

## PRELIMINARY OFFICIAL STATEMENT DATED SEPTEMBER 12, 2023

NEW ISSUE – BOOK-ENTRY ONLY

Fitch: A

Moody's: A2

S&P: A-

(See "RATINGS" herein)



### NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY \$185,220,000\* REVENUE BONDS HIGHER EDUCATION CAPITAL IMPROVEMENT FUND ISSUE, SERIES 2023 A

**Dated: Date of Delivery**

**Maturity Date: September 1, as set forth on the inside front cover**

This Official Statement has been prepared by the New Jersey Educational Facilities Authority (the "Authority") to provide information related to its \$185,220,000\* Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2023 A (the "Series 2023 Bonds"). Simultaneously with the issuance of the Series 2023 Bonds, the Authority is issuing its Revenue Bonds, Higher Education Equipment Leasing Fund Program Issue, Series 2023 A (the "ELF Bonds"). **The ELF Bonds are not being offered by means of this Official Statement. Only the Series 2023 Bonds are being offered by the Authority pursuant to this Official Statement.**

**Tax Exemption:** In the opinion of Bond Counsel, under existing statutes, regulations, rulings and judicial decisions, and assuming continuing compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") applicable to the Series 2023 Bonds, interest on the Series 2023 Bonds is excludable from gross income of the holders thereof for federal income tax purposes. Bond Counsel is also of the opinion that interest on the Series 2023 Bonds is not an item of tax preference for purposes of computing the federal alternative minimum tax applicable to individuals. For tax years beginning after December 31, 2022, interest on the Series 2023 Bonds may affect the federal alternative minimum tax imposed on certain corporations. In the opinion of Bond Counsel, under current law, interest on the Series 2023 Bonds and any gain on the sale thereof are not includable in gross income under the New Jersey Gross Income Tax Act. See "TAX MATTERS" herein.

**Redemption:** The Series 2023 Bonds are subject to redemption prior to maturity as described herein. See "DESCRIPTION OF THE SERIES 2023 BONDS – Redemption" herein.

**Security:** The Series 2023 Bonds are special and limited obligations of the Authority payable solely out of the revenues or other receipts, funds or moneys of the Authority pledged under the Resolution for the payment of the Series 2023 Bonds. The Series 2023 Bonds are payable solely from funds received by the Authority from the State of New Jersey (the "State") pursuant to a Contract, dated as of July 1, 2000 (the "State Contract"), by and between the Treasurer of the State and the Authority, and amounts held under the Resolution (as defined herein). See "SECURITY FOR THE SERIES 2023 BONDS" herein.

**THE OBLIGATION OF THE STATE TO MAKE PAYMENTS UNDER THE STATE CONTRACT IS SUBJECT TO AND DEPENDENT UPON APPROPRIATIONS BEING MADE FROM TIME TO TIME BY THE NEW JERSEY STATE LEGISLATURE (THE "STATE LEGISLATURE") FOR SUCH PURPOSE. THE STATE LEGISLATURE HAS NO LEGAL OBLIGATION TO MAKE ANY SUCH APPROPRIATIONS. See "SECURITY FOR THE SERIES 2023 BONDS" herein.**

The Series 2023 Bonds shall not, in any way, be a debt or liability of the State or of any political subdivision thereof (other than the Authority to the limited extent set forth in the Resolution) and shall not create or constitute an indebtedness, liability or obligation of the State or any political subdivision thereof (other than the Authority to the limited extent set forth in the Resolution) or be or constitute a pledge of the faith and credit or the taxing power of the State or any political subdivision thereof. The Series 2023 Bonds do not now and shall never constitute a charge against the general credit of the Authority. The Authority has no taxing power.

**Purposes:** The Series 2023 Bonds are being issued to: (i) provide funds to make grants to certain public and private institutions of higher education in the State for the purpose of paying the costs, or a portion of the costs, of certain capital improvements authorized in accordance with the Capital Improvement Fund Act (as defined herein); and (ii) pay the costs of issuing the Series 2023 Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS FOR THE SERIES 2023 BONDS" herein.

**Interest Rates and Yields:** As shown on the inside front cover.

**Interest Payment Dates:** Interest on the Series 2023 Bonds is payable on March 1 and September 1, commencing March 1, 2024.

**Denominations:** The Series 2023 Bonds will be issued in denominations of \$5,000 or any integral multiple in excess thereof.

