

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71A-1. Short Title.**

18A:71A-1. Short Title

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

L.1999,c.46,s.1.

### **18A:71A-2. Terms defined.**

18A:71A-2. Terms Defined.

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

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

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

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

"Commission" means the New Jersey Commission on Higher Education.

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

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

"Fund" means the Higher Education Student Assistance Fund.

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71A-3 Higher Education Student Assistance Authority created.**

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

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

L.1999,c.46,s.1.

### **18A:71A-4 Board of the authority.**

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71A-5 Executive director.**

18A:71A-5. Executive Director.

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

b. The executive director shall be:

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

(2) the appointing authority and official agent of the authority for all

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

purposes. The authority shall delegate to the executive director the power to employ financial and computer experts, attorneys, accountants, managers, and such other employees and agents as may be necessary; to fix their compensation; and to promote and discharge the employees and agents;

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

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

(5) authorized, subject to law, to select a designee to act in his place or stead and to have authority over all matters concerning the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes.

L.1999,c.46,s.1.

### **18A:71A-6 Organization of the board.**

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

which the certified copy of the minutes was furnished to the Governor.

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

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

L.1999,c.46,s.1.

### **18A:71A-7 Limitation of liability, conflict of interest, compensation.**

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

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

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

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

L.1999,c.46,s.1.

### **18A:71A-8 General powers of the authority.**

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

The authority shall have the power to:

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

j. complete, administer, operate, obtain and authorize payment for insurance on and maintain, renovate, repair, modernize, lease or otherwise deal with any property acquired or held by it pursuant to this act;

k. authorize payment for disbursements, costs, commissions, attorney's fees and other reasonable expenses related to and necessary for the making and protection of guaranteed and other authority loans and the recovery of moneys, loans or management of property acquired in connection with the loans;

l. adopt rules and regulations to implement this act; and

m. do all acts and things necessary or appropriate to carry out the objects and purposes of this act.

L.1999,c.46,s.1.

### **18A:71A-9 Further powers of the authority.**

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

The authority shall have the following powers to:

a. further access to postsecondary education, whether by loans, grants, scholarships, savings programs, or other means as approved by the Legislature to meet the expenses of postsecondary education;

b. make, assist in the placing of federally guaranteed student loans, service or otherwise provide such loans:

(1) to persons who are residents of this State or who reside outside this State who are attending and are in good standing in, or who plan to attend, any eligible institution located in this State or elsewhere; or

(2) to parents of persons meeting the requirements set forth in paragraph (1) of this subsection, in order to assist them in meeting the expenses of postsecondary education;

c. guarantee the loans in subsection b. of this section upon such terms and conditions as the authority may prescribe; provided that the amounts may not exceed the annual and aggregate amounts authorized under 20 U.S.C.s.1071 et seq.;

d. buy and sell approved notes evidencing loans made under this act,

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

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

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

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

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

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

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

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

- o. inform the public of financial aid programs to meet the expenses of postsecondary education;
- p. perform audit and review functions, including federally mandated lender and school reviews, campus level State student financial aid program reviews and State-mandated annual internal control reviews; and
- q. assist the Attorney General in the investigation of alleged violations of all criminal statutes related to fraud or a breach of fiduciary obligations committed by any person who has obtained or aided and abetted in obtaining loans, loan guarantees, scholarships, and grants or other moneys from this authority; and to work in conjunction with the appropriate prosecuting authorities in the prosecution of cases where it is determined that evidence of criminal activity exists.

L.1999,c.46,s.1

### **18A:71A-10 Contracts, purchases, records, travel.**

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

a. The authority, in the exercise of its power to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, shall adopt standing operating rules and procedures providing that, except as hereinafter provided, no contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, when the sum to be expended exceeds the sum of \$25,000 or, after the effective date of P.L.1999, c.440, the amount determined pursuant to subsection b. of this section, unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; provided, however, that such advertising shall not be required when the contract to be entered into is one for the furnishing or performing of services of a professional nature, or when the purchase is to be made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P.L.1959, c.40 (C.52:27B-56.1), or through a contract made by any of the following: the New Jersey Sports and Exposition Authority established under section 4 of P.L.1971, c.137 (C.5:10-4); the Hackensack Meadowlands Development Commission established under section 5 of P.L.1968, c.404 (C.13:17-5); the New Jersey Highway Authority established under section 4 of P.L.1952, c.16 (C.27:12B-4); the New Jersey Turnpike Authority established under section 3 of P.L.1948, c.454 (C.27:23-3); the New Jersey Water Supply Authority established under section 4 of P.L.1981, c.293 (C.58:1B-4); the South Jersey Transportation Authority established under section 4 of P.L.1991, c.252 (C.27:25A-4); the Port Authority of New York and New Jersey established under

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

R.S.32:1-4; and the Delaware River Port Authority established under R.S.32:3-2. Waiver of bid advertising and of actual bidding shall be made by resolution of the authority for those goods, services, and contracts described in sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 52:34-10).

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

b. Commencing in the fifth year after the year in which P.L.1999, c.440 takes effect, and every five years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in subsection a. of this section, or the threshold amount resulting from any adjustment under this subsection, in direct proportion to the rise or fall of the index rate as that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall round the adjustment to the nearest \$1,000. The Governor shall, no later than June 1 of every fifth year, notify the authority of the adjustment. The adjustment shall become effective July 1 of the year in which it is made.

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

seq.), notwithstanding the provisions of any law to the contrary.

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

L.1999, c.46, s.1; amended 1999, c.440, s.105.

### **18A:71A-11 Certain pension, benefits, and employment classification provisions applicable to employees of the authority.**

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

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

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

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

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

L.1999,c.46,s.1.

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

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

The authority may issue bond anticipation notes and other short-term

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71A-13 Bonds, bond anticipation notes, other obligations: general provisions.**

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

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

At any time prior to the issuance and sale of bonds or other obligations by the authority under this act, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority those sums which the State Treasurer may deem

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

necessary. The sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds, notes or other obligations issued for the same programmatic purpose as the funds transferred by the State Treasurer.

L.1999,c.46,s.1.

### **18A:71A-14 Bond resolutions.**

18A:71A-14. Bond Resolutions.

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

- a. the pledging of all or any part of the revenues of the authority;
- b. the use and disposition of the revenues;
- c. the setting aside of reserves or sinking funds, and the regulations and disposition thereof;
- d. limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;
- e. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given;
- f. limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging the proceeds to secure the payment of the bonds or any issue of the bonds;
- g. defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default; and
- h. the making of covenants other than and in addition to the covenants herein expressly authorized, of like or different character; and the making of the covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure the bonds, notes or other obligations which, in the absolute discretion of the authority, will tend to make the bonds, notes, or other obligations more marketable, notwithstanding that the

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

covenants, acts or things may not be enumerated herein.

L.1999,c.46,s.1.

### **18A:71A-15 Personal liability on bonds, notes and other obligations.**

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

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

L.1999,c.46,s.1.

### **18A:71A-16 Purchase by authority of bonds, notes and other obligations.**

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

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

L.1999,c.46,s.1.

### **18A:71A-17 Security for bonds.**

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

may deem reasonable and proper for the security of the bondholders.

L.1999,c.46,s.1.

### **18A:71A-18 Liability for payment of bonds.**

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

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

L.1999,c.46,s.1.

### **18A:71A-19 Rights of bondholders.**

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

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

L.1999,c.46,s.1.

### **18A:71A-20 Refunding bonds.**

18A:71A-20. Refunding Bonds.

- a. The authority shall have power to issue bonds for the purposes of

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

refunding any of its bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or maturity of the bonds.

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

L.1999,c.46,s.1.

### **18A:71A-21 Bonds as legal investments.**

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.1999,c.46,s.1.

### **18A:71A-22 Pledge of state; exemption from taxation; taxable bond option.**

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

a. The State of New Jersey does pledge to and agree with the holders of the bonds, notes and other obligations issued pursuant to authority contained in this act and N.J.S.18A:71A-8, that the State will not limit the power and obligation of the authority to fulfill the terms of any agreements made with the holders of bonds, notes and other obligations so issued, or in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way the exemptions for taxation provided for in this act, until the bonds, notes and other obligations together with interest thereon, are fully paid and discharged. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

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

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

L.1999,c.46,s.1.

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

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

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

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

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

c. In order to assure the maintenance of the loan reserve requirement in the Loan Reserve Fund, there shall be appropriated annually and paid to the authority for deposit in the fund, such sum, if any, as shall be certified by the

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

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

L.1999,c.46,s.1.

### **18A:71A-25 Capital Reserve Fund; use; investment.**

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

a. The authority shall establish and maintain a special fund called the "New Jersey Higher Education Student Assistance Capital Reserve Fund" in which there shall be deposited: (1) all moneys appropriated by the State for the purpose of the fund; (2) all proceeds of bonds required to be deposited therein by terms of any contract between the authority and its bondholders or any resolution of the authority with respect to the proceeds or bonds; and (3) any other moneys or funds of the authority which it determines to deposit therein. Moneys in the capital reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the same shall become due and payable and for the retirement of bonds, and shall not be withdrawn therefrom if the withdrawal would reduce the amount in the capital reserve fund to an amount equal to less than the maximum debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and for the retirement of bonds in accordance with the terms of any contract between the authority and its

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

bondholders and for the payments on account of which interest or principal or retirement of bonds other moneys of the authority are not then available in accordance with the terms of the contract. As used in this section, "maximum debt service reserve" means, as of any date of computation, the lesser of: the largest amount of money required by the terms of all contracts between the authority and its bondholders to be raised in any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of the contracts to sinking funds established for the payment or redemption of the bonds, all calculated on the assumption that bonds will cease to be outstanding after the date of the computation by reason of the payment of bonds at their respective maturities and the payments of the required moneys to sinking funds and the application thereof in accordance with the terms of the contracts to the retirement of bonds; or the amount of money required by the terms of all contracts between the authority and its bondholders to be maintained in the fund.

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

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

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

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

f. In order to assure the maintenance of the maximum debt service reserve in the capital reserve fund, there shall be appropriated annually and paid

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71A-26 Dissolution.**

18A:71A-26. Dissolution.

Should the Legislature act to dissolve the authority, the dissolution shall not be complete until all loans guaranteed have been paid by the borrower, or if in default, by the authority. Thereafter, upon dissolution of the authority, or the cessation of its activities, all assets of the authority, after payment and discharge of its debts and other liabilities, shall be distributed to the State, for exclusively public purposes, or distributed for one or more exempt purposes within the meaning of paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.501.

L.1999,c.46,s.1.

### **18A:71A-27 Effect of partial invalidity; severability.**

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

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

L.1999,c.46,s.1.

### **18A:71A-28 Transfer of functions, powers and duties of office of student assistance.**

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

Assistance.

