorized to grant academic degrees and
7 which provide a level of education which is equivalent to the
8 education provided by the State's public institutions of higher
9 education as attested by the receipt of and continuation of regional
10 accreditation by the Middle States Association of Colleges and
11 Schools, and which are eligible to receive State aid under the
12 provisions of the Constitution of the United States and the
13 Constitution of the State of New Jersey, but does not include any
14 educational institution dedicated primarily to the education or
15 training of ministers, priests, rabbis or other professional persons in
16 the field of religion.

17 g. "Public institutions of higher education" means Rutgers, The
18 State University, the State colleges, the New Jersey Institute of
19 Technology, Rowan University, Montclair State University, the
20 county colleges and any other public university or college now or
21 hereafter established or authorized by law.

22 h. "Technology extension services" means programs that not
23 only accelerate the application and transfer of technological
24 innovations by the State's public and private institutions of higher
25 education to existing industry, but also adapt these innovations to
26 the requirements of individual business operations.

27 (cf: P.L.2012, c.45, s.79)

28

29 45. Section 2 of P.L.1985, c.104 (C.18A:64J-9) is amended to
30 read as follows:

31 2. For the purposes of this act:

32 a. "Advanced technology center" means one or more
33 outstanding programs or departments at New Jersey's public and
34 private institutions of higher education, which are provided
35 substantial and concentrated financial support to promote their
36 development into national-level bases for innovative technology
37 research.

38 b. "Business incubation facilities" means low-cost, short-term
39 occupancy, rental spaces wherein assistance is granted to a targeted
40 network of new companies employing selected technologies
41 congruent with the strengths of the State's public and private
42 institutions of higher education.

43 c. "Commission" means the Governor's Commission on
44 Science and Technology as created by Executive Order No. 12 of
45 1982 or its successor which is established by the Legislature.

46 d. "Innovation partnership grants" means matching grants to
47 academic researchers performing applied research in emerging
48 technologies at any of the State's public and private institutions of

1 higher education, which are of strategic importance to the New
2 Jersey economy, under regulations adopted by the commission
3 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
4 (C.52:14B-1 et seq.).

5 e. "Private institutions of higher education" means independent
6 colleges or universities incorporated and located in New Jersey,
7 which by virtue of law or character or license are nonprofit
8 educational institutions authorized to grant academic degrees and
9 which provide a level of education which is equivalent to the
10 education provided by the State's public institutions of higher
11 education as attested by the receipt of and continuation of regional
12 accreditation by the Middle States Association of Colleges and
13 Schools, and which are eligible to receive State aid under the
14 provisions of the Constitution of the United States and the
15 Constitution of the State of New Jersey, but does not include any
16 educational institution dedicated primarily to the education or
17 training of ministers, priests, rabbis or other professional persons in
18 the field of religion.

19 f. "Public institutions of higher education" means Rutgers, The
20 State University, the State colleges, the New Jersey Institute of
21 Technology, Rowan University, Montclair State University, the
22 county colleges and any other public university or college now or
23 hereafter established or authorized by law.

24 g. "Technology extension services" means programs that not
25 only accelerate the application and transfer of technological
26 innovations by the State's public and private universities to existing
27 industry, but also adapt these innovations to the requirements of
28 individual business operations.

29 (cf: P.L.2012, c.45, s.81)

30

31 46. Section 2 of P.L.1985, c.105 (C.18A:64J-16) is amended to
32 read as follows:

33 2. For the purposes of this act:

34 a. "Advanced technology center" means one or more
35 outstanding programs or departments at New Jersey's public and
36 private institutions of higher education, which are provided
37 substantial and concentrated financial support to promote their
38 development into national-level bases for innovative technology
39 research.

40 b. "Business incubation facilities" means low-cost, short-term
41 occupancy, rental spaces wherein assistance is granted to a targeted
42 network of new companies employing selected technologies
43 congruent with the strengths of the State's public and private
44 institutions of higher education.

45 c. "Commission" means the Governor's Commission on
46 Science and Technology as created by Executive Order No. 12 of
47 1982 or its successor which is established by the Legislature.

1 d. "Innovation partnership grants" means matching grants to
2 academic researchers performing applied research in emerging
3 technologies at any of the State's public and private institutions of
4 higher education, which are of strategic importance to the New
5 Jersey economy, under regulations adopted by the commission
6 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
7 (C.52:14B-1 et seq.).

8 e. "Private institutions of higher education" means independent
9 colleges or universities incorporated and located in New Jersey,
10 which by virtue of law or character or license are nonprofit
11 educational institutions authorized to grant academic degrees and
12 which provide a level of education which is equivalent to the
13 education provided by the State's public institutions of higher
14 education as attested by the receipt of and continuation of regional
15 accreditation by the Middle States Association of Colleges and
16 Schools, and which are eligible to receive State aid under the
17 provisions of the Constitution of the United States and the
18 Constitution of the State of New Jersey, but does not include any
19 educational institution dedicated primarily to the education or
20 training of ministers, priests, rabbis or other professional persons in
21 the field of religion.

22 f. "Public institutions of higher education" means Rutgers, The
23 State University, the State colleges, the New Jersey Institute of
24 Technology, Rowan University, Montclair State University, the
25 county colleges and any other public university or college now or
26 hereafter established or authorized by law.

27 g. "Technology extension services" means programs that not
28 only accelerate the application and transfer of technological
29 innovations by the State's public and private institutions of higher
30 education to existing industry, but also adapt these innovations to
31 the requirements of individual business operations.

32 (cf: P.L.2012, c.45, s.82)

33

34 47. Section 2 of P.L.1985, c.106 (C.18A:64J-23) is amended to
35 read as follows:

36 2. For the purposes of this act:

37 a. "Advanced technology center" means one or more
38 outstanding programs or departments at New Jersey's public and
39 private institutions of higher education, which are provided
40 substantial and concentrated financial support to promote their
41 development into national-level bases for innovative technology
42 research.

43 b. "Business incubation facility" means low-cost, short-term
44 occupancy, rental spaces wherein assistance is granted to a targeted
45 network of new companies employing selected technologies
46 congruent with the strengths of the State's public and private
47 institutions of higher education.

1 c. "Commission" means the Governor's Commission on
2 Science and Technology as created by Executive Order No. 12 of
3 1982 or its successor which is established by the Legislature.

4 d. "Innovation partnership grants" means matching grants to
5 academic researchers performing applied research in emerging
6 technologies at any of the State's public and private institutions of
7 higher education, which are of strategic importance to the New
8 Jersey economy, under regulations adopted by the commission
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.).

11 e. "Private institutions of higher education" means independent
12 colleges or universities incorporated and located in New Jersey,
13 which by virtue of law or character or license are nonprofit
14 educational institutions authorized to grant academic degrees and
15 which provide a level of education which is equivalent to the
16 education provided by the State's public institutions of higher
17 education as attested by the receipt of and continuation of regional
18 accreditation by the Middle States Association of Colleges and
19 Schools, and which are eligible to receive State aid under the
20 provisions of the Constitution of the United States and the
21 Constitution of the State of New Jersey, but does not include any
22 educational institution dedicated primarily to the education or
23 training of ministers, priests, rabbis or other professional persons in
24 the field of religion.

25 f. "Public institutions of higher education" means Rutgers, The
26 State University, the State colleges, the New Jersey Institute of
27 Technology, Rowan University, Montclair State University, the
28 county colleges and any other public university or college now or
29 hereafter established or authorized by law.

30 g. "Technology extension services" means programs that not
31 only accelerate the application and transfer of technological
32 innovations by the State's public and private institutions of higher
33 education to existing industry, but also adapt these innovations to
34 the requirements of individual business operations.