**Trustee:** The Bank of New York Mellon, Woodland Park, New Jersey.

**Issuer Contact:** New Jersey Educational Facilities Authority, 103 College Road East, Princeton, New Jersey 08540, (609) 987-0880.

**Book-Entry Only:** The Depository Trust Company ("DTC").

**This cover page contains certain information for quick reference only. Investors should read this entire Official Statement, including all appendices attached hereto, to obtain information essential to making an informed investment decision.**

The Series 2023 Bonds are offered when, as and if issued and subject to the receipt of the approving legal opinion of Chiesa Shahinian & Giantomasi PC, Roseland, New Jersey, Bond Counsel to the Authority. Certain legal matters will be passed upon for the Authority by the Attorney General of the State, General Counsel to the Authority, and for the Underwriters by their counsel, Nash Perez, LLC, Camden, New Jersey. The Series 2023 Bonds in definitive form are expected to be available for delivery through DTC on or about \_\_\_\_\_, 2023.

**Siebert Williams Shank & Co., LLC**

**Academy Securities Inc.**

**Cabrera Capital Markets LLC**

**BofA Securities**

**Janney Montgomery Scott**

**Rockfleet**

Official Statement dated: \_\_\_\_\_, 2023

\* Preliminary, subject to change.

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**MATURITIES, PRINCIPAL AMOUNTS, INTEREST RATES, YIELDS, PRICES AND CUSIP\*\* NUMBERS**

**\$185,220,000\***

**REVENUE BONDS, HIGHER EDUCATION CAPITAL IMPROVEMENT FUND ISSUE, SERIES 2023 A**

<b><u>Maturity Date (September 1)</u></b>	<b><u>Principal Amount*</u></b>	<b><u>Interest Rate</u></b>	<b><u>Yield</u></b>	<b><u>Price</u></b>	<b><u>CUSIP**</u></b>
2024	\$3,165,000				
2025	3,325,000				
2026	3,500,000				
2027	3,675,000				
2028	3,865,000				
2029	4,065,000				
2030	4,270,000				
2031	4,490,000				
2032	4,720,000				
2033	4,965,000				
2034	5,220,000				
2035	5,485,000				
2036	5,765,000				
2037	6,065,000				
2038	6,375,000				
2039	6,700,000				
2040	7,045,000				
2041	7,405,000				
2042	7,765,000				
2043	7,905,000				

**\$45,735,000\* Term Bond due September 1, 2048\*, Yield \_\_\_\_\_ % Price \_\_\_\_\_ CUSIP No\*\***

**\$33,715,000\* Term Bond due September 1, 2053\*, Yield \_\_\_\_\_ % Price \_\_\_\_\_ CUSIP No\*\***

\* Preliminary, subject to change.

\*\* Registered trademark of American Bankers Association. CUSIP numbers are provided by CUSIP Global Services, which is managed by FactSet Research Systems, Inc., on behalf of the American Bankers Association. The CUSIP numbers listed above are being provided solely for the convenience of Bondholders only at the time of issuance of the Series 2023 Bonds and the Authority does not make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2023 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2023 Bonds.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITERS SET FORTH ON THE FRONT COVER OF THIS OFFICIAL STATEMENT MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2023 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME WITHOUT PRIOR NOTICE.

THE ORDER AND PLACEMENT OF MATERIALS IN THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, ARE NOT TO BE DEEMED TO BE A DETERMINATION OF RELEVANCE, MATERIALITY OR IMPORTANCE, AND THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES, MUST BE CONSIDERED IN ITS ENTIRETY. THE OFFERING OF THE SERIES 2023 BONDS IS MADE ONLY BY MEANS OF THIS ENTIRE OFFICIAL STATEMENT.

The purchase of the Series 2023 Bonds involves certain investment risks. Accordingly, each prospective purchaser of the Series 2023 Bonds should make an independent evaluation of the entirety of the information presented in the Official Statement, including, its Appendices, to obtain information essential to the nature of an informed investment decision in the Series 2023 Bonds.

No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations, other than those contained in this Official Statement, and if given or made, such other information or representations must not be relied upon. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Series 2023 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from sources which are believed to be reliable. However, it is not guaranteed as to accuracy or completeness, and it is not to be construed as a representation of the Authority. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in such information since the date hereof.