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

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

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

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

L.1999,c.46,s.1.

### **18A:71A-29 Transfer of Functions, powers and duties of student assistance board.**

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

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.1999,c.46,s.1.

### **18A:71A-30 Transfer of functions, powers and duties of higher education assistance authority.**

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

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

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

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

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

L.1999,c.46,s.1.

### **18A:71A-31 Abolishment of executive director of student assistance programs.**

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

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

L.1999,c.46,s.1.

### **18A:71A-32 Construction of law.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

The enactment of this revision law shall not:

- a. affect the tenure, compensation and pension rights, if any, of the lawful holder thereof, in any position held in the Office of Student Assistance on the effective date of this act and not specifically abolished in this act;
- b. alter the term of any employee of the Office of Student Assistance, lawfully employed as of the effective date of this act;
- c. alter any terms or conditions of any student loans, grants or scholarships;
- d. alter any rights or obligations arising from any law, rule, regulation, order, contract, loan, grant, document, judicial or administrative proceeding.

L.1999,c.46,s.1.

### **18A:71A-33 Higher Education Student Assistance Authority to be responsible for implementation.**

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

The Higher Education Student Assistance Authority, with the aid of any department or officer thereof, if requested, shall be responsible for any administrative, fiscal and personnel actions necessary to implement the provisions of this act.

L.1999,c.46,s.1

### **18A:71A-34 Limitation on powers of authority; bond holders protected.**

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

to its bonds or for the benefit, protection or security of the holders thereof.

L.1999,c.46,s.1.

### **18A:71B-1 Eligible institution defined.**

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

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

L.1999,c.46,s.1.

### **18A:71B-2 Student eligibility.**

18A:71B-2. Student Eligibility.

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

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

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

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

L.1999,c.46,s.1.

### **18A:71B-3 Discrimination forbidden.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### 18A:71B-3. Discrimination Forbidden.

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

L.1999,c.46,s.1.

### **18A:71B-4 Academic year defined.**

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

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

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

L.1999,c.46,s.1.

### **18A:71B-5 Notification of authority in the case of withdrawal or change in status.**

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

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

L.1999,c.46,s.1.

### **18A:71B-6 Verification of compliance with military selective service act.**

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

L.1999,c.46,s.1.

### **18A:71B-7 Rules and regulations.**

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

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

L.1999,c.46,s.1.

### **18A:71B-8 Compliance with terms and conditions of financial aid.**

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

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

L.1999,c.46,s.1.

### **18A:71B-9 False information; penalty.**

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-10 Collection of overpayments and ineligible payments of financial aid.**

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

Because the institution is responsible for ensuring a student's eligibility for financial aid awarded under this chapter, the institution shall be responsible for collecting any State awards which are overpayments or any State awards for which the student is ineligible in whole or in part. In the event an institution is unable to collect an overpayment or ineligible payment from the student, the institution may request the authority to collect the debt from the student. If the institution demonstrates to the authority that it has made a good faith effort to collect the debt, the authority may, on a case by case basis, approve this request. If the authority approves this request from an institution, the authority may use collection procedures that include, but are not limited to, the procedures set forth under N.J.S.18A:71C-1 through N.J.S.18A:71C-20.

L.1999,c.46,s.1.

### **18A:71B-11 Scholarships created.**

18A:71B-11. Scholarships Created.

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

L.1999,c.46,s.1.

### **18A:71B-12 Administration by the authority.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-13 Criteria, methodology and guidelines; revisions.**

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

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

L.1999,c.46,s.1.

### **18A:71B-14 Award of scholarships.**

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

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

L.1999,c.46,s.1.

### **18A:71B-15 Renewal of scholarships.**

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

Each Garden State Scholarship awarded shall be renewable annually for up to four years except that, in the case of a scholarship holder who is enrolled in a course of study required by the institution to cover five years, the period of the

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

scholarship shall be the length of time regularly required for the completion of the course of study, but each scholarship shall remain in effect only during such period as the undergraduate holder thereof achieves satisfactory academic progress as defined by the institution, continues to meet the eligibility criteria and guidelines established pursuant to N.J.S.18A:71B-12, and is regularly enrolled as a full-time student in an eligible institution.

L.1999,c.46,s.1.

### **18A:71B-16 Amount of scholarship; payments.**

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

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

L.1999,c.46,s.1.

### **18A:71B-17 Limitation.**

18A:71B-17. Limitation.

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

L.1999,c.46,s.1.

### **18A:71B-18 Grants created; use.**

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

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

L.1999,c.46,s.1.

### **18A:71B-19 Administration of provisions.**

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-20 Eligibility, prerequisite.**

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

(1) satisfies the residency and other requirements provided in article 1 of this part;

(2) has applied for State tuition aid and has been determined by the authority to be eligible for the tuition aid;

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

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

L.1999,c.46,s.1.

### **18A:71B-20.1 Tuition aid grant eligibility for children of persons transferred to a military installation in New Jersey.**

1. Notwithstanding the provisions of section 1 of P.L.1979, c.361 (C.18A:62-4) or any other law to the contrary, a dependent child of a parent or guardian who has been transferred to a military installation located in this State shall be considered a resident of this State for the purposes of qualifying for a State tuition aid grant pursuant to N.J.S.18A:71B-18 et seq.

L.2005,c.60.

### **18A:71B-21 Amount of grant; reduction of award.**

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

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-22 Construction of article.**

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

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

L.1999,c.46,s.1.

### **18A:71B-23 Scholarships for undergraduate education; eligibility.**

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

Any child or surviving spouse of a member or officer of a New Jersey volunteer fire company, volunteer first aid or rescue squad or municipal fire, police, county police or park police department, State fire service or of the division of State police, or of a permanent, active and full-time officer employee of this State or any political subdivision thereof holding the following titles: State investigator, correction officer, recruit, senior correction officer, sergeant, lieutenant, captain, correction officer duty keeper, court attendant and sheriff's officer, court attendant and sheriff's officer lieutenant, court attendant and sheriff's officer captain, court attendant and sheriff's officer deputy chief, prosecutor's detective, prosecutor's investigator, narcotics officer, marine

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-23.1 Short title.**

1. This act shall be known and may be cited as the "New Jersey World Trade Center Scholarship Program Act."

L.2001,c.442,s.1.

### **18A:71B-23.2 Definitions relative to "New Jersey World Trade Center Scholarship Program Act."**

2. As used in this act:

"Institution of higher education" means an institution of higher education licensed by the appropriate agency or department and accredited or preaccredited by a nationally recognized accrediting association. An institution of higher education shall also include certain proprietary institutions, but only for degree granting programs approved by the Commission on Higher Education or other proprietary institutions as determined by the authority.

"Authority" means the Higher Education Student Assistance Authority

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

established pursuant to N.J.S.18A:71A-1 et seq.

L.2001,c.442,s.2.

### **18A:71B-23.3 New Jersey World Trade Center Scholarship Fund.**

3. a. There is established in the Higher Education Student Assistance Authority a nonlapsing fund which shall be known as the New Jersey World Trade Center Scholarship Fund. The fund shall be administered by the board of trustees established pursuant to section 4 of this act.

b. The fund shall consist of: all moneys appropriated by the Legislature for inclusion in the fund; investment earnings of the fund; and moneys contributed to the fund by private sources, to be used for the purposes of this act. The moneys in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury.

L.2001,c.442,s.3.

### **18A:71B-23.4 Board of Trustees; membership; duties; responsibilities.**

4. a. The board of trustees of the New Jersey World Trade Center Scholarship Fund shall consist of the State Treasurer, or a designee, and ten public members appointed as follows: two by the President of the Senate, two by the Speaker of the General Assembly and six by the Governor, with the advice and consent of the Senate. Seven of the public members shall be persons who were directly affected by the terrorist attacks on the United States on September 11, 2001. Two of the public members shall be named by the Governor to serve as co-chairpersons of the board.

b. Each public member of the board shall serve for a term of four years and until a successor shall have been appointed and qualified; except that of the first members appointed, two shall serve for one year, two shall serve for two years, three shall serve for three years and three shall serve for four years. Any vacancy in the membership of the board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

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

d. The board shall have the following duties and responsibilities:

(1) establish criteria for the determination of eligibility for a scholarship from the fund;

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

(2) establish procedures for determining the amount of each scholarship award, based on the financial need of the applicant and the resources available to the applicant to meet his higher education costs;

(3) report annually to the Governor and the Legislature on the performance of its duties in accordance with the provisions of this act;

(4) solicit and raise private funds to finance the New Jersey World Trade Center Scholarship Program; and

(5) receive and disburse such contributions to the fund as may be forthcoming from private and public sources.

L.2001,c.442,s.4.

### **18A:71B-23.5 Awarding of scholarships.**

5. a. The board is hereby authorized to award scholarships from the fund for the costs of undergraduate study at an institution of higher education to the dependent children or surviving spouses of persons who were New Jersey residents on September 11, 2001 and:

(1) who were killed in the terrorist attack on the United States on September 11, 2001; or

(2) who died as a result of injuries received in the attack; or

(3) who died as a result of illness caused by exposure to the attack sites, as established in medical records or other appropriate documentation as required by the board; or

(4) who are missing and officially presumed dead as a direct result of the attack.

The terrorist attack on the United States shall include the hijackings of American Airlines Flight 11, American Airlines Flight 77, United Airlines Flight 93 and United Airlines Flight 175 and the subsequent crashes at the World Trade Center in New York City, the Pentagon in Washington, D.C. and in Somerset County, Pennsylvania.

b. Scholarships from the fund may be awarded annually upon proper application to the fund to any student who qualifies under the criteria developed by the board.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.2001, c.442, s.5; amended 2007, c.5, s.1.

### **18A:71B-23.6 Conditions for awarding of scholarship.**

6. a. A New Jersey World Trade Center scholarship shall not be awarded to an applicant unless the applicant has demonstrated to the satisfaction of the board that the applicant:

(1) will be or is enrolled in a full-time undergraduate program of study leading to a degree at an institution of higher education; and

(2) has complied with all rules and regulations adopted pursuant to this act for the award, regulation and administration of scholarships from the fund.

b. Eligibility for a scholarship, in the case of a surviving spouse, shall be limited to a period of eight years from the date of death of the person for initial receipt of the benefits under the program. In the case of a dependent child, eligibility shall be limited to a period of eight years following graduation from high school.

L.2001,c.442,s.6.

### **18A:71B-23.7 Rules, regulations.**

7. The Higher Education Student Assistance Authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary for the administration of this act.

L.2001,c.442,s.7.

### **18A:71B-24 Appropriation of funds.**

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

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

L.1999,c.46,s.1.