35 (cf: P.L.2012, c.45, s.84)

36

37 48. Section 2 of P.L.1985, c.366 (C.18A:64J-30) is amended to
38 read as follows:

39 2. For the purposes of this act:

40 a. "Advanced technology center" means one or more
41 outstanding programs or departments at New Jersey's public and
42 private institutions of higher education which are provided
43 substantial and concentrated financial support to promote their
44 development into national level bases for innovative technology
45 research;

46 b. "Business incubation facilities" means low cost, short-term
47 occupancy rental spaces wherein assistance is granted to a targeted
48 network of new companies employing selected technologies

1 congruent with the strengths of the State's public and private
2 institutions of higher education;

3 c. "Commission" means the New Jersey Commission on
4 Science and Technology as created by P.L.1985, c.102 (C.52:9X-1
5 et seq.);

6 d. "Innovation partnership grants" means matching grants to
7 academic researchers performing applied research in emerging
8 technologies at any of the State's public and private institutions of
9 higher education which are of strategic importance to the New
10 Jersey economy under regulations adopted by the commission
11 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
12 (C.52:14B-1 et seq.);

13 e. "Private institutions of higher education" means independent
14 colleges or universities incorporated and located in New Jersey,
15 which by virtue of law or character or license, are nonprofit
16 educational institutions authorized to grant academic degrees and
17 provide a level of education which is equivalent to the education
18 provided by the State's public institutions of higher education as
19 attested by the receipt of and continuation of regional accreditation
20 by the Middle States Association of Colleges and Schools, and
21 which are eligible to receive State aid under the provisions of the
22 Constitution of the United States and the Constitution of the State
23 of New Jersey, but does not include any educational institution
24 dedicated primarily to the education or training of ministers, priests,
25 rabbis or other professional persons in the field of religion;

26 f. "Public institutions of higher education" means Rutgers, The
27 State University, the State colleges, the New Jersey Institute of
28 Technology, Rowan University, Montclair State University, the
29 county colleges and any other public university or college now or
30 hereafter established or authorized by law;

31 g. "Technology extension services" means programs that not
32 only accelerate the application and transfer of technological
33 innovations by the State's public and private institutions of higher
34 education to existing industry, but also adapt these innovations to
35 the requirements of individual business operations.

36 (cf: P.L.2012, c.45, s.85)

37

38 49. Section 2 of P.L.1985, c.397 (C.18A:64J-39) is amended to
39 read as follows:

40 2. For the purposes of this act:

41 a. "Advanced technology center" means one or more
42 outstanding programs or departments at New Jersey's public and
43 private institutions of higher education, which are provided
44 substantial and concentrated financial support to promote their
45 development into national-level bases for innovative technology
46 research;

47 b. "Business incubation facilities" means low-cost, short-term
48 occupancy rental spaces wherein assistance is granted to a targeted

1 network of new companies employing selected technologies
2 congruent with the strengths of the State's public and private
3 institutions of higher education;

4 c. "Commission" means the New Jersey Commission on
5 Science and Technology as created by P.L.1985, c.102 (C.52:9X-1
6 et seq.);

7 d. "Innovation partnership grants" means matching grants to
8 academic researchers performing applied research in emerging
9 technologies at any of the State's public and private institutions of
10 higher education, which are of strategic importance to the New
11 Jersey economy, under regulations adopted by the commission
12 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.);

14 e. "Private institutions of higher education" means independent
15 colleges or universities incorporated and located in New Jersey,
16 which by virtue of law or character or license are nonprofit
17 educational institutions authorized to grant academic degrees and
18 provide a level of education which is equivalent to the education
19 provided by the State's public institutions of higher education as
20 attested by the receipt of and continuation of regional accreditation
21 by the Middle States Association of Colleges and Schools, and
22 which are eligible to receive State aid under the provisions of the
23 Constitution of the United States and the Constitution of the State
24 of New Jersey, but does not include any educational institution
25 dedicated primarily to the education or training of ministers, priests,
26 rabbis or other professional persons in the field of religion;

27 f. "Public institutions of higher education" means Rutgers, The
28 State University, the State colleges, the New Jersey Institute of
29 Technology, Rowan University, Montclair State University, the
30 county colleges and any other public university or college now or
31 hereafter established or authorized by law;

32 g. "Technology extension services" means programs that not
33 only accelerate the application and transfer of technological
34 innovations by the State's public and private institutions of higher
35 education to existing industry, but also adapt these innovations to
36 the requirements of individual business operations.

37 (cf: P.L.2012, c.45, s.86)

38

39 50. Section 4 of P.L.2009, c.4 (C.18A:65A-1) is amended to
40 read as follows:

41 4. a. (1) The board of trustees of a public institution of higher
42 education may implement an energy savings improvement program
43 in the manner provided by this section whenever it determines that
44 the savings generated from reduced energy use from the program
45 will be sufficient to cover the cost of the program's energy
46 conservation measures as set forth in an energy savings plan. Under
47 such a program, a board of trustees may enter into an energy
48 savings services contract with an energy services company to

1 implement the program or the board may authorize separate
2 contracts to implement the program. The provisions of:
3 N.J.S.18A:64-1 et seq., in the case of any State college; P.L.1995,
4 c.400 (C.18A:64E-12 et seq.), in the case of the New Jersey
5 Institute of Technology; N.J.S.18A:65-1 et seq., in the case of
6 Rutgers, the State University; P.L.2012, c.45 (C.18A:64M-1 et al.),
7 in the case of Rowan University; P.L. , c. (C.) (pending before
8 the Legislature as this bill), in the case of Montclair State
9 University; and N.J.S.18A:64A-1 et seq., in the case of the county
10 colleges; shall apply to any contracts awarded pursuant to this
11 section to the extent that the provisions of such law are not
12 inconsistent with any provision of this section.

13 In the case of Rutgers, the State University, references in this
14 section to the board of trustees shall mean the Rutgers board of
15 governors.

16 (2) An educational facility alteration required to properly
17 implement other energy efficiency or energy conservation
18 measures, or both, may be included as part of an energy savings
19 services contract, in which case, notwithstanding any other
20 provision of law, rule, regulation, or order to the contrary, the
21 facility alteration may be undertaken or supervised by the energy
22 services company performing the energy savings services contract
23 if:

24 (a) the total cost of the improvement does not exceed 15 percent
25 of the total cost of the work to be performed under the energy
26 savings services contract; and

27 (b) (i) the improvement is necessary to conform to a law, rule, or
28 regulation, or order, or (ii) an analysis within an approved proposal,
29 or the board of trustees, at the time of the award of the proposal,
30 demonstrates that there is an economic advantage to the board of
31 trustees implementing the improvement as part of the energy
32 savings services contract, and the savings rationale for the
33 improvement is documented and supported by reasonable
34 justification.

35 b. (1) To be eligible to enter into an energy savings services
36 contract, an energy services company shall be a commercial entity
37 that is qualified to provide energy savings services in accordance
38 with the provisions of this section. A public institution of higher
39 education may enter into an energy savings services contract
40 through public advertising for bids and the receipt of bids therefor.

41 (2) (a) Public works activities performed under an energy
42 savings improvement program shall be subject to all requirements
43 regarding public bidding, bid security, performance guarantees,
44 insurance and other public contracting requirements that are
45 applicable to public works contracts, to the extent not inconsistent
46 with this section. A general contractor, energy services company
47 serving as general contractor, or any subcontractor hired for the
48 furnishing of plumbing and gas fitting and all kindred work, and of

1 steam and hot water heating and ventilating apparatus, steam power
2 plants and kindred work, and electrical work, structural steel and
3 ornamental iron work, shall be classified by the Division of
4 Property Management and Construction in the Department of the
5 Treasury in order to perform public works activities under an
6 energy savings improvement program.

7 (b) Individuals or organizations performing energy audits,
8 acting as commissioning agents, or conducting verification of
9 energy savings plans, implementation of energy conservation
10 measures, or verifying guarantees shall be prequalified by the
11 Division of Property Management and Construction in the
12 Department of the Treasury to perform their work under an energy
13 savings improvement program.

14 (c) Where there is a need for compatibility of a direct digital
15 control system with previously installed control systems and
16 equipment, the bid specifications may include a requirement for
17 proprietary goods, and if so included, the bid specification shall set
18 forth an allowance price for its supply which shall be used by all
19 bidders in the public bidding process.

20 (3) (a) An energy services company may be designated as the
21 general contractor for improvements to be made pursuant to an
22 energy savings plan, provided that the hiring of subcontractors that
23 are required to be classified pursuant to subparagraph (a) of
24 paragraph (2) of this subsection shall be performed in accordance
25 with the procedures and requirements set forth pursuant to the
26 public bidding requirements of the board of trustees. A contract
27 with an energy savings company shall include, but not be limited to:
28 preparation of an energy savings plan; the responsibilities of the
29 parties for project schedules, installations, performance and quality,
30 payment of subcontractors, project completion, commissioning,
31 savings implementation; a requirement that the savings to be
32 achieved by energy conservation measures be verified upon
33 commissioning of the improvements; allocation of State and federal
34 rebates and tax credits; and any other provisions deemed necessary
35 by the parties.

36 (b) All workers performing public works activities for
37 subcontractors awarded contracts by an energy services company
38 pursuant to this section shall be paid prevailing wages in
39 accordance with the "New Jersey Prevailing Wage Act," P.L.1963,
40 c.150 (C.34:11-56.25 et seq.). All subcontractors shall comply with
41 the provisions of "The Public Works Contractor Registration Act,"
42 P.L.1999, c.238 (C.34:11-56.48 et seq.). Only firms appropriately
43 classified as contractors by the Division of Property Management
44 and Construction shall be eligible to be awarded a contract as a
45 subcontractor of an energy services company under this section for
46 performing public works activities pursuant to regulations adopted
47 by the Division of Property Management and Construction.