Upon issuance, the Series 2023 Bonds will not be registered under the Securities Act of 1933, as amended, or listed on any stock or other securities exchange and the Resolution will not have been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such acts. The registration or qualification of the Series 2023 Bonds in accordance with applicable provisions of the securities laws of the states in which the Series 2023 Bonds have been registered or qualified, if any, and the exemption from registration or qualification in other states cannot be regarded as a recommendation of the Series 2023 Bonds. Neither these states nor any of their agencies have passed upon the merits of the Series 2023 Bonds or the accuracy or completeness of this Official Statement. Any representation to the contrary may be a criminal offense. Neither the Securities and Exchange Commission nor any other federal, state, municipal or other governmental entity has passed upon the accuracy or adequacy of this Official Statement, or, except for the Authority and the Treasurer of the State of New Jersey, has approved the Series 2023 Bonds for sale.

References in this Official Statement to statutes, laws, rules, regulations, resolutions, agreements, reports and documents do not purport to be comprehensive or definitive, and all such references are qualified in their entirety by reference to the particular document, the full text of which may contain qualifications of and exceptions to statements made herein. This Official Statement is distributed in connection with the sale of the Series 2023 Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose.

This Official Statement is not to be construed as a contract or agreement between the Authority and the purchasers or holders of the Series 2023 Bonds.

This Official Statement contains statements which, to the extent they are not recitations of historical fact, constitute “forward looking statements.” In this respect, the words “estimate,” “project,” “anticipate,” “expect,” “intend,” “believe” and similar expressions are intended to identify forward looking statements. A number of important factors affecting the Authority and its programs could cause actual results to differ materially from those stated in the forward looking statements.

This Official Statement contains a general description of the Series 2023 Bonds, the Authority, the State, the Authority’s Higher Education Capital Improvement Fund Program and sets forth summaries of certain provisions of the Resolution. The descriptions and summaries herein do not purport to be complete. Persons interested in purchasing the Series 2023 Bonds should carefully review this Official Statement (including the Appendices attached hereto) as well as copies of such documents in their entirety, which are held by the Trustee at its corporate trust office.

The information in this Official Statement concerning The Depository Trust Company, New York, New York (“DTC”) and DTC’s book-entry system has been obtained from DTC, and the Authority takes no responsibility for the accuracy thereof. Such information has not been independently verified by the Authority, and the Authority makes no representation as to the accuracy or completeness of such information.

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**OFFICIAL STATEMENT**  
**relating to**  
  
**\$185,220,000\***  
**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**  
**REVENUE BONDS**  
**HIGHER EDUCATION CAPITAL IMPROVEMENT FUND ISSUE, SERIES 2023 A**  
  
**INTRODUCTORY STATEMENT**

**General**

The purpose of this Official Statement (which includes the cover page, the inside cover page and the Appendices hereto) is to furnish information concerning the New Jersey Educational Facilities Authority (the “Authority”) and its \$185,220,000\* aggregate principal amount of Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2023 A (the “Series 2023 Bonds”). Simultaneously with the issuance of the Series 2023 Bonds, the Authority is issuing its Revenue Bonds, Higher Education Equipment Leasing Fund Program Issue, Series 2023 A (the “ELF Bonds”). The ELF Bonds are not being offered by means of this Official Statement. Only the Series 2023 Bonds are being offered by the Authority.

The Series 2023 Bonds are being issued by the Authority under and pursuant to the Higher Education Capital Improvement Fund Act, being Chapter 217 of the Public Laws of 1999, as amended and supplemented (the “Capital Improvement Fund Act”), which amended and supplemented the New Jersey Educational Facilities Authority Law, being Chapter 72A of Title 18A of the Public Laws of 1967, as amended and supplemented (the “Act”), and under and pursuant to the Authority’s Higher Education Capital Improvement Fund General Bond Resolution adopted on June 21, 2000, as amended and supplemented to date (the “Bond Resolution”), including as supplemented by the Authority’s Eleventh Supplemental Higher Education Capital Improvement Fund Resolution adopted on July 25, 2023 (the “Eleventh Supplemental Resolution”), authorizing the issuance of the Series 2023 Bonds, and a certificate executed by an Authorized Officer of the Authority on the date of sale of the Series 2023 Bonds (the “Series Certificate,” and collectively with the Bond Resolution and the Eleventh Supplemental Resolution, the “Resolution”).