#### **18A:71B-24.1. Short title**

1. This act shall be known and may be cited as the "Law Enforcement Officers' Memorial Scholarship Act of 2000."

L.2001,c.41,s.1.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-24.2. Law Enforcement Officer Memorial Scholarships Program**

5. a. There is created the Law Enforcement Officer Memorial Scholarships Program. These scholarships shall be awarded, pursuant to the provisions of this act, to the children of New Jersey law enforcement officers who were killed in the line of duty. The New Jersey Higher Education Student Assistance Authority, in but not of the Department of State, and established pursuant to N.J.S.18A:71A-3, shall administer this program.

b. Law Enforcement Officer Memorial Scholarships shall be awarded annually within the limits of monies in the Law Enforcement Officer Memorial Fund, created pursuant to subsection c. of section 2 of P.L.2001, c.41 (C.39:3-27.123), for undergraduate study leading to a baccalaureate degree or associate degree at any public or private institution of higher education in New Jersey. The amount of any such scholarship shall not exceed an amount equal to the portion of the recipient's cost of attendance at the institution that is not otherwise covered by any other scholarship, tuition aid grant, benefit or other assistance awarded to the recipient under the "Higher Education Student Assistance Authority Law," N.J.S.18A:71A-1 et seq.

c. The scholarships may be renewed annually for up to four years, except that each scholarship shall remain in effect only if the holder of the scholarship remains a full-time student in good standing at the institution and continues to meet the eligibility criteria and guidelines established under this act and regulations promulgated thereto. Selection of recipients may take into account the actual dependency of the recipients, their needs and means, and the pecuniary loss occasioned by reason of the death of their parents.

d. A student who is subject to the provisions of the "Military Selective Service Act," 50 U.S.C. App.453, shall not be eligible to receive any scholarship without verification of compliance with the requirements of that act.

e. For the purposes of this act, "law enforcement officer" means a New Jersey resident employed as a permanent full-time member of any federal, State, county or municipal law enforcement agency, department, or division of those governments who is statutorily empowered to act for the detection, investigation, arrest, conviction, detention, or rehabilitation of persons violating the criminal laws of this State or of the United States and statutorily required to successfully complete a training course approved by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), or certified by the commission as being substantially equivalent to an approved course.

L.2001,c.41,s.5

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-24.3. Rules, regulations**

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

L.2001,c.41,s.6.

### **18A:71B-24.4. Annual appropriation**

7. There shall be annually appropriated to the Higher Education Student Assistance Authority such sums as shall be necessary to administer the provisions of sections 5 and 6 of P.L.2001, 41 (C.18A:71B-24.2 and 18A:71B-24.3).

L.2001,c.41,s.7.

### **18A:71B-25 Scholarship program established.**

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

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

L.1999,c.46,s.1.

### **18A:71B-26 Scholarship eligibility.**

18A:71B-26. Scholarship Eligibility.

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

L.1999,c.46,s.1.

### **18A:71B-27 Scholarship conditions.**

18A:71B-27. Scholarship Conditions.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-28 Definitions.**

18A:71B-28. Definitions.

As used in this article:

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

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

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

L.1999,c.46,s.1.

### **18A:71B-29 Issue of bonds.**

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-30 Participation by institutions of higher education.**

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-31 Dollar Amount not to be considered in determining eligibility for monetary assistance.**

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

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

L.1999,c.46,s.1.

### **18A:71B-32 Report on results of sale.**

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

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

L.1999,c.46,s.1.

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-34 Assessment of effectiveness of program.**

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

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

L.1999,c.46,s.1.

### **18A:71B-35 Legislative findings and declarations.**

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

The Legislature finds and declares that:

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

e. In addition to favorable federal tax treatment for a college savings program and its participants, it is desirable to provide favorable State tax treatment, as a special incentive for student beneficiaries to attend college in this State.

L.1999,c.46,s.1.

### **18A:71B-36 Definitions.**

18A:71B-36. Definitions.

As used in this article:

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

"Authority" means the Higher Education Student Assistance Authority;

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

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

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

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

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

L.1999,c.46,s.1.

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-38 Administration of the program; powers of the authority.**

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

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

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

L.1999,c.46,s.1.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-39 Immunity.**

18A:71B-39. Immunity.

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

L.1999,c.46,s.1.

### **18A:71B-40 Selection of investment manager.**

18A:71B-40. a. The authority shall select an investment manager or managers to invest the funds of the trust or the funds in accounts. In making this selection, any investment manager shall be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89), and the authority shall consider the impact of fees and costs imposed by the manager or managers on yield to contributors.

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

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

e. If the selection process provided for in this section results in an investment manager other than the Division of Investment, the authority shall provide for the orderly transfer of accounts and shall ensure that all the rights of the contributors and designated beneficiaries participating in the program as of the effective date of P.L.2001, c.262 (C.18A:71B-64 et al.), are protected.

L.1999, c.46, s.1; amended 2001, c.262, s.18.

### **18A:71B-41 Operation of program; fees.**

18A:71B-41. a. The program shall be operated as a trust through the use of accounts for designated beneficiaries. An account may be opened by any person who desires to save to pay the qualified higher education expenses of an individual by satisfying each of the following requirements:

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

b. (Deleted by amendment, P.L.2003, c.309).

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

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

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

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

regulations issued thereunder.

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

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

p. A contributor, if an individual, may designate another person as a successor contributor in the event of the death of the original contributor. The person who opens the account, or any successor contributor, shall be considered the contributor as defined in N.J.S.18A:71B-36.

q. Any person may make contributions to an account, consistent with the terms established by the authority, after the account is opened.

L.1999, c.46, s.1; amended 2003, c.309.

### **18A:71B-41.1 Exemption from claims of creditors for NJBEST accounts.**

20. Moneys paid into or out of an NJBEST account by or on behalf of a contributor or designated beneficiary for the purposes of financing the cost of qualified higher education expenses under this article are exempt from all claims of creditors of the contributor or the designated beneficiary.

L.2001,c.262,s.20.

### **18A:71B-42 NJBEST scholarship; conditions.**

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

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

(1) the contributor demonstrates, to the satisfaction of the authority, that the contributor participated in the program for at least four years by making a qualifying minimum initial deposit or qualifying minimum annual contributions, or

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

both, as shall be determined by the authority, for a designated beneficiary;

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

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

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

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

L.1999,c.46,s.1.

### **18A:71B-43 Determination of dollar amount of account.**

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

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

L.1999,c.46,s.1.

### **18A:71B-44 Assurance of availability of principal.**

18A:71B-44. a. If the investment manager is the Division of Investment in the Department of the Treasury, in order to assure the availability of principal of any amount contributed under this article, there shall be paid to the authority for deposit in the trust, at the time of distribution, subject to appropriation, such sum, if any, as shall be certified by the chair of the authority as necessary to provide

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

that amount at the time of distribution. The chair shall make and deliver to the Governor, or his designee, the certificate stating the sums, if any, required to make available in the trust the amount aforesaid, and the sums so certified shall be appropriated and paid to the authority during the then current State fiscal year.

b. If the investment manager is a private entity, the investment of the principal and interest of any amount contributed under this article shall be made in accordance with an investment plan approved by the State Investment Council in the Division of Investment.

L.1999, c.46, s.1; amended 2001, c.262, s.19.

### **18A:71B-45 Construction.**

18A:71B-45. Construction.

a. Nothing in this article shall be construed to:

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

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

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

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

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

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

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

return guaranteed by this State.

L.1999,c.46,s.1.

### **18A:71B-46 Federal income tax consequences.**

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

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

L.1999,c.46,s.1.

### **18A:71B-47 Contracts with accredited schools of veterinary medicine.**

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

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

L.1999,c.46,s.1.

### **18A:71B-48 Contracts with consent of advisory committee; members.**

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

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

L.1999,c.46,s.1.

### **18A:71B-46 Federal income tax consequences.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71B-47 Contracts with accredited schools of veterinary medicine.**

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

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

L.1999,c.46,s.1.

### **18A:71B-48 Contracts with consent of advisory committee; members.**

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

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

L.1999,c.46,s.1.

### **18A:71B-49 Organization of committee; expenses.**

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.1999,c.46,s.1.

### **18A:71B-50 Definitions.**

18A:71B-50. Definitions.

As used in this article:

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

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

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

L.1999,c.46,s.1.

### **18A:71B-51 Application for State support; form of application; certificate of accreditation by New Jersey Board of Nursing.**

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

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

L.1999,c.46,s.1.

### **18A:71B-52 Operational support by State; limitation.**

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71B-53. Short title**

1. This act shall be known as, and may be cited as, the "Tony Pompelio Commemorative Scholarship Fund Act."

L.2000,c.163,s.1.

### **18A:71B-54. Findings, declarations about crime victims**

2. The Legislature finds and declares that:

a. Ten percent of the crimes reported in the State are violent crimes, and murder accounts for at least one percent of all violent crimes committed. Victims of violent crimes and their families often become crime statistics with no honorable mention.

b. It is appropriate to pay tribute to those who have suffered from violent crime through the recognition of National Crime Victims' Rights Week. The State should recognize these individuals through the establishment of a special fund which will allow the children of crime victims the opportunity to attend college through the commemoration of the death of Tony Pompelio, a crime victim, by establishing the Tony Pompelio Commemorative Scholarship Fund.

L.2000,c.163,s.2.

### **18A:71B-55. Definitions regarding scholarship**

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

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

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

"Public Institutions of Higher Education" means the State colleges and universities created pursuant to chapter 64 of Title 18A of the New Jersey Statutes; the county colleges; the University of Medicine and Dentistry of New Jersey; the New Jersey Institute of Technology; Rutgers, the State University; and any other public universities, colleges, county colleges and junior colleges now or hereafter established or authorized by law.

L.2000,c.163,s.3.

### **18A:71B-56. "Tony Pompelio Commemorative Scholarship Fund"**

4. a. There is hereby created and established in the authority a scholarship fund which shall be known as the "Tony Pompelio Commemorative Scholarship Fund." The fund shall consist of all funds appropriated by the Legislature or otherwise made available for the Tony Pompelio Commemorative Scholarship Fund program.

b. The fund shall be administered by a board of trustees which shall consist of the executive director or a designee of the executive director, the chairman or a designee of the chairman and eight citizens of this State who have been crime victims or are family members of a crime victim. Citizen members of the board shall be selected by the chairman in consultation with the executive director, and without regard to political affiliation and, on the basis of their experience as crime victims or family members of a crime victim.

c. Each citizen member of the board shall serve for a term of four years and until a successor shall have been appointed and qualified. Any vacancy in the membership of the board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

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

e. The executive director or a designee of the executive director in conjunction with the chairman or a designee of the chairman shall serve as the chief executive officers of the fund and shall organize the work of the fund as deemed necessary to carry out the provisions of this act.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.2000,c.163,s.4.