1 (c) In order to expedite communications with an energy services
2 company and facilitate the implementation of an energy savings
3 improvement program, a board of trustees may designate or appoint
4 an employee of the public institution of higher education with
5 decision-making authority to coordinate with the energy services
6 company and to address issues associated with the implementation
7 of an energy savings improvement program as they arise, provided
8 that any decision requiring a change order shall be made only upon
9 the approval of the board of trustees of the public institution of
10 higher education.

11 (4) A subsidiary or wholly-owned or partially-owned affiliate of
12 the energy services company shall not be an eligible contractor or
13 subcontractor under an energy savings services contract.

14 c. An energy savings improvement program may be financed
15 through a lease-purchase agreement or through the issuance of
16 energy savings obligations pursuant to this subsection.

17 (1) An energy savings improvement program may be financed
18 through a lease-purchase agreement between a board of trustees and
19 an energy services company or other public or private entity. Under
20 a lease-purchase agreement, ownership of the energy savings
21 equipment or improved facilities shall pass to the board of trustees
22 when all lease payments have been made. Notwithstanding the
23 provisions of any other law to the contrary, the duration of such a
24 lease-purchase agreement shall not exceed 15 years, except that the
25 duration of a lease purchase agreement for a combined heat and
26 power or cogeneration project shall not exceed 20 years. For the
27 purposes of this paragraph, the duration of the repayment term of a
28 lease-purchase agreement shall commence on the date upon which
29 construction and installation of the energy savings equipment,
30 "combined heat and power facility" or "cogeneration facility," as
31 those terms are defined pursuant to section 3 of P.L.1999, c.23
32 (C.48:3-51), or other energy conservation measures undertaken
33 pursuant to the energy savings plan, have been completed.

34 (2) Any lease-purchase or other agreement entered into in
35 connection with an energy savings improvement program may be a
36 general obligation of the public institution of higher education
37 pursuant to this subsection, and may contain: a clause making it
38 subject to the availability and appropriation annually of sufficient
39 funds as may be required to meet the extended obligation; and a
40 non-substitution clause maintaining that if the agreement is
41 terminated for non-appropriation, the board of trustees may not
42 replace the leased equipment or facilities with equipment or
43 facilities that perform the same or similar functions.

44 (3) A board of trustees may arrange for incurring energy savings
45 obligations to finance an energy savings improvement program and
46 may enter into any agreement with the New Jersey Educational
47 Facilities Authority or other persons in connection with the issuance
48 by the authority of its obligations on behalf of the public institution

1 of higher education in order to finance the institution's energy
2 savings improvement program. Energy savings obligations may be
3 funded through appropriations for utility services in the annual
4 budget of the board, or incurred as a general obligation of the public
5 institution of higher education in connection with the issuance by
6 the New Jersey Educational Facilities Authority of bonds or notes
7 pursuant to N.J.S.18A:72A-2 et seq., or, in the case of a county
8 college, by a sponsoring county as a refunding bond pursuant to
9 N.J.S.40A:2-52 et seq., including the issuance of bond anticipation
10 notes as may be necessary, provided that all such bonds and notes
11 mature within the periods authorized for such energy savings
12 obligations.

13 (4) Lease-purchase agreements and energy savings obligations
14 shall not be used to finance maintenance, guarantees, or verification
15 of guarantees of energy conservation measures. Lease-purchase
16 agreements and energy savings obligations may be used to finance
17 the cost of an energy audit or the cost of verification of energy
18 savings as part of adopting an energy savings plan. Maturity
19 schedules of lease-purchase agreements or energy savings
20 obligations shall not exceed the estimated average useful life of the
21 energy conservation measures.

22 d. (1) The energy audit component of an energy savings
23 improvement program shall be conducted either by the board of
24 trustees or by a qualified third party retained by the board for that
25 purpose. It shall not be conducted by an energy services company
26 subsequently hired to develop an energy savings improvement
27 program. The energy audit shall identify the current energy use of
28 any or all facilities and energy conservation measures that can be
29 implemented in which the energy savings and energy efficiency
30 could be realized and maximized.

31 (2) To implement an energy savings improvement program, a
32 board of trustees shall develop an energy savings plan that consists
33 of one or more energy conservation measures. The plan shall:

34 (a) contain the results of an energy audit;

35 (b) describe the energy conservation measures that will
36 comprise the program;

37 (c) estimate greenhouse gas reductions resulting from those
38 energy savings;

39 (d) identify all design and compliance issues that require the
40 professional services of an architect or engineer and identify who
41 will provide these services;

42 (e) include an assessment of risks involved in the successful
43 implementation of the plan;

44 (f) identify the eligibility for, and costs and revenues associated
45 with the PJM Independent System Operator for demand response
46 and curtailable service activities;

1 (g) include schedules showing calculations of all costs of
2 implementing the proposed energy conservation measures and the
3 projected energy savings;

4 (h) identify maintenance requirements necessary to ensure
5 continued energy savings, and describe how they will be fulfilled;
6 and

7 (i) if developed by an energy services company, a description
8 of, and cost estimates of an energy savings guarantee.

9 All professionals providing engineering services under the plan
10 shall have errors and omissions insurance.

11 (3) Prior to the adoption of the plan, the board of trustees shall
12 contract with a qualified third party to verify the projected energy
13 savings to be realized from the proposed program have been
14 calculated as required by subsection e. of this section.

15 (4) Upon adoption, the plan shall be submitted to the Board of
16 Public Utilities, which shall post it on the Internet on a public
17 webpage maintained for such purpose. If the board of trustees
18 maintains its own website, it shall also post the plan on that site.
19 The Board of Public Utilities may require periodic reporting
20 concerning the implementation of the plan.

21 (5) Verification by a qualified third party shall be required when
22 energy conservation measures are placed in service or
23 commissioned, to ensure the savings projected in the energy savings
24 plan shall be achieved.

25 (6) Energy-related capital improvements that do not reduce
26 energy usage may be included in an energy savings improvement
27 program but the cost of such improvements shall not be financed as
28 a lease-purchase or through energy savings obligations authorized
29 by subsection c. of this section. Nothing herein is intended to
30 prevent the financing of such capital improvements through
31 otherwise authorized means.

32 (7) A qualified third party when required by this subsection may
33 include an employee of the public institution of higher education
34 who is properly trained and qualified to perform such work.

35 e. (1) (a) The calculation of energy savings for the purposes of
36 determining that the energy savings resulting from the program will
37 be sufficient to cover the cost of the program's energy conservation
38 measures, as provided in subsection a. of this section, shall involve
39 determination of the dollar amount saved through implementation
40 of an energy savings improvement program using the guidelines of
41 the International Performance Measurement and Verification
42 Protocol or other protocols approved by the Board of Public
43 Utilities and standards adopted by the Board of Public Utilities
44 pursuant to this section. The calculation shall include all applicable
45 State and federal rebates and tax credits, but shall not include the
46 cost of an energy audit and the cost of verifying energy savings.
47 The calculation shall state which party has made application for

1 rebates and credits and how these applications translate into energy
2 savings.

3 (b) During the procurement phase of an energy savings
4 improvement program, an energy services company's proposal
5 submitted in response to a request for proposal shall not include a
6 savings calculation that assumes, includes, or references capital cost
7 avoidance savings, the current or projected value of a "solar
8 renewable energy certificate," as defined pursuant to section 3 of
9 P.L.1999, c.23 (C.48:3-51), or other environmental or similar
10 attributes or benefits of whatever nature that derive from the
11 generation of renewable energy, and any costs or discounts
12 associated with maintenance services, an energy savings guarantee,
13 or third party verification of energy conservation measures and
14 energy savings. The calculation of energy savings shall utilize and
15 specifically reference as a benchmark the actual demand and energy
16 components of the public utility tariff rate applicable to the board of
17 trustees then in effect, and not a blended rate that aggregates,
18 combines, or restates in any manner the distinct demand and energy
19 components of the public utility tariff rate into a single combined or
20 restated tariff rate. If an energy services company submits a
21 proposal to a board of trustees that does not calculate projected
22 energy savings in the manner required by this subsection, such
23 proposal shall be rejected by the board of trustees.

24 (2) For the purposes of this section, the Board of Public Utilities
25 shall adopt standards and uniform values for interest rates and
26 escalation of labor, electricity, oil, and gas, as well as standards for
27 presenting these costs in a life cycle and net present value format,
28 standards for the presentation of obligations for carbon reductions,
29 and other standards that the board may determine necessary.