The Authority has previously issued bonds under the Capital Improvement Fund Act and pursuant to the Bond Resolution. The following principal amounts are currently outstanding: (i) \$104,485,000 of its \$164,245,000 Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2014 A (the “Series 2014 A Bonds”); (ii) \$9,125,000 of its \$14,345,000 Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2014 B (the “Series 2014 B Bonds”); (iii) \$4,120,000 of its \$252,270,000 Revenue Refunding Bonds, Higher Education Capital Improvement Fund Issue, Series 2016 A (the “Series 2016 A Bonds”); and (iv) \$108,430,000 of its \$142,715,000 Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2016 B (the “Series 2016 B Bonds”). The Series 2014 A Bonds, the Series 2014 B Bonds, the Series 2016 A Bonds and the Series 2016 B Bonds shall be collectively referred to as the “Prior Bonds”, and the Prior Bonds, the Series 2023 Bonds and any additional Series of Bonds hereafter issued under the Bond Resolution shall be collectively referred to as the “Bonds.” The Bank of New York Mellon, Woodland Park, New Jersey, is acting as trustee (the “Trustee”) under the Resolution. For definitions of certain capitalized words and terms used in this Official Statement and not otherwise defined herein, see “APPENDIX II – BOND RESOLUTION” hereto.

\* Preliminary, subject to change.

The information contained in this Official Statement has been prepared under the direction of the Authority for use in connection with the sale and delivery of the Series 2023 Bonds.

### **Authority for Issuance**

The Series 2023 Bonds are being issued pursuant to the Capital Improvement Fund Act. The Capital Improvement Fund Act amended and supplemented the Act. The Capital Improvement Fund Act, among other things, empowers the Authority to issue its obligations and to make grants to participating four-year private and public institutions of higher education in the State (each, an “Institution”, a “Public Institution” or a “Private Institution” and collectively, the “Institutions of Higher Education” or the “Institutions”) for the purpose of financing the renewal, renovation, improvement, expansion, construction and reconstruction of facilities and technology infrastructure at instructional, laboratory, communication, research, administrative, and student-support facilities (collectively, the “Capital Improvements”), provided that the total outstanding principal amount of the bonds issued for this purpose, excluding refunding bonds, shall not exceed \$550,000,000 and the term of any bond shall not exceed thirty (30) years, and to issue refunding bonds to refinance such obligations.

### **Purposes and Use of Proceeds**

The Series 2023 Bonds are being issued for the purposes of the Bond Resolution and the Eleventh Supplemental Resolution, specifically to: (i) provide funds to make grants to certain Public Institutions for the purpose of paying the costs, or a portion of the costs, of certain Capital Improvements authorized in accordance with the Capital Improvement Fund Act (collectively, the “Public Institution Capital Projects”) and provide funds to make grants to certain Private Institutions for the purpose of paying the costs, or a portion of the costs, of certain Capital Improvements authorized in accordance with the Capital Improvement Fund Act (collectively, the “Private Institution Capital Projects” and together with the Public Institution Capital Projects, the “2023 Capital Improvement Projects”); and (ii) pay the costs of issuing the Series 2023 Bonds. See “ESTIMATED SOURCES AND USES OF FUNDS FOR THE SERIES 2023 BONDS” herein.

### **Tax Elections for Series 2023 Bonds**

Pursuant to certain federal tax elections to be made by the Authority at the time of issuance of the Series 2023 Bonds, a portion of the Series 2023 Bonds shall be treated as “governmental bonds” for federal income tax purposes (the “Governmental Bonds”) and a portion of the Series 2023 Bonds shall be treated as “qualified 501(c)(3) bonds” for federal income tax purposes (the “Qualified 501(c)(3) Bonds”). See “TAX MATTERS” herein.

### **Security**

The Series 2023 Bonds and the other Bonds are special and limited obligations of the Authority payable solely from payments to be received by the Authority from the Treasurer of the State (the “State Treasurer”) pursuant to the Contract dated as of July 1, 2000 (the “State Contract”), by and between the State Treasurer and the Authority, and amounts held under the Resolution. **All amounts paid to the Authority under the State Contract are subject to and dependent upon appropriations being made from time to time by the New Jersey State Legislature (the “State Legislature”). The State Legislature has no legal obligation to make any such appropriations.**

The Authority shall collect and forthwith cause to be deposited with the Trustee all amounts, if any, payable to it pursuant to the State Contract. The Authority shall enforce the provisions of the State Contract



and agreements thereunder. The Authority will not consent or agree to permit any amendment, change or modification to any State Contract that would reduce the amounts payable to the Authority or extend the times when such payments are to be made thereunder. See “APPENDIX III – STATE CONTRACT” hereto.