### **18A:71B-57. Board duties**

5. The board shall:

a. Develop and maintain a Statewide system for the identification of potential Pompelio scholars in cooperation with other State departments, agencies or public institutions of higher education in the State.

b. Recruit, select and provide financial assistance from the fund to Pompelio scholars who are residents of this State in order that they may be able to attend public institutions of higher education.

c. Communicate with departments and agencies of the United States on the availability of grants to this State for purposes related or similar to those set forth in this act.

d. Develop, establish and publicize criteria for the determination of eligibility for financial assistance from the fund.

e. Establish procedures for determining the amount of each award based on the total financial need of each Pompelio scholar and the resources available to the applicant to meet the costs of the applicant's higher education.

f. Annually report in writing to the authority on the performance of its duties in accordance with the provisions of this act.

g. Adopt bylaws, and make, enforce, alter and repeal rules for its own operation and for carrying out the provisions of this act.

h. Deposit in the fund and disburse from the fund such gifts and contributions as may be forthcoming from public and private sources.

L.2000,c.163,s.5.

### **18A:71B-58. Awarding scholarships**

6. a. The board is hereby authorized to award scholarships from the fund to Pompelio scholars for undergraduate study leading to a baccalaureate degree, associate degree, or other approved certificate at public institutions of higher education located in New Jersey.

b. Grants from the fund may be awarded annually upon proper

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

application to the fund, to any Pompelio scholar who qualifies under the standards to be developed and promulgated by the board.

L.2000,c.163,s.6.

### **18A:71B-59. Qualifications of applicant**

7. a. No scholarship pursuant to this act shall be awarded to any applicant unless the applicant has demonstrated to the satisfaction of the board that he or she:

(1) Is and has been a resident of this State for at least 12 months prior to receiving the grant;

(2) Will be or is enrolled in a full-time undergraduate program of study leading to a degree or certificate at a public institution;

(3) Has complied with all rules and regulations adopted pursuant to this act by the board for the award, regulation and administration of grants from the fund.

b. In addition to the requirements of subsection a. of this section, the board is hereby authorized to require the satisfaction of such other requirements as it may deem necessary to carry out the provisions of this act.

L.2000,c.163,s.7.

### **18A:71B-60. Recipients paid by State Treasurer**

8. Scholarships awarded pursuant to this act shall be paid to recipients by the State Treasurer in accordance with rules and regulations adopted by the authority.

L.2000,c.163,s.8

### **18A:71B-61. Eligibility restrictions**

9. No person shall be eligible for scholarships pursuant to this act for more than four years, or for such other period of time as may be determined necessary by the board for the completion of an organized course of study. Each scholarship awarded pursuant to this act shall remain in effect only so long as the recipient achieves satisfactory academic progress as determined by the institution of attendance and demonstrates continued eligibility pursuant to this act.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.2000,c.163,s.9.

### **18A:71B-62. Nondiscrimination in awards**

10. Scholarships awarded pursuant to this act shall be awarded by the board without regard to race, creed, or religion and in such manner and amount as may be within the limits of funds appropriated or otherwise made available.

L.2000,c.163,s.10.

### **18A:71B-63. Rules, regulations**

11. The Higher Education Student Assistance Authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary for the administration of this act.

L.2000,c.163,s.11.

### **18A:71B-64 Short title.**

1. Sections 1 through 17 of this act shall be known and may be cited as the "New Jersey Prepaid Higher Education Expense Program Act of 2001."

L.2001,c.262,s.1.

### **18A:71B-65 Findings, declarations relative to Prepaid Higher Education Expense Program.**

2. The Legislature finds and declares: that educational opportunity at the college and university level is a critical State interest which is linked to the needs of the State to ensure a well-educated work force; that educational opportunity is best ensured through the provision of institutions of higher education which are geographically and financially accessible; that it is in the best interests of this State to adopt and foster mechanisms which will encourage its citizens to engage in the timely financial planning which is necessary to guarantee that students will have the financial resources necessary to pursue a higher education given the annually escalating level of resources which such attendance requires; and that one such mechanism which has proven successful in some other states is the establishment of a program through which a portion of the costs associated with attendance at institutions of higher education may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment.

L.2001,c.262,s.2.

### **18A:71B-66 Definitions relative to Prepaid Higher Education Expense**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### Program.

3. As used in sections 1 through 17 of this act:

"Advance payment contract" means a contract entered into by the board and a purchaser pursuant to the provisions of this act;

"Board" means the Prepaid Higher Education Expense Board established pursuant to section 6 of this act;

"Eligible independent institution of higher education" means those institutions of higher education incorporated and located in this State, which, by virtue of law or character or license, are nonprofit educational institutions empowered to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which are eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey and whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529. "Eligible independent institution of higher education" shall include a proprietary institution if expenses for tuition at the institution would be considered qualified higher education expenses under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529, but only for degree granting programs licensed or approved by the Commission on Higher Education or for other proprietary institutions as determined by the board. "Eligible independent institution of higher education" does not include any educational institution dedicated primarily to the preparation or training of ministers, priests, rabbis, or other professional persons in the field of religion;

"Fund" means the Prepaid Higher Education Expense Trust Fund established pursuant to section 5 of this act;

"Institution of higher education" means an eligible educational institution as defined in or for purposes of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529;

"Program" means the New Jersey Prepaid Higher Education Expense Program established pursuant to section 4 of this act;

"Public institution of higher education" means Rutgers, The State University, the State colleges or universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereafter established or authorized by

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

State law. A public institution of higher education is an institution whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529;

"Purchaser" means a person who makes or is obligated to make payments in accordance with an advance payment contract;

"Qualified beneficiary" means: a. a resident of this State at the time a purchaser enters into an advance payment contract on behalf of the resident; or b. a nonresident who is the child of a noncustodial parent who is a resident of the State at the time that the noncustodial parent enters into an advance payment contract on behalf of the child;

"Tuition" means the charges imposed by an institution of higher education for enrollment at the institution. The Prepaid Higher Education Expense Board shall determine whether mandatory fees charged by institutions of higher education shall be included in the definition of tuition.

L.2001,c.262,s.3.

### **18A:71B-67 New Jersey Prepaid Higher Education Expense Program.**

4. a. There is established the New Jersey Prepaid Higher Education Expense Program to provide a means for payment of the costs of tuition in advance of enrollment at a public institution of higher education. Moneys remitted in accordance with advance payment contracts shall be combined and invested in a manner that is intended to yield sufficient interest to generate the difference between the prepaid amount and the average in-state tuition costs at public institutions of higher education in the State at the time that the benefits are exercised. The program shall pay to the public institution of higher education at which the qualified beneficiary is enrolled an amount equal to the institution's tuition rate at the time the benefits are exercised.

b. The program shall be administered by the Prepaid Higher Education Expense Board established pursuant to section 6 of this act.

L.2001,c.262,s.4.

### **18A:71B-68 Prepaid Higher Education Expense Trust Fund.**

5. a. There is created within the Prepaid Higher Education Expense Board the Prepaid Higher Education Expense Trust Fund. The fund shall consist of State appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. Dividends, interest, and gains accruing to the fund shall increase the total funds

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

available for the program.

b. Any funds associated with contracts for which refunds are due, but have not been claimed, shall increase the total funds available for the program. However, the board shall establish procedures for notifying purchasers of any unclaimed refund and shall establish a time period after which a refund may not be claimed.

c. Any balance contained in the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program.

d. The assets of the fund shall be maintained, invested, and expended solely for the purposes of this act and shall not be loaned, transferred, or otherwise used by the State for any purpose other than the purposes of this act. This subsection shall not be construed to prohibit the board from investing in, by purchase or otherwise, bonds, notes or other obligations of the State or an agency or instrumentality of the State.

e. Unless otherwise specified by the board, assets of the fund shall be expended in the following order of priority:

(1) to make payments to institutions of higher education on behalf of qualified beneficiaries;

(2) to make refunds upon cancellation of advance payment contracts;  
and

(3) to pay the costs of program administration and operations.

f. The board shall administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board determines a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure soundness.

g. If the board finds that a surplus in the fund exists, the board may compensate purchasers of advance payment contracts in a manner that the board determines to be appropriate.

L.2001,c.262,s.5.

### **18A:71B-69 Prepaid Higher Education Expense Board.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

6. a. The Prepaid Higher Education Expense Board is established as a body corporate and politic in the Executive Branch of State Government and for the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is allocated in, but not of, the Department of State. Notwithstanding this allocation, the board shall be independent of any supervision or control by the department or by any board or officer thereof.

b. The board shall consist of 11 members, including the State Treasurer or a designee, the executive director of the Commission on Higher Education or a designee, the executive director of the Higher Education Student Assistance Authority or a designee, the chair of the New Jersey Presidents' Council or a designee; and seven members appointed by the Governor without regard for political affiliation, one upon the recommendation of the Speaker of the General Assembly, one upon the recommendation of the Minority Leader of the General Assembly, one upon the recommendation of the President of the Senate, and one upon the recommendation of the Minority Leader of the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management or investment management. Members appointed by the Governor shall serve terms of three years, except that in making the initial appointments, the Governor shall appoint two members to serve for one year, two members to serve for two years, and three members to serve for three years. Any member appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve until a successor qualifies. Members of the board shall serve without compensation but shall be reimbursed for any necessary expenses incurred in the performance of their duties.

c. The Governor shall appoint a member of the board to serve as the initial chair of the board. Thereafter, the board shall elect a chair annually. The board shall annually elect a board member to serve as vice-chair and shall designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the board and shall be the custodian of all printed material filed with or by the board and of its official seal. Notwithstanding the existence of vacancies on the board, a majority of the members shall constitute a quorum. The board shall take no official action in the absence of a quorum. The board shall meet, at a minimum, on a quarterly basis at the call of the chair.