30 f. (1) When an energy services company is awarded an energy
31 savings services contract, it shall offer the board of trustees the
32 option to purchase, for an additional amount, an energy savings
33 guarantee. The guarantee, if accepted by a separate vote of the
34 board of trustees, shall insure that the energy savings resulting from
35 the energy savings improvement program, determined periodically
36 over the duration of the guarantee, will be sufficient to defray all
37 payments required to be made pursuant to the lease-purchase
38 agreement or energy savings obligation, and if the savings are not
39 sufficient, the energy services company will reimburse the board of
40 trustees for any additional amounts. Annual costs of a guarantee
41 shall not be financed or included as costs in an energy savings plan
42 but shall be fully disclosed in an energy savings plan.

43 (2) When a guaranteed energy savings option is purchased, the
44 contract shall require a qualified third party to verify the energy
45 savings at intervals established by the parties.

46 (3) When an energy services company is awarded an energy
47 savings services contract to provide or perform goods or services
48 for the purpose of enabling a board of trustees to conserve energy

1 through energy efficiency equipment, including a "combined heat
2 and power facility" as that term is defined pursuant to section 3 of
3 P.L.1999, c.23 (C.48:3-51), on a self-funded basis, such contract
4 shall extend for a term of up to 15 years for energy efficiency
5 projects, and for up to 20 years for a combined heat and power
6 facility after construction completion. If a board of trustees shall
7 elect to contract with an energy services company for an energy
8 savings guarantee in connection with a contract awarded pursuant to
9 this section, such guarantee may extend for a term of up to 15 years
10 for energy efficiency projects, or up to 20 years for a combined heat
11 and power facility after construction completion.

12 g. As used in this section:

13 "direct digital control systems" means the devices and
14 computerized control equipment that contain software and computer
15 interfaces that perform the logic that control a building's heating,
16 ventilating, and air conditioning system. Direct digital controls
17 shall be open protocol format and shall meet the interoperability
18 guidelines established by the American Society of Heating,
19 Refrigerating and Air-Conditioning Engineers;

20 "educational facility" means a structure suitable for use as a
21 dormitory, dining hall, student union, administrative building,
22 academic building, library, laboratory, research facility, classroom,
23 athletic facility, health care facility, teaching hospital, and parking,
24 maintenance, storage or utility facility or energy conservation
25 measures and other structures or facilities related thereto or required
26 or useful for the instruction of students or the conducting of
27 research or the operation of an institution for higher education, and
28 public libraries, and the necessary and usual attendant and related
29 facilities and equipment, but shall not include any facility used or to
30 be used for sectarian instruction or as a place for religious worship;

31 "energy conservation measure" means an improvement that
32 results in reduced energy use, including, but not limited to,
33 installation of energy efficient equipment; demand response
34 equipment; combined heat and power systems; facilities for the
35 production of renewable energy; water conservation measures,
36 fixtures or facilities; building envelope improvements that are part
37 of an energy savings improvement program; and related control
38 systems for each of the foregoing;

39 "energy related capital improvement" means a capital
40 improvement that uses energy but does not result in a reduction of
41 energy use;

42 "energy saving obligation" means a bond, note or other
43 agreement evidencing the obligation to repay borrowed funds
44 incurred in order to finance energy saving improvements;

45 "energy savings" means a measured reduction in fuel, energy,
46 operating or maintenance costs resulting from the implementation
47 of one or more energy conservation measures services when
48 compared with an established baseline of previous fuel, energy,

1 operating or maintenance costs, including, but not limited to, future
2 capital replacement expenditures avoided as a result of equipment
3 installed or services performed as part of an energy savings plan;

4 "energy savings improvement program" means an initiative of a
5 public institution of higher education to implement energy
6 conservation measures in existing facilities, provided that the value
7 of the energy savings resulting from the program will be sufficient
8 to cover the cost of the program's energy conservation measures;

9 "energy savings plan" means the document that describes the
10 actions to be taken to implement the energy savings improvement
11 program;

12 "energy savings services contract" means a contract with an
13 energy savings company to develop an energy savings plan, prepare
14 bid specifications, manage the performance, provision,
15 construction, and installation of energy conservation measures by
16 subcontractors, to offer a guarantee of energy savings derived from
17 the implementation of an energy savings plan, and may include a
18 provision to manage the bidding process;

19 "energy services company" means a commercial entity that is
20 qualified to develop and implement an energy savings plan in
21 accordance with the provisions of this section;

22 "public works activities" means any work subject to the
23 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.); and

24 "water conservation measure" means an alteration to a facility or
25 equipment that reduces water consumption, maximizes the
26 efficiency of water use, or reduces water loss.

27 h. (1) The State Treasurer and the Board of Public Utilities
28 may take such action as is deemed necessary and consistent with the
29 intent of this section to implement its provisions.

30 (2) The State Treasurer and the Board of Public Utilities may
31 adopt implementation guidelines or directives, and adopt such
32 administrative rules, pursuant to the "Administrative Procedure
33 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary for the
34 implementation of those agencies' respective responsibilities under
35 this section, except that notwithstanding any provision of P.L.1968,
36 c.410 (C.52:14B-1 et seq.) to the contrary, the State Treasurer and
37 the Board of Public Utilities may adopt, immediately upon filing
38 with the Office of Administrative Law, such rules and regulations
39 as deemed necessary to implement the provisions of this act which
40 shall be effective for a period not to exceed 12 months and shall
41 thereafter be amended, adopted or re-adopted in accordance with
42 the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

43 (cf: P.L.2012, c.55, s.2)

44

45 51. Section 3 of P.L.1969, c.242 (C.18A:66-169) is amended to
46 read as follows:

47 3. As used in this act:

- 1 a. "Accumulated deductions" means those contributions as
2 defined in N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84
3 (C.43:15A-6).
- 4 b. "Base salary" means a participant's regular base or
5 contractual salary. It shall exclude bonus, overtime or other forms
6 of extra compensation such as (1) longevity lump sum payments,
7 (2) lump sum terminal sick leave or vacation pay, (3) the value of
8 maintenance, (4) individual pay adjustments made within or at the
9 conclusion of the participant's final year of service, (5) retroactive
10 salary adjustments or other pay adjustments made in the
11 participant's final year of service unless such adjustment was made
12 as a result of a general pay adjustment for all personnel of the
13 department or institution, (6) any unscheduled individual
14 adjustment made in the final year to place the member at the
15 maximum salary level within his salary range and (7) any pay for
16 services rendered during the summer vacation period by a
17 participant who is required to work only 10 months of the year.
- 18 c. "Base annual salary" means the base salary upon which
19 contributions by the member and his employer to the alternate
20 benefit program were based during the last year of creditable
21 service.
- 22 d. (Deleted by amendment, P.L.1994, c.48).
- 23 e. (Deleted by amendment, P.L.2012, c.45)
- 24 f. "County colleges" means the colleges so defined in
25 N.J.S.18A:64A-1.
- 26 g. "Division of Pensions" means the division established in the
27 Department of the Treasury pursuant to section 1 of P.L.1955, c.70
28 (C.52:18A-95) and is the agency responsible for the administration
29 of the alternate benefit program of the State and county colleges
30 and for the administration of the group life and disability insurances
31 of all alternate benefit programs established in the State for public
32 employees.
- 33 h. "Full-time officers" and "full-time members of the faculty"
34 shall include the president, vice president, secretary and treasurer of
35 the respective school. "Full-time" shall also include eligible full-
36 time officers and full-time members of the faculty who are granted
37 sabbaticals or leaves of absence with pay where the compensation
38 paid is 50% or more of the base salary at the time the leave
39 commences and the period of eligibility terminates with the end of
40 the school year following the year in which the sabbatical began.
41 "Part-time" shall be defined as an appointment where the employee
42 receives a salary or wages for a period of less than 50% of the
43 normal work week. These definitions shall apply to teaching or
44 administrative staff members or to employees serving in a dual
45 capacity where the appointment includes teaching as well as
46 administrative duties.

1 i. "Group Annuity Plan" refers to the Group Annuity Contract
2 R-134 between the Board of Trustees of the New Jersey Institute of
3 Technology and the Prudential Insurance Company of America.

4 j. "Member" or "participant" means a full-time officer or a
5 full-time member of the faculty participating in the alternate benefit
6 program, and after the effective date of P.L.2008, c.89, means an
7 adjunct faculty member or a part-time instructor whose employment
8 agreement begins after that effective date.

9 k. "New Jersey Institute of Technology" means the Newark
10 College of Engineering.

11 l. "Pension reserve" means those moneys as defined in
12 N.J.S.18A:66-2 or in section 6 of P.L.1954, c.84 (C.43:15A-6).

13 m. "Rutgers, The State University" means the institution of
14 higher education described in chapter 65 of Title 18A of the New
15 Jersey Statutes.

16 n. "State Colleges" means the colleges so described in chapter
17 64 of Title 18A of the New Jersey Statutes and any former State
18 college designated as a public research university pursuant to
19 P.L.2012, c.45 (C.18A:64M-1 et al.) and P.L. , c. (C.) (pending
20 before the Legislature as this bill).