All references herein to the Capital Improvement Fund Act, the Act, the Bond Resolution, the Eleventh Supplemental Resolution, the Series Certificate and the State Contract are qualified in their entirety by reference to the complete text of the Capital Improvement Fund Act, the Act, the Bond Resolution, the Eleventh Supplemental Resolution, the Series Certificate and the State Contract, copies of which are available from the Authority, and all references to the Series 2023 Bonds are qualified in their entirety by reference to the definitive forms thereof and the information with respect thereto contained in the Bond Resolution, the Eleventh Supplemental Resolution, the Series Certificate and the State Contract.

THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2023 BONDS IS TO BE DERIVED FROM PAYMENTS MADE BY THE STATE TREASURER TO THE AUTHORITY UNDER THE STATE CONTRACT AND CERTAIN AMOUNTS HELD UNDER THE RESOLUTION. THE OBLIGATION OF THE STATE TREASURER TO MAKE SUCH PAYMENTS UNDER THE STATE CONTRACT IS SUBJECT TO AND DEPENDENT UPON APPROPRIATIONS BEING MADE FROM TIME TO TIME BY THE STATE LEGISLATURE. THE STATE LEGISLATURE HAS NO LEGAL OBLIGATION TO MAKE ANY SUCH APPROPRIATION.

There are no remedies available to the Bondholders in the event that the State Legislature does not appropriate sufficient funds or any funds to make payments when due under the State Contract nor is there any other significant source of monies from which payment on the Series 2023 Bonds could be made. While the State Legislature has the legal authority to make appropriations, it has no obligation to do so. Neither the failure of the State Legislature to make such appropriation nor non-payment of the Series 2023 Bonds as a result of such failure to appropriate is an Event of Default under the Resolution or the Series 2023 Bonds and will not give rise to any rights or remedies against the State or the Authority.

#### **No Pledge of Capital Improvements or Payments by Institutions**

Neither the 2023 Capital Improvement Projects nor the Capital Improvements funded with grants from the proceeds of any Prior Bonds, nor any payments to be made by the Institutions under the Grant Agreements (as defined herein) will secure, be pledged to or be available to pay the Series 2023 Bonds. See “SECURITY FOR THE SERIES 2023 BONDS” herein.

#### **No Pledge of State’s Credit**

NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT SET FORTH IN THE RESOLUTION) IS OBLIGATED TO PAY, AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT SET FORTH IN THE RESOLUTION) IS PLEDGED TO THE PAYMENT OF, THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2023 BONDS. THE SERIES 2023 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY OUT OF THE REVENUES OR OTHER RECEIPTS, FUNDS OR MONEYS OF THE AUTHORITY PLEDGED UNDER THE RESOLUTION AND FROM ANY AMOUNTS OTHERWISE AVAILABLE UNDER THE RESOLUTION FOR THE PAYMENT OF THE SERIES 2023 BONDS. THE SERIES 2023 BONDS DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE

AGAINST THE GENERAL CREDIT OF THE AUTHORITY. THE AUTHORITY HAS NO TAXING POWER.

### **Bank Loan Transaction**

Included within the Prior Bonds are the Series 2016 A Bonds issued by the Authority pursuant to the terms of a tax-exempt term loan agreement (the “Loan Agreement”) between the Authority and DNT Asset Trust. The Series 2016 A Bonds are on parity with all Bonds Outstanding under the Resolution from time to time, including the Series 2023 Bonds. The Series 2016 A Bonds have a final maturity of September 1, 2024. The Series 2016 A Bonds are *not* subject to mandatory tender at the option of the holder thereof. See also “APPENDIX I – FINANCIAL AND OTHER INFORMATION RELATING TO THE STATE OF NEW JERSEY – LONG-TERM OBLIGATIONS – Description of Certain Long-Term Obligations – *Bank Loan Bonds*”.