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

L.2001,c.262,s.6



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-70 Powers of the board.**

7. The board shall have the powers necessary or proper to carry out the provisions of this act, including, but not limited to, the power to:

- a. appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned by the board;
- b. adopt an official seal and alter the same at pleasure;
- c. sue and be sued in its own name;
- d. make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.);
- e. purchase, without advertising for bids or after having rejected all bids obtained pursuant to advertising therefor, any materials, supplies, goods, services or equipment pursuant to a contract or contracts for such materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property;
- f. establish agreements or other transactions with federal, State, and local agencies, including institutions of higher education;
- g. invest funds not required for immediate disbursement;
- h. hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board;
- i. employ personnel, including financial and computer experts, legal counsel, accountants, managers and auditors, as may be necessary; to fix their compensation; and to promote and discharge the employees and agents; all without regard to the provisions of Title 11A of the New Jersey Statutes;
- j. solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this act;
- k. require a reasonable length of State residence for qualified beneficiaries, as appropriate;
- l. reasonably restrict the number of participants in the county college plan and the university plan according to criteria developed by the board. A person

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

denied participation solely on the basis of this restriction shall be granted priority for participation during the succeeding year;

- m. segregate contributions and payments to the fund into various accounts;
- n. establish reasonable administrative fees in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis;
- o. procure insurance against any loss in connection with the property, assets and activities of the fund or the board;
- p. provide for the receipt of contributions in lump sums or installment payments;
- q. impose reasonable limits on the length of time within which a qualified beneficiary shall be required to begin to exercise benefits under the program. The board shall also determine whether to impose limits on the total amount of time that the qualified beneficiary is permitted to exercise the benefits under the program;
- r. delineate the terms under which payments may be withdrawn from the fund and impose reasonable fees and charges for withdrawals;
- s. define for the purposes of this act the maximum number of credit hours which may be purchased under the program for an associate degree; the maximum number of credit hours which may be purchased under the program for a baccalaureate degree; the average current and projected tuition within the county college system and the average current and projected tuition of the four-year public institutions of higher education utilized to limit the contractual obligations of the board to qualified beneficiaries;
- t. adopt rules and regulations to implement this act; and
- u. take all actions required so that the program is treated as a qualified State tuition program under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C.s.529.

L.2001,c.262,s.7.

### **18A:71B-71 Establishment of comprehensive investment plan, administration of program, annual report.**

8. a. The board, acting with the approval of the State Investment Council in the Division of Investment, shall establish a comprehensive investment plan for

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

the purposes of this act and annually review the plan to assure that the program remains actuarially sound. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the funds to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness or other investment products, pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. The board shall be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury pursuant to subsection b. of section 11 of P.L.1950, c.270 (C.52:18A-89). The insurance, annuity, savings or investment products shall be underwritten and offered in compliance with the applicable federal and State laws and regulations and by persons who are duly authorized by applicable federal and State authorities.

b. The board may delegate responsibility for administration of the program to a person the board determines to be qualified. Directly or through the person, the board may contract, in accordance with the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), with a private corporation or institution authorized to do business in this State to provide such services as may be a part of the program or as may be deemed necessary for implementation of the program, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, asset purchase, control and safekeeping, investment management, marketing, administration, program operations, and other services deemed necessary and proper to carry out the purposes of this act. In the event that the board delegates a private entity as the investment manager, the assets of the fund shall be invested in accordance with an investment plan approved by the State Investment Council in the Division of Investment.

The board shall determine whether the services deemed necessary and proper to carry out the purposes of this act shall be provided by a single or multiple entities.

c. The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. The report shall be submitted to the Governor, the President of the Senate, the Speaker of the General Assembly, the State Treasurer, the executive director of the New Jersey Commission on Higher Education and the executive director of the Higher Education Student Assistance Authority on or before August 1 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Commission on Higher Education by August 1 each year complete advance payment contract sales information, including projected higher education enrollments of qualified beneficiaries.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

d. The accounts of the funds shall be subject to annual audits by the State Auditor or a designee. In addition, the board shall commission an annual independent audit of the program. The results of the independent audit shall be provided to the Governor, the President of the Senate, the Speaker of the General Assembly, the State Treasurer, the executive director of the New Jersey Commission on Higher Education and the executive director of the Higher Education Student Assistance Authority. If the board delegates responsibility for the administration of the comprehensive investment plan pursuant to subsection b. of this section, the cost of the independent audit shall be borne by that person.

e. The board may make available insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers or beneficiaries thereof, which may be issued in the form of a group term life policy to purchasers of advance payment contracts.

f. Materials produced for the purpose of marketing the program shall be submitted to the board for review and approval. Marketing materials shall not be made available or distributed to the public prior to the materials being approved by the board. An institution of higher education may distribute marketing materials produced for the program. The State and the board shall not be liable for misrepresentation of the program by a marketing agent.

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

L.2001,c.262,s.8.

### **18A:71B-72 Development of advance payment contract, terms.**

9. a. The board shall develop an advance payment contract with the assistance of the Office of the Attorney General. An advance payment contract shall be exempt from the provisions of Subtitle 3 of Title 17 of the Revised Statutes and Subtitle 3 of Title 17B of the New Jersey Statutes. The contents of the contract shall include, but not be limited to, the following:

(1) the amount of the payments and the number of payments required from a purchaser;

(2) the terms and conditions under which purchasers are required to remit payments, including, but not limited to, the date or dates upon which each payment is due;

(3) provisions for late payment charges and for default;

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

- (4) provisions for penalty fees for withdrawals from the fund;
- (5) the name and date of birth of the qualified beneficiary on whose behalf the contract is drawn and the terms and conditions under which another person may be substituted as the qualified beneficiary;
- (6) the name of any person who may cancel the contract. The terms of the contract shall specify whether the contract may be canceled by the purchaser, the qualified beneficiary, a specific designated person or any combination of these persons;
- (7) the terms and conditions under which a contract may be canceled, the name of the person entitled to any refund due as a result of the cancellation of the contract pursuant to those terms and conditions, and the method for determining the amount of refund;
- (8) the time limitations, if any, within which the qualified beneficiary is required to claim benefits through the program. If time limitations are included in the contract, the time expended by a qualified beneficiary as an active duty member of any of the armed services of the United States shall be added to the period of time permitted to exercise the benefits;
- (9) the terms and conditions, if any, under which a purchaser may designate another individual as a successor owner of the contract; and
- (10) other terms and conditions deemed by the board to be necessary or proper.

b. In addition to the provisions of subsection a. of this section an advance payment contract shall include the following:

- (1) the number of credit hours contracted by the purchaser;
- (2) the plan toward which the credit hours shall be applied;
- (3) the assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of credit hours of undergraduate instruction at a public institution of higher education, not to exceed the maximum number of credit hours which may be purchased under the program for the associate degree or the baccalaureate degree, as appropriate .

L.2001,c.262,s.9

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-73 Availability of advance payment contracts; plans.**

10. a. At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the county college plan and the university plan.

(1) Through the county college plan, the advance payment contract shall provide prepaid tuition for a specified number of undergraduate credit hours not to exceed the maximum number of credit hours which may be purchased under the program for an associate degree. The cost of participation in the county college plan shall be based primarily on the average current and projected tuition within the county college system and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by the qualified beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary chooses to attend a four-year public institution of higher education, the qualified beneficiary may convert the maximum number of credit hours which may be purchased under the program for an associate degree from a county college plan to a university plan. Each qualified beneficiary shall be classified as an in-county resident for tuition purposes regardless of his actual legal residence during the period in which benefits under the program are being utilized.

(2) Through the university plan, the advance payment contract shall provide prepaid tuition for a specified number of undergraduate credit hours not to exceed the maximum number of credit hours which may be purchased under the program for a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the average current and projected tuition of the four-year public institutions of higher education and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by the beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary fails to be admitted to a four-year public institution of higher education or chooses to attend a county college, the qualified beneficiary may convert the maximum number of credit hours which may be purchased under the program for an associate degree from a university plan to a county college plan and may retain the remaining credit hours in the university plan or may request a refund for prepaid credit hours in excess of the maximum number of credit hours which may be purchased under the program for an associate degree. A refund may also be requested for the difference in the cost of credit hours under the university plan and the county college plan for the number of credit hours converted to the county college plan. Each qualified beneficiary shall be classified as a resident for tuition purposes regardless of his actual legal residence during the period in which benefits under the program are being

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

utilized.

b. In addition to the plans required pursuant to subsection a. of this section, the board may make advance payment contracts available for other plans, such as the county college plus university plan whereby the advance payment contract would provide tuition that would allow a qualified beneficiary to attend a county college for an associate degree and then attend a four-year public institution of higher education for a baccalaureate degree.

c. The board shall establish procedures for conversions between plans established under the program. The procedures shall include, but not be limited to, the conditions under which a conversion may occur and the method for calculating any refund due.

d. A qualified beneficiary may apply a county college plan or a university plan toward any eligible independent institution of higher education. The board shall transfer or cause to have transferred to the eligible independent institution of higher education designated by the qualified beneficiary an amount not to exceed the weighted average tuition purchased under the advance payment contract. In the event that the cost of tuition at the eligible independent institution of higher education is less than the weighted average tuition purchased under the advance payment contract, the amount transferred shall not exceed the actual cost of tuition. A transfer authorized pursuant to this subsection shall not exceed the number of credit hours contracted on behalf of a qualified beneficiary.

e. A qualified beneficiary may apply the benefits of an advance payment contract toward an eligible out-of-State institution of higher education. Institutional eligibility for out-of-State institutions of higher education shall be determined by the board, but in making those determinations the board shall recognize that the benefits may only be used at an out-of-State institution of higher education whose students are eligible to receive benefits under section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529. The board shall transfer or cause to have transferred to the eligible out-of-State institution of higher education designated by the qualified beneficiary an amount not to exceed the weighted average tuition purchased under the advance payment contract. In the event that the cost of tuition at the eligible out-of-State institution of higher education is less than the weighted average tuition purchased under the advance payment contract, the amount transferred shall not exceed the actual cost of tuition. A transfer authorized pursuant to this subsection shall not exceed the number of credit hours contracted on behalf of a qualified beneficiary.

L.2001,c.262,s.10.

### **18A:71B-74 Conditions for payment of refunds.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

11. a. The board shall determine the conditions under which refunds are payable under the program. Unless authorized by the board or under the provisions of this section, a refund shall not exceed the amount paid into the fund by the purchaser. A refund may exceed the amount paid into the fund in the following circumstances:

(1) if the qualified beneficiary is awarded a scholarship (or allowance or payment described in subparagraph (B) or (C) of paragraph (1) of subsection (d) of section 135 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.135), the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts may be returned to the purchaser in enrollment period installments coinciding with the matriculation by the qualified beneficiary in amounts equal to the lesser of the original purchase price plus 5% interest compounded annually, or the weighted average tuition purchased under the advance payment contract; and

(2) in the event of the death or disability of the qualified beneficiary, moneys paid for the purchase of advance payment contracts shall be returned to the purchaser together with 5% interest compounded annually.

b. A refund shall not be authorized through an advance payment contract for any school year partially attended but not completed. For purposes of this subsection, a school year partially attended but not completed means any one enrollment period whereby the student is still enrolled at the conclusion of the official drop-add period, but withdraws before the end of the enrollment period.

c. If a qualified beneficiary does not complete a county college plan or university plan, for reasons other than specified in subsection a. of this section, the purchaser shall receive a refund of the amount paid into the fund for the remaining unattended years of the advance payment contract pursuant to rules promulgated by the board and in accordance with the provisions of section 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529.

L.2001,c.262,s.11.

### **18A:71B-75 Exemption from creditors.**

12. Moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract for the purposes of financing the cost of qualified higher education expenses under the program are exempt from all claims of creditors of the purchaser or the beneficiary.

L.2001,c.262,s.12.