21 o. "Mutual fund company" means an investment company or
22 trust regulated by the federal "Investment Company Act of 1940,"
23 15 U.S.C.s. 80a-1 et seq.
24 (cf: P.L.2012, c.45, s.90)

25

26 52. Section 4 of P.L.1969, c.242 (C.18A:66-170) is amended to
27 read as follows:

28 4. All full-time officers and all full-time members of the
29 faculty of Rutgers, The State University, the Newark College of
30 Engineering, Rowan University, Montclair State University, the
31 State and county colleges and all regularly appointed teaching and
32 administrative staff members in applicable positions, as determined
33 by the Director of the Division of Pensions in the Department of the
34 Treasury, shall be eligible and shall participate in the alternate
35 benefit program, except those persons appointed in a part-time or
36 temporary capacity, physicians and dentists holding employment in
37 positions titled intern, resident or fellow on or after the effective
38 date of this amendatory act, persons compensated on a fee basis,
39 persons temporarily in the United States under an F or J visa and
40 members of the Teachers' Pension and Annuity Fund, the Public
41 Employees' Retirement System, the Police and Firemen's
42 Retirement System or the Group Annuity Plan, who did not elect to
43 transfer to the alternate benefit program in accordance with the
44 provisions of chapter 64C or 65 of Title 18A of the New Jersey
45 Statutes, P.L.1967, c.278 (C.18A:66-130 et seq.), or c.281
46 (C.18A:66-142 et seq.), or P.L.1968, c.181 (C.18A:66-154 et seq.).
47 An eligible person who has been enrolled in the alternate benefit
48 program for at least one year pursuant to this section may continue

1 to be enrolled in the program, notwithstanding promotion or
2 transfer to a position within the institution not otherwise eligible for
3 the program.

4 Any person participating in the alternate benefit program shall be
5 ineligible for membership in the Teachers' Pension and Annuity
6 Fund, the Public Employees' Retirement System, the Police and
7 Firemen's Retirement System or the Group Annuity Plan and any
8 person electing to participate in the alternate benefit program shall
9 thereby waive all rights and benefits provided by the Teachers'
10 Pension and Annuity Fund, the Public Employees' Retirement
11 System, the Police and Firemen's Retirement System or the Group
12 Annuity Plan as a member of said fund, system or plan, except as
13 herein and otherwise provided by law or under terms of the Group
14 Annuity Plan.

15 Any person required to participate in the alternate benefit
16 program by reason of employment, who at the time of such
17 employment is a member of the Teachers' Pension and Annuity
18 Fund, shall be permitted to transfer his membership in said fund to
19 the Public Employees' Retirement System, by waiving all rights and
20 benefits which would otherwise be provided by the alternate benefit
21 program. Any such new employee who is a member of the Public
22 Employees' Retirement System will be permitted to continue his
23 membership in that system, by waiving all rights and benefits which
24 would otherwise be provided by the alternate benefit program. Such
25 waivers shall be accomplished by filing forms satisfactory to the
26 Division of Pensions within 30 days of the beginning date of
27 employment.

28 Any person receiving a benefit by reason of his retirement from
29 any retirement or pension system of the State of New Jersey or any
30 political subdivision thereof shall be ineligible to participate in the
31 alternate benefit program.

32 No person eligible for participation in the alternate benefit
33 program shall be eligible for, or receive, benefits under chapters 4
34 and 8B of Title 43 of the Revised Statutes.

35 The alternate benefit programs established pursuant to this act
36 are deemed to be pension funds or retirement systems for purposes
37 of P.L.1968, c.23 (C.43:3C-1 et seq.).

38 (cf: P.L.2012, c.45, s.91)

39

40 53. Section 7 of P.L.1969, c.242 (C.18A:66-173) is amended to
41 read as follows:

42 7. (a) When a member of the Teachers' Pension and Annuity
43 Fund or the Public Employees' Retirement System or the Police and
44 Firemen's Retirement System elects to transfer to an alternate
45 benefit program by filing the proper application form declaring his
46 election to participate in such alternate benefit program, the
47 respective retirement system shall transfer the amount of his

1 accumulated deductions as of the date of transfer to his individual
2 account in the program.

3 (b) There shall also be transferred from the contingent reserve
4 fund or the pension fund of the Teachers' Pension and Annuity Fund
5 or the Public Employees' Retirement System or the Police and
6 Firemen's Retirement System or from the Group Annuity Plan to the
7 individual's account in the alternate benefit program, the pension
8 reserve required as of the date of his transfer to provide a pension
9 for each year of service credited to the account of the member as set
10 forth in N.J.S.18A:66-36 or N.J.S.18A:66-44 or as set forth in
11 section 38 or section 48 of P.L.1954, c.84 as such sections have
12 been amended and supplemented as of July 1, 1969 (C.43:15A-38,
13 C.43:15A-48) or as set forth in section 17 of P.L.1964, c.241
14 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or
15 for each year of service credited under the Group Annuity Plan.
16 Such transfer from the contingent reserve fund or the pension fund
17 of the Teachers' Pension and Annuity Fund or the Public
18 Employees' Retirement System or the Police and Firemen's
19 Retirement System or the Group Annuity Plan shall be made at the
20 time of the member's transfer to the alternate benefit program in the
21 case of any such member who has then met the eligibility
22 requirements for a pension under the aforementioned N.J.S.18A:66-
23 36, or N.J.S.18A:66-44, or section 38 or section 48 of P.L.1954,
24 c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241
25 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or
26 the Group Annuity Plan. In the case of any member who elects to
27 participate in the alternate benefit program who has not then met
28 the eligibility requirements for a pension under N.J.S.18A:66-36 or
29 N.J.S.18A:66-44, or under section 38 or section 48 of P.L.1954,
30 c.84 (C.43:15A-38, C.43:15A-48) or section 17 of P.L.1964, c.241
31 (C.43:16A-11.2) or section 5 of P.L.1944, c.255 (C.43:16A-5) or
32 under the Group Annuity Plan, the transfer from the contingent
33 reserve fund or the pension fund of the Teachers' Pension and
34 Annuity Fund or the Public Employees' Retirement System or the
35 Police and Firemen's Retirement System or the Group Annuity Plan
36 shall be effected at the time such requirements have been met,
37 taking into account for the purpose of such eligibility requirement
38 his years of membership service at the time of his election and his
39 subsequent years of service as a full-time member of the faculty of
40 Rutgers, The State University, the New Jersey Institute of
41 Technology, Rowan University, Montclair State University, or the
42 State or county colleges or as an eligible employee of the
43 Department of Higher Education, or at the time he shall have 10
44 years of credit for New Jersey service and becomes physically
45 incapacitated for the performance of duty if he had been a member
46 of the Teachers' Pension and Annuity Fund or the Public
47 Employees' Retirement System or the Police and Firemen's
48 Retirement System as of the date of transfer.

1 The annuity to be used in determining the amount of pension is
2 the actuarial equivalent of the member's accumulated deductions
3 transferred from the Teachers' Pension and Annuity Fund or the
4 Public Employees' Retirement System or the Police and Firemen's
5 Retirement System to the date the member attains 60 years of age, if
6 subsequent to the date of election. The amount of pension is that
7 established by formula within N.J.S.18A:66-44 or section 48 of
8 P.L.1954, c.84 as such sections have been amended and
9 supplemented as of July 1, 1969 (C.43:15A-48) or section 5 of
10 P.L.1944, c.255 (C.43:16A-5) or under the Group Annuity Plan, and
11 changes to N.J.S.18A:66-44 or section 48 of P.L.1954, c.84
12 (C.43:15A-48) or section 5 of P.L.1944, c.255 (C.43:16A-5)
13 enacted subsequent to this act or the Group Annuity Plan shall have
14 no application to the provisions of this act.

15 In the event that the eligibility requirement under N.J.S.18A:66-
16 36 or under section 38 of P.L.1954, c.84 (C.43:15A-38) or section
17 17 of P.L.1964, c.241 (C.43:16A-11.2) or under the Group Annuity
18 Plan is changed at some future date to permit members to become
19 eligible for such benefit prior to the completion of 15 years of
20 service, the transfer of the reserve from the contingent reserve fund
21 or the pension fund of the Teachers' Pension and Annuity Fund or
22 the Public Employees' Retirement System or the Police and
23 Firemen's Retirement System or from the Group Annuity Plan shall
24 be effective as of the date the member who had elected the alternate
25 benefit program meets the amended eligibility requirement or the
26 effective date of the amendment, whichever is later.