### **Additional Series of Bonds**

The Authority may, with the prior written consent of the State Treasurer, issue additional Series of Bonds under the Capital Improvement Fund Act in a principal amount up to the maximum amount authorized under the Capital Improvement Fund Act, subject to the Statutory Debt Issuance Limit (as defined herein) for the purpose of financing additional grants. See “HIGHER EDUCATION CAPITAL IMPROVEMENT FUND PROGRAM” herein. Any additional Series of Bonds will be secured equally and ratably, without preference or priority, with the Prior Bonds and the Series 2023 Bonds. See “SECURITY FOR THE SERIES 2023 BONDS” herein.

### **Refunding Bonds**

One or more series of Refunding Bonds may be issued at any time, with the prior written consent of the State Treasurer, to refund outstanding Bonds of one or more Series or one or more maturities thereof. Refunding Bonds issued to refund prior obligations of the Authority shall be excluded from the calculation against the Statutory Debt Issuance Limit described under “SECURITY FOR THE SERIES 2023 BONDS – Statutory Debt Issuance Limit” herein, provided that the refunding by the Authority shall be determined by the Authority to result in debt service savings.

## **THE AUTHORITY**

The Authority was duly created under the Act (N.J.S.A. 18A:72A-1 et seq.) as a public body corporate and politic constituting an instrumentality exercising public and essential governmental functions of the State. The Act empowers the Authority, among other things, to make loans to public and private colleges and universities for the construction, improvement, acquisition, and refinancing of eligible projects in accordance with a lease agreement, a loan agreement or a mortgage approved by the Authority. The Authority is also authorized to provide financing for capital improvements at qualified public libraries.

The Act provides that the Authority shall not be required to pay taxes or assessments upon any of the property acquired or used by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of the facilities acquired or constructed for any participating college or university or upon any moneys, revenues or other income received therefrom by the Authority.

## **HIGHER EDUCATION CAPITAL IMPROVEMENT FUND PROGRAM**

The Capital Improvement Fund Act establishes the Higher Education Capital Improvement Fund (the “Capital Improvement Fund”) within the Authority and authorizes the Authority to issue bonds, notes or other obligations in a total outstanding amount of \$550,000,000, exclusive of Refunding Bonds, to finance the making of grants to Institutions of Higher Education in the State (the “Program”). The Capital Improvement Fund Act provides that the State Treasurer, subject to available appropriations, shall pay, pursuant to the State Contract, the amount necessary to pay the principal of and interest on bonds, notes and other obligations of the Authority issued for the Program, including the Series 2023 Bonds.

The Capital Improvement Fund is required to be used for Capital Improvements within and among the State’s Institutions of Higher Education. Each Institution shall use the grants for Capital Improvements. Any Institution may use up to 20% of a grant within student-support facilities for renewal and renovation or improvement, expansion, construction or reconstruction.

The Capital Improvement Fund Act provides that the governing board of an Institution may determine, by resolution, to apply for a grant from the Capital Improvement Fund. Such application, describing the proposed Capital Improvements to be financed, is to be filed with the Secretary of Higher Education (the “Secretary”), who has the power to approve or disapprove the grant. The Secretary must submit a copy of the written certification approving the grant to the State Legislature. If the State Legislature does not disapprove the grant within 45 days by concurrent resolution, it is deemed approved. If a grant for a Public Institution from the Capital Improvement Fund is approved, such Public Institution must enter into an agreement with the Authority that it will pay an amount equal to one-third (1/3) of the amount necessary to pay the principal of and interest on the bonds, notes and other obligations of the Authority issued by the Authority for such Capital Improvements pursuant to the Capital Improvement Fund Act, plus its share of any amounts payable in connection with contracts entered into pursuant to subsection (e) of Section 7 of the Capital Improvement Fund Act. If a grant for a Private Institution from the Capital Improvement Fund is approved, such Private Institution must enter into an agreement with the Authority that it will pay an amount equal to one-half (1/2) of the amount necessary to pay the principal of and interest on the bonds, notes or other obligations of the Authority issued by the Authority for such Capital Improvements pursuant to the Capital Improvement Fund Act, plus its share of any amounts payable in connection with contracts entered into pursuant to subsection (e) of Section 7 of the Capital Improvement Fund Act. Such payments by Institutions of Higher Education shall be made to the Authority to be applied as provided in the State Contract.