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71B-76 Remittance of payments through governmental payroll deductions.**

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

L.2001,c.262,s.13.

### **18A:71B-77 Appropriations necessary for distributions.**

14. If the investment manager is the Division of Investment in the Department of the Treasury, in order to meet the obligations of the board under this act, there shall be paid to the board for deposit in the fund, at the time of distribution, subject to appropriation, such sum, if any, as shall be certified by the chair of the board as necessary to provide that amount at the time of distribution. The chair shall make and deliver to the Governor, or his designee, the certificate stating the sums, if any, required to make available in the fund the amount aforesaid, and the sums so certified shall be appropriated and paid to the board during the then current State fiscal year.

L.2001,c.262,s.14.

### **18A:71B-78 Discontinuance of program.**

15. In the event that the State Treasurer determines the program to be financially infeasible, the State may discontinue the provision of the program. A qualified beneficiary who has been accepted by and is enrolled or is within five years of enrollment in an institution of higher education shall be entitled to exercise the benefits for which he has contracted. All other contract holders shall receive a refund of the amount paid into the fund.

L.2001,c.262,s.15

### **18A:71B-79 Admission to public colleges, guaranteed; requirements.**

16. a. A qualified beneficiary who graduates from high school with a 3.0 cumulative grade point average on a 4.0 scale in an academic program or a 3.2 cumulative grade point average on a 4.0 scale in a vocational-educational program, based upon grades in core curriculum content subject areas as determined by the board, or who graduates in the top 15% of his high school graduating class shall be admitted to a public institution of higher education. In

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

order to be admitted to a public institution of higher education pursuant to this section, the qualified beneficiary shall meet all of the institution's requirements for admittance. This provision shall not be construed to promise or guarantee that a qualified beneficiary shall be admitted to a particular public institution of higher education.

b. In order to effectuate the provisions of subsection a. of this section, the board, in consultation with the Commission on Higher Education, shall develop a process to assist qualified beneficiaries in applying to all public institutions of higher education.

L.2001,c.262,s.16.

### **18A:71B-80 Admission to particular college, continuance not guaranteed; obligation of State limited.**

17. a. Nothing in this article shall be construed to guarantee that a qualified beneficiary will be admitted to a particular higher education institution or be allowed to continue enrollment at or graduate from a higher education institution after admission.

b. Nothing in this article shall establish any obligation or liability on the part of this State or any agency or instrumentality of this State with respect to any federal or State tax liability of any contributor or designated beneficiary in this program.

c. Under regulations promulgated by the board, every contract and application that may be used in connection with the program shall clearly indicate that the contract is not insured by this State, other than as set forth in sections 14 and 15 of P.L.2001, c.262 (C.18A:71B-77 and C.18A:71B-78).

L.2001,c.262,s.17.

### **18A:71B-81 Short title.**

1. This act shall be known and may be cited as the "New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act."

L.2004,c.59,s.1.

### **18A:71B-82 Findings relative to NJ STARS Program.**

2. The Legislature finds that it is necessary for the State's citizens to acquire an education beyond the secondary level in order to succeed during the 21st century. A well-trained and educated population, moreover, is vital to New Jersey's efforts to attract and retain highly skilled businesses, and to ensure the State's continued economic well-being. It is therefore incumbent upon the Legislature to institute a program which will help high achieving students to

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

pursue a post-secondary education.

L.2004,c.59,s.2.

### **18A:71B-83 Definitions relative to NJ STARS Program.**

3. As used in this act:

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

"Full-time course of study" in any semester means a course of study, leading to a degree from the county college of enrollment, that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum.

"Program" means the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students.

L.2004,c.59,s.3.

### **18A:71B-84 NJ STARS Program.**

4. There is hereby created the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students. It shall be the duty of the Higher Education Student Assistance Authority to administer the program.

L.2004,c.59,s.4.

### **18A:71B-85 NJ STARS scholarships; eligibility.**

5. a. A scholarship under the NJ STARS Program shall cover the full cost of tuition and fees, subject to the prior application of other grants and scholarships against those costs as provided under paragraph (2) of subsection c. of this section, for up to 15 credit hours in any semester, for an eligible student enrolled in a full-time course of study at the New Jersey county college serving the student's county of residence. An otherwise eligible student who demonstrates to the authority, in accordance with such criteria and by means of such documentation as the authority shall establish by regulation, that the county college serving the student's county of residence does not offer the curriculum that the student chooses to study shall be eligible for such scholarship at another New Jersey county college offering that curriculum. The amount of any scholarship allowed hereunder to a student at a county college serving a county other than the student's county of residence shall be computed as though the student were a resident of the county served by that college, and the college shall likewise compute the amount of any additional payment, required with respect to the enrollment of that student for credit hours of study during a

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

semester in which the scholarship is awarded that are not covered by that scholarship, as though the student were a resident of the county.

b. A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters. The scholarship shall be payable for the first year of enrollment in a county college to a student who graduated in the top 20% of the student's high school graduating class, provided that in the case of students graduating from high schools that do not calculate the class rank of their students, the student's ranking shall be determined by the high school in consultation with the authority. During a student's enrollment in a county college after the first year of enrollment, the scholarship shall be payable to that student if the student attains a grade point average of at least 3.0 by the start of the student's second year of county college enrollment. A student who attains a grade point average of less than 3.0 at the start of the second semester of the student's first year of county college enrollment shall participate in an enrichment program designed by the county college during the second semester of the student's first year of enrollment.

c. To be eligible to receive a scholarship under the NJ STARS Program a student shall:

(1) be a State resident pursuant to guidelines established by the authority;

(2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges to reduce the amount of any scholarship that the student shall receive under the provisions of this act;

(3) be enrolled in a full-time course of study at a New Jersey county college;

(4) have graduated from high school in 2004 or later, and not earlier than the calendar year two years prior to the first calendar year in which a scholarship payment is to be made; and

(5) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college.

d. A student who is dismissed for academic or disciplinary reasons from a county college shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

student shall repay in full all amounts received under the program. The county college shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

e. A student scholarship under the NJ STARS Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to subsection b. of this section.

L.2004,c.59,s.5; amended 2005, c.168.

### **18A:71B-86 Report to Legislature, Governor on NJSTARS Program; guidelines rules, regulations.**

6. a. Not later than September 30,2006, the Higher Education Student Assistance Authority shall prepare and submit to the Legislature and the Governor a report on the implementation of the NJ STARS Program at the several county colleges. The report shall, for each college, set forth statistics on and include an analysis of student participation in the program at the college, the amounts of funding provided under the program to students enrolled at the college, the amounts of funding made available to those participating students from State sources other than the NJ STARS Program and from federal and institutional sources, and such other factors as the authority deems to be necessary or useful to the evaluation of the program.

b. The Higher Education Student Assistance Authority shall administer the provisions of this act and shall establish appropriate criteria, procedures, and guidelines for awarding New Jersey Student Tuition Assistance Reward Scholarships to eligible students in accordance with the provisions of this act. The authority shall adopt in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

L.2004,c.59,s.6.

### **18A:71B-86.1 Short title.**

1. This act shall be known and may be cited as the "New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program Act."

L.2005,c.359,s.1.

### **18A:71B-86.2 Definitions relative to NJ STARS II Program.**

2. As used in this act:

"Authority" means the Higher Education Student Assistance Authority

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

established pursuant to N.J.S.18A:71A-3.

"Full-time course of study" in any semester means a course of study that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum, and leads to a degree from a New Jersey four-year public institution of higher education.

"Program" means the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program.

L.2005,c.359,s.2.

### **18A:71B-86.3 NJ STARS II Program created.**

3. There is hereby created the New Jersey Student Tuition Assistance Reward Scholarship II (NJ STARS II) Program. It shall be the duty of the Higher Education Student Assistance Authority to administer the program.

L.2005,c.359,s.3.

### **18A:71B-86.4 Eligibility for NJ STARS II; scholarship amounts.**

4. a. For an eligible student enrolled in a full-time course of study at a New Jersey four-year public institution of higher education, a scholarship under the NJ STARS II Program shall be paid to the institution in the amount of \$2,000 for each semester of enrollment commencing in the 2006-2007 academic year. For each academic year thereafter, the amount of the scholarship shall be increased by one-half of the average percentage increase over the prior academic year in undergraduate tuition and fees for all four-year public institutions of higher education and shall be paid to the institution for each semester of enrollment in that academic year; except that the amount of the scholarship shall not exceed \$2,500 per semester. The scholarship amount awarded shall be in addition to any other State and federal need-based grants and merit scholarships to which the student is entitled. The four-year public institution of higher education shall waive or provide an institutional scholarship for any tuition and fee amount for the student, for up to 18 credits, that exceeds the sum of the NJ STARS II scholarship and any other State and federal grants and scholarships to which the student is entitled. The institution shall not be required to waive or provide an institutional scholarship for tuition and fees for credits in excess of 18 credit hours in any single semester.

b. A student shall be eligible for a scholarship under the NJ STARS II Program for up to four semesters, excluding summer sessions, at a New Jersey four-year public institution of higher education.

c. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's third academic year of study if the student:

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

attained an associate's degree from a New Jersey county college; received a scholarship under the "New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act," P.L.2004, c.59 (C.18A:71B-81 et seq.), or was eligible for but did not receive a scholarship under NJ STARS because the student's tuition and fees were fully covered by other State or federal need-based grants or merit scholarships, for each semester of study in the county college; attains a grade point average of at least 3.0 for the second academic year of study in the county college; enrolls in a baccalaureate degree program at a New Jersey four-year public institution of higher education for the third academic year of study in the academic year immediately following the student's attainment of an associate's degree; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

d. A student shall be eligible to receive a scholarship under the NJ STARS II Program for the student's fourth academic year of study if the student: received a scholarship under the NJ STARS II Program for the student's third academic year of study pursuant to subsection c. of this section; based on the student's performance during the third academic year of study, attained a grade point average of at least 3.0; and meets the criteria set forth in subsection e. of this section. A grade for credits earned during a summer semester shall for the purposes of this subsection be included in the calculation of the grade point average for the preceding academic year.

e. To be eligible to receive a scholarship under the NJ STARS II Program, a student shall:

(1) be a State resident pursuant to guidelines established by the authority;

(2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges;

(3) be enrolled in a full-time course of study at a four-year public institution of higher education; and

(4) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the four-year public institution of higher education.

f. A student who is dismissed for academic or disciplinary reasons from a

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

four-year public institution of higher education shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The four-year public institution of higher education shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

g. A student scholarship under the NJ STARS II Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to this section.

L.2005,c.359,s.4.

### **18A:71B-86.5 Acceptance of academic credits.**

5. A four-year public institution of higher education shall accept all academic credits awarded by a county college to an NJ STARS student who subsequently enrolls in the four-year institution and is participating in the NJ STARS II Program at the institution.