27 In the event an option is available with respect to the distribution
28 of employee and employer contributions between fixed and variable
29 annuities under the alternate benefit program, the employee shall
30 have the right to determine the percentage distribution of these
31 funds subject to any limitations imposed by the designated insurer
32 or insurers.

33 (c) No transfer of pension reserves shall be made pursuant to
34 this section where more than two consecutive years elapse in which
35 no employer contributions to an alternate benefit program are
36 required.

37 (cf: P.L.2012, c.45, s.92)

38

39 54. Section 8 of P.L.1969, c.242 (C.18A:66-174) is amended to
40 read as follows:

41 8. (a) Rutgers, The State University and the New Jersey
42 Institute of Technology shall reduce the compensation of each
43 participant in the alternate benefit program and pay over to the
44 insurers or mutual fund companies for the benefit of the participant
45 an employee contribution for the retirement annuity contract or
46 contracts equal to 5% of the participant's base salary. The intervals
47 for deductions or reductions and payments shall be determined by
48 the respective school governing bodies.

1 The Division of Pensions and Benefits shall provide for
2 reductions from the compensation of each participant in the
3 alternate benefit program employed by the State and county
4 colleges of an employee contribution equal to 5% of the
5 participant's base salary and pay this amount to the insurers or
6 mutual fund companies for the individual's retirement annuity
7 contract or contracts. The intervals for deductions or reductions and
8 payments shall be determined by the Division of Pensions and
9 Benefits.

10 The Division of Pensions and Benefits may require that all
11 participant contributions be made in accordance with section 414(h)
12 of the federal Internal Revenue Code (26 U.S.C. s.414(h)).

13 (b) Based on a certification to the Division of Pensions and
14 Benefits by Rutgers, The State University, the New Jersey Institute
15 of Technology, **[and]** Rowan University, and Montclair State
16 University of the number and base salary of participants, the
17 division shall authorize the State to make payment of the employer
18 contributions to the alternate benefit program at a rate equal to 8%
19 of the employee's base salary, except the amount of the contribution
20 shall not exceed 8% of the maximum salary for department officers
21 established pursuant to section 1 of P.L.1974, c.55 (C.52:14-
22 15.107), which moneys shall be paid to the designated insurers or
23 mutual fund companies for the benefit of each participant.

24 Based on a certification by the Division of Pensions and Benefits
25 of the number and base salary of participants employed by the State
26 and county colleges, the State shall make payment of the employer
27 contributions to the alternate benefit program at a rate equal to 8%
28 of the employee's base salary, except the amount of the contribution
29 shall not exceed 8% of the maximum salary for department officers
30 established pursuant to section 1 of P.L.1974, c.55 (C.52:14-
31 15.107), which moneys shall be paid to the designated insurers or
32 mutual fund companies for the benefit of each participant.

33 (c) For the member of the Public Employees' Retirement System
34 employed by the county colleges, who is defined in the regulations
35 of the Division of Pensions and Benefits as a full-time faculty
36 member and who is permitted to transfer his membership and does
37 so, the State shall pay the employer contribution to the alternate
38 benefit program at a rate equal to 8% of the member's base salary,
39 except the amount of the contribution shall not exceed 8% of the
40 maximum salary for department officers established pursuant to
41 section 1 of P.L.1974, c.55 (C.52:14-15.107). If the member
42 continues membership in the Public Employees' Retirement System,
43 the State shall pay the employer contribution to the retirement
44 system on his behalf and such employer contribution shall be at a
45 rate equal to the normal contribution made by the State on behalf of
46 nonveteran members of the Public Employees' Retirement System.

47 (d) For any nonacademic employee of a county college, as
48 defined in section 4 of P.L.1969, c.242 (C.18A:66-170), who is

1 eligible for the program according to the regulations of the Director
2 of the Division of Pensions and Benefits, the county college shall
3 pay the employer contribution to the retirement system on the
4 employee's behalf in the same manner as the State, pursuant to this
5 section.

6 (cf: P.L.2012, c.45, s.93)

7

8 55. Section 24 of P.L.1969, c.242 (C.18A:66-190) is amended to
9 read as follows:

10 24. The Board of Governors of Rutgers, The State University,
11 the Board of Trustees of the New Jersey Institute of Technology,
12 the Board of Trustees of Rowan University, the Board of Trustees
13 of Montclair State University, and the boards of trustees of State
14 and county colleges, are hereby authorized to enter into agreement
15 with each employee participating in the alternate benefit program
16 whereby the employee agrees to take a reduction in salary with
17 respect to amounts earned after the effective date of such agreement
18 in return for the agreement of the respective institution to use a
19 corresponding amount to purchase an annuity for such employee so
20 as to obtain the benefits afforded under section 403(b) of the federal
21 Internal Revenue Code, as amended. Any such agreement shall
22 specify the amount of such reduction, the effective date thereof, and
23 shall be legally binding and irrevocable with respect to amounts
24 earned while the agreement is in effect; provided, however, that
25 such agreement may be terminated after it has been in effect for a
26 period of not less than one year upon notice in writing by either
27 party, and provided further that not more than one such agreement
28 shall be entered into during any taxable year of the employee. For
29 the purposes of this section, any annuity or other contract which
30 meets the requirements of section 403(b) of the federal Internal
31 Revenue Code, as amended, may be utilized. The amount of the
32 reduction in salary under any agreement entered into between the
33 institutions and any employee pursuant to this section shall not
34 exceed the limitations set forth in P.L.93-406 (Employment
35 Retirement Income Security Act of 1974) and Section 415(c) of the
36 Internal Revenue Code of 1954 as amended for such year.

37 Amounts payable pursuant to this section by an institution on
38 behalf of an employee for a pay period shall be transmitted and
39 credited not later than the fifth business day after the date on which
40 the employee is paid for that pay period.

41 (cf: P.L.2012, c.45, s.94)

42

43 56. Section 25 of P.L.1969, c.242 (C.18A:66-191) is amended to
44 read as follows:

45 25. No retirement, death or other benefit shall be payable by the
46 State, Rutgers, The State University, the New Jersey Institute of
47 Technology, Rowan University, Montclair State University, or the
48 Division of Pensions under the alternate benefit program. Benefits

1 shall be payable to participating employees and their beneficiaries
2 only by the designated insurers or mutual fund companies under the
3 terms of the contracts.

4 (cf: P.L.2012, c.45, s.95)

5

6 57. Section 3 of P.L.1969, c.142 (C.18A:71-30) is amended to
7 read as follows:

8 3. As used in this act, unless the context clearly indicates
9 otherwise, the following terms shall have the following meanings:

10 (a) The term "board" shall mean the Board of Directors of the
11 New Jersey Educational Opportunity Fund created by section 4 of
12 P.L.1968, c.142 (C.18A:71-31).

13 (b) (Deleted by amendment, P.L.1994, c.48).

14 (c) The term "department" shall mean the Department of State.

15 (d) The term "fund" shall mean the New Jersey Educational
16 Opportunity Fund created by section 4 of P.L.1968, c.142
17 (C.18A:71-31).

18 (e) The term "higher education" shall mean that education
19 which is provided by any or all of the public institutions of higher
20 education as herein defined or any or all equivalent private
21 institutions.

22 (f) The term "public institutions of higher education" shall mean
23 and include Rutgers, The State University, the New Jersey Institute
24 of Technology, Rowan University, Montclair State University, the
25 **【eight】** seven State colleges, the county colleges, and any other
26 public universities, colleges or county colleges now or hereafter
27 established or authorized by law.

28 (cf: P.L.2012, c.45, s.96)

29

30 58. N.J.S.18A:71A-4 is amended to read as follows:

31 18A:71A-4. a. The Board of the Higher Education Student
32 Assistance Authority shall consist of 18 members as follows: the
33 State Treasurer, ex-officio, or a designee; the Secretary of Higher
34 Education, ex-officio, or a designee from among the public
35 members of the commission; the chairperson of the Board of
36 Directors of the Educational Opportunity Fund, ex-officio, or a
37 designee from among the public members of the board; five
38 representatives from eligible institutions in this State, including one
39 from Rutgers, the State University, one from either the New Jersey
40 Institute of Technology **【or】**, Rowan University, or Montclair State
41 University, one from the county colleges, one from the State
42 colleges, and one from the independent institutions of higher
43 education in the State; two students from different collegiate
44 institutional sectors; seven public members who shall be residents
45 of this State, including one who shall represent a lender party to a
46 participation agreement with the authority; and the executive
47 director of the authority, or designee, who shall be an ex-officio,
48 non-voting member of the board.