L.2005,c.359,s.5.

### **18A:71B-86.6 Report to Governor, Legislature; authority regulations.**

6. a. Not later than September 30, 2008, the authority shall prepare and submit to the Legislature and the Governor a report on the implementation of the NJ STARS II Program at the four-year public institutions of higher education. The report shall, for each institution, set forth statistics on and include an analysis of student participation in the program at the institution, the amounts of funding provided under the program to students enrolled at the institution, the amounts of funding made available to those participating students from State sources other than the NJ STARS II Program and from federal and institutional sources, and such other factors as the authority deems to be necessary or useful to the evaluation of the program. The report shall set forth the number of students participating in the program Statewide, including such statistical and demographic information as may be relevant and appropriate.

b. The authority shall administer the provisions of this act and shall establish appropriate criteria, procedures, and guidelines for awarding New Jersey Student Tuition Assistance Reward II Scholarships to eligible students in accordance with the provisions of this act. The authority shall adopt in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.2005,c.359,s.6.

### **18A:71B-86.7 Construction of act.**

7. Nothing in this act shall be construed to require a four-year public institution of higher education to admit a student eligible for a scholarship under this act or to waive its admission standards and application procedures.

L.2005,c.359,s.7.

### **18A:71B-87 Short title.**

1. This act shall be known and may be cited as the "Social Services Student Loan Redemption Program Act."

L.2005,c.157,s.1.

### **18A:71B-88 Findings, declarations relative to social services student loan redemption.**

2. The Legislature finds and declares that:

a. A qualified and stable work force in public facilities and nonprofit social services agencies is essential to ensure the provision of quality services to persons in need of services, including persons with mental illness, developmental disabilities or other disabilities, persons in need of substance abuse treatment and juveniles under the custody and care of the Juvenile Justice Commission;

b. These public facilities and social services agencies are currently facing a personnel crisis, which is expected to worsen in the next two decades;

c. The entry-level and on-going salaries offered by these public facilities and social services agencies to direct care professionals are not always competitive with those offered in the private for profit sector, which limits the ability of these facilities and agencies to attract and retain qualified direct care professionals;

d. Loan redemption programs can address the economic hardship of direct care professionals performing critical work in low-paying jobs, who in many instances are forced, because of their high loan debt and low incomes, to reject or abandon employment in the public sector, which is in great need of their skills and knowledge, for employment that is more financially rewarding;

e. The departure of these skilled direct care professionals from the public and nonprofit sector is, in many cases, a loss to their own sense of personal fulfillment, to the consumers that they serve, and to society at large; and

f. The establishment by this State of a loan redemption program for direct

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

care professionals employed in public facilities and nonprofit agencies that contract with the Department of Human Services and the Juvenile Justice Commission is essential to address the need for the continued provision of high-quality services by these skilled and knowledgeable professionals.

L.2005,c.157,s.2.

### **18A:71B-89 Definitions relative to social sciences student loan redemption.**

3. As used in this act:

"Approved course of study" means: an undergraduate program leading to a bachelor's degree offered by a four-year public or independent institution of higher education; or a graduate program leading to a master's degree, which is offered by a public or independent institution of higher education, in a human services discipline such as social work, psychology or counseling, or a health-related profession such as occupational, physical or speech therapy.

"Approved employment" means postgraduate, full-time employment as a direct care professional in a qualified facility. The term shall not include a paid student internship, paid fellowship, volunteer service or employment before graduation.

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

"Direct care professional" means a professional staff member at a qualified facility who provides one or more of the following services to eligible persons: counseling; physical, occupational, recreational or speech therapy; case management; vocational training; assistance with activities of daily living; medication management; budgeting assistance; addiction treatment services; nutrition; and other clinical services.

"Eligible student loan expenses" mean the cumulative total of the annual student loans, covering the cost of attendance while enrolled in an approved course of study. Interest paid or due on student loans that a program participant has taken out for use in paying the costs of attendance at an institution of higher education shall be considered eligible for reimbursement under the program.

"Program" means the Social Services Student Loan Redemption Program established pursuant to this act.

"Program participant" means a person who meets the requirements of the program.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

"Qualified facility" means:

- a. a facility operated by the Department of Human Services that provides direct care services to persons served by the department;
- b. a county psychiatric hospital;
- c. a facility operated by the Juvenile Justice Commission;
- d. a veterans' memorial home operated by the Department of Military and Veterans' Affairs; and
- e. a nonprofit agency in the State that contracts with the Department of Human Services or the Juvenile Justice Commission to provide direct care services to persons served by the department or commission.

L.2005,c.157,s.3.

### **18A:71B-90 Social Services Student Loan Redemption Program.**

4. There is established the Social Services Student Loan Redemption Program within the Higher Education Student Assistance Authority.

The purpose of the program is to address the current and projected critical shortage of direct care professionals in the State by providing an incentive for persons to engage in employment at certain public facilities, and nonprofit social services agencies under contract with the Department of Human Services or the Juvenile Justice Commission, so as to ensure that State residents who are in need of direct care services at these facilities and agencies have sufficient, qualified professional staff in order to provide the needed services.

The program shall provide loan redemption to finance the undergraduate or graduate study of program participants in exchange for full-time employment as a direct care professional at a qualified facility following completion of an approved course of study.

L.2005,c.157,s.4.

### **18A:71B-91 Eligibility for participation in program.**

5. To be eligible to participate in the program, a direct care professional shall:

- a. be a resident of the State and maintain domicile in the State during participation in the program;

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

b. have successfully completed an approved course of study within a one-year period prior to being hired as a full-time direct care professional at a qualified facility;

c. have been initially hired as a full-time direct care professional at a qualified facility on or after the date of enactment of this act; and

d. have an outstanding balance with a State or federal student loan program and not be in default on any student loan.

L.2005,c.157,s.5.

### **18A:71B-92 Application for loan redemption.**

6. An eligible direct care professional may apply to the authority for a loan redemption in such a manner as the authority prescribes and shall include all information and documentation required by the authority.

a. A program participant shall enter into a written contract with the authority to participate in the program. The contract shall specify the duration of the applicant's required service and the total amount of eligible student loan expenses to be redeemed by the State in return for service.

b. The redemption of loans under the program shall not exceed \$5,000 of principal and interest of eligible student loan expenses for each full year of service satisfactorily completed by the program participant. The total loan redemption amount for a program participant, for four years of service, shall not exceed \$20,000. No amount of loan redemption shall be provided for service performed for less than a full year.

c. The period of service shall commence on or after the date of enactment of this act.

L.2005,c.157,s.6.

### **18A:71B-93 Nullification of redemption contract.**

7. a. A program participant who has entered into a redemption contract with the authority may nullify that contract by submitting written notification to the authority and assuming full responsibility for repayment of the full amount of the participant's loan or that portion of the loan that has not been redeemed by the State in return for partial fulfillment of the contract.

b. In the case of a program participant's death or total or permanent disability, the authority shall nullify the service obligation of the participant, thereby terminating the participant's service obligation; or where continued enforcement of the contract may result in extreme hardship, the authority may

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

nullify or suspend the participant's service obligation.

L.2005,c.157,s.7.

### **18A:71B-94 Loan forgiveness awards.**

8. The authority shall grant loan forgiveness awards subject to the availability of funds appropriated for this purpose, of which funds, 80% shall be allocated to provide loan redemption to finance the undergraduate study of program participants and 20% shall be allocated to provide loan redemption to finance the graduate study of program participants.

L.2005,c.157,s.8.

### **18A:71B-95 Annual report.**

9. The authority shall annually submit a report on the program to the Governor and the chairmen of the Senate Budget and Appropriations, Assembly Appropriations, Senate Health, Human Services and Senior Citizens, and Assembly Health and Human Services committees, or their successor committees. The report shall be submitted no later than August 1 of each year and shall include, but not be limited to, the following information for the prior fiscal year:

- a. the total number of participants receiving loan redemption under the program;
- b. the approved course of study of each of the participants; and
- c. the total number of participants who withdrew from the program and failed to complete the program's employment requirement.

L.2005,c.157,s.9.

### **18A:71B-96 Rules, regulations.**

10. The Higher Education Student Assistance Authority, in consultation with the Commissioner of Human Services and the executive director of the Juvenile Justice Commission, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) shall adopt rules and regulations necessary to implement the provisions of this act, including eligibility criteria for the program, procedures for determining the amount of the loan redemption award, and the types of direct care professional positions that qualify for the program.

L.2005,c.157,s.10.

### **18A:71B-97 Filling of direct care professional position with persons having degrees.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

11. To better ensure the effectiveness of the program, any agency of the State, any political subdivision thereof, and any nonprofit agency in the State, that operates a qualified facility, or provides services under contract funded in whole or in part with State funds at a qualified facility shall make the greatest possible good faith effort to fill any direct care professional position at the qualified facility with a person having an undergraduate or graduate degree in a human services discipline, such as social work, psychology or counseling, or in a health-related profession such as occupational, physical, or speech therapy.

L.2005,c.157,s.11.

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

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

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

As used in this act:

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

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

"Guaranty agency" means any State agency or not-for-profit corporation which has entered into an agreement with the United States Secretary of Education to guarantee loans made under the FFEL program and which guarantees loans to eligible residents and nonresidents of this State.

L.1999,c.46,s.1.

### **18A:71C-2 Application; grounds for approval.**

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

Any application for a federal loan under this article shall be submitted to the authority for its approval, and the authority shall approve the application only if it finds that the applicant is an eligible borrower under the "Higher Education Act of

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

1965," Pub.L.89-329 (20 U.S.C.s.1001 et seq.), and implementing rules and regulations, and has complied with all rules adopted by the authority pursuant to this article in connection with the granting of the loans.

L.1999,c.46,s.1.

### **18A:71C-3 Approval and granting of federal loan.**

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

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

L.1999,c.46,s.1.

### **18A:71C-4 Federal loan evidenced by note; interest rate; method of payment; security.**

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

Each federal loan made under this article shall:

- a. be evidenced by a note or other obligation approved by the authority;
- b. bear interest at a rate not exceeding the maximum percentage per annum permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations;
- c. be payable in such manner or in such installments as permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations; and

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

d. be secured only by the personal liability of the maker, and not by any endorsers, co-maker's collateral, or other security, except as may be permitted under 20 U.S.C.s.1071 et seq. and implementing rules and regulations.

L.1999,c.46,s.1.

### **18A:71C-5 Extension and refinancing of federal loans.**

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

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

L.1999,c.46,s.1.

### **18A:71C-6 Purchase of notes.**

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

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

L.1999,c.46,s.1.

### **18A:71C-7 Falsely securing federal loan a misdemeanor; penalty.**

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

L.1999,c.46,s.1.