1 b. The seven public members, including the lender member,
2 shall be appointed by the Governor with the advice and consent of
3 the Senate. No more than four of the public members shall be
4 members of the same political party. The institutional
5 representatives shall be nominated by the respective institution in
6 the case of Rutgers, the State University, New Jersey Institute of
7 Technology, **[and]** Rowan University, and Montclair State
8 University. The remaining institutional representatives shall be
9 nominated by the respective sector association. Institutional
10 representatives shall be appointed by the Governor with the advice
11 and consent of the Senate. The student members shall be the
12 individuals that the Student Advisory Committee elects as its
13 chairperson and vice-chairperson. The Student Advisory Committee
14 shall be created by the board to include students from all collegiate
15 institutional sectors. The necessary appointments shall be made
16 within 45 days of the enactment of P.L.1999, c.46 (N.J.S.18A:71A-
17 1 et al.).

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

29 (cf: P.L.2012, c.45, s.97)

30

31 59. Section 3 of P.L.2000, c.163 (C.18A:71B-55) is amended to
32 read as follows:

33 3. As used in this act, the following terms shall have the
34 following meanings:

35 "Board" means the Board of Trustees of the Tony Pompelio
36 Commemorative Scholarship Fund for the children of crime victims
37 created pursuant to this act.

38 "Chairman" means the Chairman of the Violent Crimes
39 Compensation Board.

40 "Executive director" means the chief executive and
41 administrative officer of the authority.

42 "Authority" means the Higher Education Student Assistance
43 Authority established pursuant to N.J.S.18A:71A-1 et seq., the
44 "Higher Education Student Assistance Authority Law," or any
45 body, entity, commission, or department succeeding to the principal
46 functions thereof or to whom the powers conferred upon the
47 authority by N.J.S.18A:71A-1 et seq. shall be given by law.

1 "Public Institutions of Higher Education" means the State
2 colleges and universities created pursuant to chapter 64 of Title 18A
3 of the New Jersey Statutes; the county colleges; the New Jersey
4 Institute of Technology; Rutgers, the State University; Rowan
5 University; Montclair State University; and any other public
6 universities, colleges, county colleges and junior colleges now or
7 hereafter established or authorized by law.

8 (cf: P.L.2012, c.45, s.98)

9

10 60. N.J.S.18A:72A-3 is amended to read as follows:

11 18A:72A-3. As used in this act, the following words and terms
12 shall have the following meanings, unless the context indicates or
13 requires another or different meaning or intent:

14 "Authority" means the New Jersey Educational Facilities
15 Authority created by this chapter or any board, body, commission,
16 department or officer succeeding to the principal functions thereof
17 or to whom the powers conferred upon the authority by this chapter
18 shall be given by law;

19 "Bond" means bonds or notes of the authority issued pursuant to
20 this chapter;

21 "County college capital project" means any capital project of a
22 county college certified pursuant to section 2 of P.L.1971, c.12
23 (C.18A:64A-22.2) and approved by the State Treasurer for funding
24 pursuant to the "County College Capital Projects Fund Act,"
25 P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

26 "Dormitory" means a housing unit with necessary and usual
27 attendant and related facilities and equipment, and shall include a
28 dormitory of a public or private school, or of a public or private
29 institution of higher education;

30 "Educational facility" means a structure suitable for use as a
31 dormitory, dining hall, student union, administration building,
32 academic building, library, laboratory, research facility, classroom,
33 athletic facility, health care facility, teaching hospital, and parking
34 maintenance storage or utility facility and other structures or
35 facilities related thereto or required or useful for the instruction of
36 students or the conducting of research or the operation of an
37 institution for higher education, and public libraries, and the
38 necessary and usual attendant and related facilities and equipment,
39 but shall not include any facility used or to be used for sectarian
40 instruction or as a place for religious worship;

41 "Emerging needs program" means a program at one or more
42 public or private institutions of higher education directed to meeting
43 new and advanced technology needs or to supporting new academic
44 programs in science and technology;

45 "Higher education equipment" means any property consisting of,
46 or relating to, scientific, engineering, technical, computer,
47 communications or instructional equipment;

1 "Participating college" means a public institution of higher
2 education or private college which, pursuant to the provisions of
3 this chapter, participates with the authority in undertaking the
4 financing and construction or acquisition of a project;

5 "Project" means a dormitory or an educational facility or any
6 combination thereof, or a county college capital project;

7 "Private college" means an institution for higher education other
8 than a public college, situated within the State and which, by virtue
9 of law or charter, is a nonprofit educational institution empowered
10 to provide a program of education beyond the high school level;

11 "Private institution of higher education" means independent
12 colleges or universities incorporated and located in New Jersey,
13 which by virtue of law or character or license, are nonprofit
14 educational institutions authorized to grant academic degrees and
15 which provide a level of education which is equivalent to the
16 education provided by the State's public institutions of higher
17 education as attested by the receipt of and continuation of regional
18 accreditation by the Middle States Association of Colleges and
19 Schools, and which are eligible to receive State aid;

20 "Public institution of higher education" means Rutgers, The State
21 University, the State colleges, the New Jersey Institute of
22 Technology, Rowan University, Montclair State University, the
23 county colleges and any other public university or college now or
24 hereafter established or authorized by law;

25 "School" means a secondary school, military school, or boarding
26 school;

27 "University" means Rutgers, The State University.

28 (cf: P.L.2012, c.45, s.103)

29

30 61. N.J.S.18A:72A-26 is amended to read as follows:

31 18A:72A-26. In order to provide new dormitories and to enable
32 the construction and financing thereof, to refinance indebtedness
33 hereafter created by the authority for the purpose of providing a
34 dormitory or dormitories or additions or improvements thereto, or
35 for any one or more of said purposes, but for no other purpose
36 unless authorized by law, each of the following bodies shall have
37 the powers hereafter enumerated to be exercised upon such terms
38 and conditions, including the fixing of any consideration or rental to
39 be paid or received, as it shall determine by resolution as to such
40 property and each shall be subject to the performance of the duties
41 hereafter enumerated, that is to say, the treasurer as to such as are
42 located on land owned by the State or by the authority, the board of
43 governors of the university, the board of trustees of the New Jersey
44 Institute of Technology **[or]**, Rowan University, or Montclair State
45 University, the board of trustees of a State college or the board of
46 trustees of a county college as to such as are located on land owned
47 by the university or by the particular college respectively, namely:

1 a. The power to sell and to convey to the authority title in fee
2 simple in any such land and any existing dormitories thereon owned
3 by the State or owned by the board of trustees of a county college or
4 the power to sell and to convey to the authority such title as the
5 university or the college respectively may have in any such land and
6 any existing dormitories thereon.

7 b. The power to lease to the authority any land and any existing
8 dormitories thereon so owned for a term or terms not exceeding 50
9 years each.

10 c. The power to lease or sublease from the authority, and to
11 make available, any such land and existing dormitories conveyed or
12 leased to the authority under subsections a. and b. of this section,
13 and any new dormitories erected upon such land or upon any other
14 land owned by the authority, any rentals to be payable, as to the
15 university or as to any such college from available funds other than
16 moneys appropriated to it by the State.

17 d. The power and duty, upon receipt of notice of any
18 assignment by the authority of any lease or sublease made under
19 subsection c. of this section, or of any of its rights under any such
20 lease or sublease, to recognize and give effect to such assignment,
21 and to pay to the assignee thereof rentals or other payments then
22 due or which may become due under any such lease or sublease
23 which has been so assigned by the authority.

24 (cf: P.L.2012, c.45, s.104)

25

26 62. N.J.S.18A:72A-27.1 is amended to read as follows:

27 18A:72A-27.1. In addition to the powers and duties with respect
28 to dormitories given under N.J.S.18A:72A-26 and 18A:72A-27 the
29 treasurer, the board of governors of the university, the board of
30 trustees of the New Jersey Institute of Technology, the board of
31 trustees of a State college, the board of trustees of Rowan
32 University, the board of trustees of Montclair State University, and
33 the board of trustees of a county college shall also have the same
34 power and be subject to the same duties in relation to any
35 conveyance, lease or sublease made under subsection a., b., or c. of
36 section 18A:72A-26, with respect to revenue producing facilities;
37 that is to say, structures or facilities which produce revenues
38 sufficient to pay the rentals due and to become due under any lease
39 or sublease made under subsection c. of section 18A:72A-26
40 including, without limitation, student unions and parking facilities.

41 (cf: P.L.2012, c.45, s.105)

42

43 63. Section 48 of P.L.2009, c.90 (C.18A:72A-82) is amended to
44 read as follows:

45 48. As used in sections 48 and 49 of P.L.2009, c.90
46 (C.18A:72A-82 and C.18A:72A-83):

1 "Board" means the Local Finance Board established in the
2 Division of Local Government Services in the Department of
3 Community Affairs.

4 "Bonds" mean bonds, notes or other obligations issued to finance
5 or refinance higher education projects by a municipality, or on
6 behalf of a municipality by a county improvement authority created
7 pursuant to the "county improvement authorities law," P.L.1960,
8 c.183 (C.40:37A-44 et seq.).