### **18A:71C-8 Repayment Compromises, modifications and other determinations made by authority.**

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

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

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

L.1999,c.46,s.1.

### **18A:71C-9 Contracts, promissory notes, made by minor, valid and binding.**

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

Any contract, promissory note, or other written obligation made by any minor to repay or secure payment of a loan made under this article, payment whereof is

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71C-10 Deduction of overdue student loan payments from wages of employees of the state, institution of higher education and public authorities.**

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

Whenever any officer or employee of the State of New Jersey, a public institution of higher education in this State now or hereafter established or authorized by law, any independent institution of higher education in this State now or hereafter established that receives State funds, or any public authority established pursuant to State law, has failed to make scheduled payments to the Higher Education Student Assistance Authority on any note held by that authority pursuant to N.J.S.18A:71C-6, there shall be deducted from the wages of the employee the full amount of both any arrears payment and any schedule payment due to the Higher Education Student Assistance Authority until such time as the note is fully satisfied.

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

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

L.1999,c.46,s.1.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71C-11 Regulations.**

18A:71C-11. Regulations.

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

L.1999,c.46,s.1.

### **18A:71C-12 Deduction of overdue student loan payments from wages of county and municipal employees.**

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

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

L.1999,c.46,s.1.

### **18A:71C-13 Guidelines for payment of arrearages.**

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

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

L.1999,c.46,s.1

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71C-14 Deduction of overdue student loan payments from wages of certain boards or authorities.**

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

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

L.1999,c.46,s.1.

### **18A:71C-15 Guidelines for payment of arrearages.**

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

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

L.1999,c.46,s.1.

### **18A:71C-16 Deduction of overdue student loan payments from wages of employees of the private sector.**

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

Whenever any officer or employee or any employer within or outside this State not described in N.J.S.18A:71C-10, N.J.S.18A:71C-12 or N.J.S.18A:71C-14 has failed to make scheduled payments to the Higher Education Student

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

Assistance Authority on any note or other written obligation held by that authority, there shall be deducted from the wages of the employee the full amount of both any arrears payment and any scheduled payment due to the Higher Education Student Assistance Authority until such time as the note or other written obligation is fully satisfied.

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

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

L.1999,c.46,s.1.

### **18A:71C-17 Lien not treated as wage execution.**

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

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

L.1999,c.46,s.1.

### **18A:71C-18 Exchange of information with other State departments and agencies.**

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

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

- a. the authority may furnish the name and Social Security number of a

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

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

L.1999,c.46,s.1.

### **18A:71C-19 Professional or occupational misconduct.**

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

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

b. For the purposes of this section:

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

"State agency" means the legislative or executive branch of the State,

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

including, but not limited to, any department, board, bureau, commission, division, office, council, agency, or instrumentality thereof, or independent agency, public authority or public benefit corporation.

L.1999,c.46,s.1.

### **18A:71C-20 Deductions of overdue payments from State lottery winnings.**

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

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

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

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

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

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

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

g. The State Treasurer in consultation with the authority shall promulgate,

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purpose of this section including, but not limited to, regulations providing for prompt notice to any prize winner from whose award the Department of the Treasury seeks to withhold funds of the amount to be withheld and the reason therefor and providing the prize winner with the opportunity for a hearing upon request prior to the disposition of any funds. The State Treasurer shall also provide, by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section. For purposes of this section, "prompt notice" shall mean within 14 days or less.

L.1999,c.46,s.1.

### **18A:71C-21 College loans to assist state students loan program.**

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

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

L.1999,c.46,s.1.

### **18A:71C-22 College loans to assist State Students Loan Fund.**

18A:71C-22 College loans to assist State Students Loan Fund.

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

b. The sum total of all funds on deposit in the NJCLASS Loan Fund shall be maintained in the amount determined by the authority to be necessary to fulfill



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

its responsibilities as set forth in this article.

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

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

L.1999,c.46,s.1.

### **18A:71C-23 Eligible borrower.**

18A:71C-23. Eligible Borrower.

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

L.1999,c.46,s.1.

### **18A:71C-24 Eligible institution.**

18A:71C-24. Eligible Institution.

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

L.1999,c.46,s.1.

### **18A:71C-25 Maximum loan amounts.**

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

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

L.1999,c.46,s.1.

### **18A:71C-26 Accrual of interest; payment.**

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

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

L.1999,c.46,s.1.

### **18A:71C-27 Student eligibility.**

#### 18A:71C-27. Student Eligibility.

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

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

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

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

b. To be eligible for a NJCLASS loan financed in whole or in part by qualified student loan bonds, as described under section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b), the student in addition to meeting the requirements of subsection a. of this section, shall meet the eligibility criteria described in section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b), or not be in violation of any other criteria which would

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

result in the bonds no longer to be qualified under section 144(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C.s.144(b).

L.1999,c.46,s.1.

### **18A:71C-28 Limitations on program; fees.**

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

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

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

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

L.1999,c.46,s.1.

### **18A:71C-29 Applicability of information exchange, collection procedures, repayment determinations and other federal provisions.**

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

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

L.1999,c.46,s.1.

### **18A:71C-30 Act not to affect higher education student assistance fund.**

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

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

L.1999,c.46,s.1.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71C-31 Falsely securing State loan; crime**

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

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

L.1999,c.46,s.1.

### **18A:71C-32 Definitions.**

18A:71C-32. Definitions.

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

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

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

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

"Primary Care Physician and Dentist Loan Redemption Program" means a program which provides for the redemption of the eligible student loan expenses

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

of its participants.

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

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

L.1999,c.46,s.1.

### **18A:71C-33 Primary care physician and dentist loan redemption program established.**

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

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

L.1999,c.46,s.1.

### **18A:71C-34 Eligibility for participation in program**

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

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

- a. be a resident of the State;
- b. be a graduate of a medical school approved by the State Board of Medical Examiners for the purpose of licensure and receive a recommendation from the school's medical staff concerning participation in the loan redemption program in the case of a physician; be a graduate of a dental school approved by the New Jersey State Board of Dentistry for the purpose of licensure and receive a recommendation from the school's dental staff concerning participation in the loan redemption program in the case of a dentist; or be a graduate of another state-approved primary care professional training program for the purpose of

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

licensure or certification and receive a recommendation from the program's professional staff concerning participation in the loan redemption program in the case of another primary care provider;

c. in the case of a physician, have completed an accredited residency training program and received a recommendation from the director of the training program concerning participation in the loan redemption program; and

d. agree to practice primary care, as appropriate, in a State designated underserved area.

L.1999,c.46,s.1.

### **18A:71C-35 Ranking of State designated underserved areas.**

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

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

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

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

L.1999,c.46,s.1.

### **18A:71C-36 Entry into program; agreements.**

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

A medical, dental, nursing, or other primary care student who is eligible and interested in participating in the loan redemption program shall sign a nonbinding agreement with the Higher Education Student Assistance Authority or its designated agent upon completion of the final year of undergraduate medical, dental, or other primary care training, as appropriate. At the end of the final year

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71C-37 Redemption limits; start of service.**

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

a. Maximum redemption of loans under the loan redemption program shall amount to 18% of principal and interest of eligible student loan expenses in return for one full year of service in a State designated medically underserved area, an additional 26% for a second full year of service, an additional 28% for a third full year of service and an additional 28% for a fourth full year of service for a total redemption of eligible student loan expenses of up to, but not to exceed, \$120,000 either (1) in State funds or (2) the sum of federal, State, and other non-federal funds pursuant to section 338I of the Public Health Service Act (42 U.S.C.s.254q-1), whichever is applicable. Service in a State designated underserved area shall begin within two years of completion of the medical residency training program in the case of a physician; within two years of completion of undergraduate dental training or residency training if the training is required in a primary care dental specialty in the case of a dentist; and within two years of completion of other primary care professional training if the training is required in the case of another primary care provider.

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

L.1999,c.46,s.1.

### **18A:71C-38 Probationary period.**

18A:71C-38. Probationary Period.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

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

L.1999,c.46,s.1.

### **18A:71C-39 Matching of participants with areas.**

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

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

L.1999,c.46,s.1.

### **18A:71C-40 Determination of number of positions; selection of participants**

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

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



# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

applicants in the following manner:

- a. first, to any applicant who is completing a fourth, third or second year of a loan redemption contract;
- b. second, to any applicant whose residence in the State at the time of entry into postsecondary education was within a State designated underserved area; and
- c. third, to any applicant according to the severity of the physician, dentist, or other primary care provider shortage in the area selected by the applicant.

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

L.1999,c.46,s.1.

### **18A:71C-41 Nullification of agreement.**

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

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

L.1999,c.46,s.1.

### **18A:71C-42 Death or permanent disability of participant.**

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

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

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

service. When continued enforcement of the contract may result in extreme hardship, the authority may nullify or suspend the service obligation of the student.

L.1999,c.46,s.1.

### **18A:71C-43 Conviction of crime; gross negligence; license suspension or revocation**

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

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

L.1999,c.46,s.1.

### **18A:71C-44 National Health Service Corps Loan Repayment Program participants not eligible.**

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

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

L.1999,c.46,s.1.

### **18A:71C-45 Report on performance.**

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

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

L.1999,c.46,s.1.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

### **18A:71C-46 Recruitment**

18A:71C-46. Recruitment.

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

L.1999,c.46,s.1.

### **18A:71C-47 Federal funds.**

18A:71C-47. Federal Funds.

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

L.1999,c.46,s.1.

### **18A:71C-48 Rules and regulations.**

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

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

L.1999,c.46,s.1.

### **18A:71C-49 OB/GYN student loan expense reimbursement program.**

29. a. There is established a student loan expense reimbursement program within the Higher Education Student Assistance Authority for obstetrician/gynecologists who agree to practice in State designated underserved areas as established pursuant to section 1 of P.L.1999, c.46 (C.18A:71C-35). Any loans provided through the NJCLASS Loan Program pursuant to P.L.1999, c.46 (C.18A:71C-21 et seq.) or a student loan program of the federal government shall be eligible for reimbursement under this program.

The authority shall implement the program in consultation with the Commissioners of Banking and Insurance and Health and Senior Services and the State Board of Medical Examiners.

# NEW JERSEY HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY

## Enabling Legislation

b. (1) An obstetrician/gynecologist who receives a payment under the student loan expense reimbursement program shall be required to practice as an obstetrician/gynecologist in an underserved area in this State for a period of at least four years after receipt of the payment.

(2) An obstetrician/gynecologist who fails to comply with the provisions of paragraph (1) of this subsection shall be required to repay to the Higher Education Student Assistance Authority the amount of the payment, in whole or in part as determined by the authority.

c. The authority shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this section, including, but not limited to: eligibility for the program, procedures for application, selection of participants, establishment and nullification of contracts established with participants under the program, and reports to the program by participants.

L.2004,c.17,s.29.