9 "Higher education partnership agreement" means an agreement
10 between a municipality and an institution of higher education
11 providing for the issuance of bonds by the municipality, a county
12 improvement authority or a redevelopment entity, and the pledge of
13 payments by the institution of higher education to secure those
14 bonds to finance a higher education project, or part thereof.

15 "Higher education project" means the establishment and
16 construction of higher education buildings and the expansion and
17 construction of additional facilities at, and the acquisition of
18 additional and upgraded equipment for existing higher education
19 buildings, including but not limited to the planning, erecting,
20 purchasing, improving, developing, constructing, reconstructing,
21 extending, rehabilitating, renovating, upgrading, demolishing and
22 equipping of facilities at institutions of higher education.

23 "Institution of higher education" means: Rutgers, The State
24 University; a State college or university established pursuant to
25 chapter 64 of Title 18A of the New Jersey Statutes; the New Jersey
26 Institute of Technology; Rowan University; Montclair State
27 University; a county college and any other public university or
28 college now or hereafter established or authorized by State law; and
29 any college or university incorporated and located in New Jersey,
30 which by virtue of law or character or license is a nonprofit
31 educational institution authorized to grant academic degrees and
32 which provides a level of education which is equivalent to the
33 education provided by the State's public institutions of higher
34 education, as attested by the receipt of and continuation of regional
35 accreditation by the Middle States Association of Colleges and
36 Schools, and which is eligible to receive State aid under the
37 provisions of the Constitution of the United States and the
38 Constitution of the State of New Jersey, but does not include any
39 educational institution dedicated primarily to the education or
40 training of ministers, priests, rabbis or other professional persons in
41 the field of religion.

42 "Municipality" means the municipal governing body or an entity
43 acting on behalf of the municipality if permitted by the federal
44 Internal Revenue Code of 1986, or, if a redevelopment agency or
45 redevelopment entity is established in the municipality pursuant to
46 P.L.1992, c.79 (C.40A:12A-1 et seq.) and the municipality so
47 provides, the redevelopment agency or entity so established.

48 (cf: P.L.2012, c.45, s.106)

- 1 64. Section 3 of P.L.1985, c.493 (C.18A:72H-3) is amended to
2 read as follows:
- 3 3. As used in this act:
- 4 a. "Auditorily impaired" means a hearing impairment of such
5 severity that the individual depends primarily upon visual
6 communication.
- 7 b. "Competent authority" means any doctor of medicine or any
8 doctor of osteopathy licensed to practice medicine and surgery in
9 this State.
- 10 c. (Deleted by amendment, P.L.1994, c.48).
- 11 d. "Eligible student" means any student "admitted to a public or
12 independent institution of higher education who is" suffering from a
13 visual impairment, auditory impairment or a specific learning
14 disability within guidelines established by the Commission on
15 Higher Education pursuant to regulations promulgated under this
16 act.
- 17 e. "Independent institution of higher education" means a
18 college or university incorporated and located in New Jersey, which
19 by virtue of law or character or license is a nonprofit educational
20 institution authorized to grant academic degrees and which provides
21 a level of education which is equivalent to the education provided
22 by the State's public institutions of higher education, as attested by
23 the receipt of and continuation of regional accreditation by the
24 Middle States Association of Colleges and Schools, and which is
25 eligible to receive State aid under the provisions of the Constitution
26 of the United States and the Constitution of the State of New Jersey,
27 but does not include any educational institution dedicated primarily
28 to the education or training of ministers, priests, rabbis or other
29 professional persons in the field of religion.
- 30 f. "Learning disability" means a significant barrier to learning
31 caused by a disorder in one or more of the basic psychological
32 processes involved in understanding or in using language, spoken or
33 written, which disorder may manifest itself in imperfect ability to
34 listen, think, speak, read, write, spell, or do mathematical
35 calculations. The disorder includes conditions such as perceptual
36 handicap, brain injury, minimal brain dysfunction, dyslexia, and
37 developmental aphasia. This term shall not include learning
38 problems which are primarily the result of visual, hearing, or motor
39 handicaps, mental retardation, emotional disturbances, or
40 environmental, cultural, or economic disadvantage.
- 41 g. "Program" means the Higher Education Services for
42 Visually Impaired, Auditorily Impaired and Learning Disabled
43 Students Program established pursuant to this act.
- 44 h. "Public institution of higher education" means Rutgers, The
45 State University, the New Jersey Institute of Technology, Rowan
46 University, Montclair State University, the State colleges and the
47 county colleges.

1 i. "Support services" or "supportive services" means services
2 that assist eligible students in obtaining a college education and
3 include, but are not limited to, interpreters, note takers, and tutors.

4 j. "Visually impaired" means a vision impairment where the better
5 eye with correction does not exceed 20/200 or where there is a field
6 defect in the better eye in which the diameter of the field is no
7 greater than 20 degrees.

8 (cf: P.L.2012, c.45, s.107)

9

10 65. Section 2 of P.L.2005, c.379 (C.34:11-56.59) is amended to
11 read as follows:

12 2. As used in this act:

13 "Commissioner" means the Commissioner of Labor and
14 Workforce Development or the commissioner's duly authorized
15 representatives.

16 "Building services" means any cleaning or building maintenance
17 work, including but not limited to sweeping, vacuuming, floor
18 cleaning, cleaning of rest rooms, collecting refuse or trash, window
19 cleaning, engineering, securing, patrolling, or other work in
20 connection with the care, securing, or maintenance of an existing
21 building, except that "building services" shall not include any
22 maintenance work or other public work for which a contractor is
23 required to pay the "prevailing wage" as defined in section 2 of
24 P.L.1963, c.150 (C.34:11-56.26).

25 "Leased by the State" means that not less than 55% of the
26 property or premises is leased by the State, provided that the portion
27 of the property or premises that is leased by the State measures
28 more than 20,000 square feet.

29 "Prevailing wage for building services" means the wage and
30 benefit rates designated by the commissioner based on the
31 determinations made by the General Services Administration
32 pursuant to the federal "Service Contract Act of 1965" (41 U.S.C.
33 s.351 et seq.), for the appropriate localities and classifications of
34 building service employees.

35 "The State" means the State of New Jersey and all of its
36 departments, bureaus, boards, commissions, agencies and
37 instrumentalities, including any State institutions of higher
38 education, but does not include political subdivisions.

39 "State institutions of higher education," means Rutgers, The
40 State University of New Jersey, Rowan University, **[and]** the New
41 Jersey Institute of Technology, and Montclair State University, and
42 any of the State colleges or universities established pursuant to
43 chapter 64 of Title 18A of the New Jersey Statutes, but does not
44 include any county college established pursuant to chapter 64A of
45 Title 18A of the New Jersey Statutes.

46 (cf: P.L.2012, c.45, s.119)

1 66. Section 12 of P.L.1978, c.39 (C.52:18A-174) is amended to
2 read as follows:

3 12. Subject to the independent approval of the State Treasurer,
4 the board may authorize the transfer of funds necessary to permit
5 individuals employed at the New Jersey Institute of Technology,
6 Rutgers, The State University, Rowan University, Montclair State
7 University, and any other agency, authority, commission, or
8 instrumentality of State government which has an independent
9 corporate existence, to participate in the plan.
10 (cf: P.L.2012, c.45, s.133)

11
12 67. Section 1 of P.L.1959, c.40 (C.52:27B-56.1) is amended to
13 read as follows:

14 1. The Director of the Division of Purchase and Property may,
15 by joint action, purchase any articles used or needed by the State
16 and the Palisades Interstate Park Commission, the New Jersey
17 Highway Authority, the New Jersey Turnpike Authority, the
18 Delaware River Joint Toll Bridge Commission, the Port Authority
19 of New York and New Jersey, the South Jersey Port Corporation,
20 the Passaic Valley Sewerage Commission, the Delaware River Port
21 Authority, Rutgers, The State University, Rowan University,
22 Montclair State University, the New Jersey Sports and Exposition
23 Authority, the New Jersey Housing Finance Agency, the New
24 Jersey Mortgage Finance Authority, the New Jersey Health Care
25 Facilities Financing Authority, the New Jersey Education Facilities
26 Authority, the New Jersey Economic Development Authority, the
27 South Jersey Transportation Authority, the Hackensack
28 Meadowlands Development Commission, the New Jersey Water
29 Supply Authority, the Higher Education Student Assistance
30 Authority or any other agency, commission, board, authority or
31 other such governmental entity which is established and is allocated
32 to a State department or any bi-state governmental entity of which
33 the State of New Jersey is a member.
34 (cf: P.L.2012, c.45, s.134)

35
36 68. This act shall take effect immediately.