Pursuant to the Capital Improvement Fund Act, on April 27, 2023, the Secretary certified to the Authority a list of approved projects and award amounts to be financed with grants from the Series 2023 Bonds (the “2023 Approved Projects”) and submitted the list of 2023 Approved Projects to the State Legislature for review. The State Legislature did not adopt a concurrent resolution disapproving any of the 2023 Approved Projects during the statutorily- prescribed 45-day period. The Series 2023 Bonds are being issued to finance the grants to be made for the 2023 Approved Projects (the “2023 Approved Grants”).

The 2023 Approved Projects include funding for seven (7) Public Institutions and two (2) Private Institutions. The Public Institutions whose grants will be funded from proceeds of a portion of the Series 2023 Bonds are Rutgers, The State University of New Jersey (“Rutgers”), Kean University, Montclair State University, Ramapo College of New Jersey, Stockton University, The College of New Jersey, and The William Paterson University of New Jersey. The Private Institutions whose grants will be funded from a portion of the proceeds of the Series 2023 Bonds are Drew University and Fairleigh Dickinson University.

## ESTIMATED SOURCES AND USES OF FUNDS FOR THE SERIES 2023 BONDS

The sources and uses of funds in connection with the issuance of the Series 2023 Bonds are expected to be as set forth below:

	<u>Totals</u> <sup>1</sup>
<u>SOURCES OF FUNDS</u>	
Par Amount of Series 2023 Bonds	\$
Net Original Issue Premium	
Total Sources of Funds	<u>\$</u>
<u>USES OF FUNDS</u>	
Deposit to Higher Education Capital Improvement Fund	\$
Costs of Issuance <sup>2</sup>	\$
Underwriters' Discount	<u>\$</u>
Total Uses of Funds	<u>\$</u>

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<sup>1</sup> Totals may not add up due to rounding.

<sup>2</sup> Includes fees and expenses of Bond Counsel, Municipal Advisor, Trustee, Rating Agencies and other issuance costs associated with the issuance and sale of the Series 2023 Bonds.

## **DESCRIPTION OF THE SERIES 2023 BONDS**

### **General**

The Series 2023 Bonds will initially be dated the date of delivery thereof, will bear interest at the respective rates per annum and mature on the dates and in the principal amounts set forth on the inside cover page of this Official Statement. Interest on the Series 2023 Bonds will accrue from their date of delivery and such interest will be payable initially on March 1, 2024, and semiannually thereafter on March 1 and September 1 of each year to and including their respective dates of maturity or redemption prior to maturity and will be payable in lawful money of the United States of America. The Series 2023 Bonds will be payable as to principal or redemption price upon presentation and surrender thereof at the corporate trust office of The Bank of New York Mellon, Woodland Park, New Jersey, as Trustee.

The principal and redemption price of the Series 2023 Bonds will be payable upon presentation and surrender of the respective Series 2023 Bonds at the corporate trust office of the Trustee designated by the Trustee. Interest on the Series 2023 Bonds will be payable by check mailed to the registered owners thereof. However, interest on the Series 2023 Bonds will be paid to any owner of \$1,000,000 or more in aggregate principal amount of the Series 2023 Bonds by wire transfer to a wire transfer address within the continental United States upon the written request of such owner received by the Trustee not less than five (5) days prior to the Record Date.

The Depository Trust Company ("DTC") will act as securities depository for the Series 2023 Bonds. So long as DTC or its nominee is the registered owner of the Series 2023 Bonds, payments of the principal of and interest on the Series 2023 Bonds will be made by the Paying Agent directly to DTC or its nominee, Cede & Co., which will in turn remit such payments to DTC participants, which will in turn remit such payments to the Beneficial Owners (as such term is defined in "APPENDIX VI – BOOK- ENTRY ONLY SYSTEM") of the Series 2023 Bonds. See "APPENDIX VI – BOOK-ENTRY ONLY SYSTEM."

The Series 2023 Bonds will initially be issued as fully registered bonds and, when issued, will be registered in the name of Cede & Co. as nominee of DTC. Purchases of beneficial interests in the Series 2023 Bonds will be made in book-entry only form through DTC participants in denominations of \$5,000 or any integral multiple thereof, and no physical delivery of the Series 2023 Bonds will be made to purchasers, except as provided in the Resolution. See "APPENDIX VI - BOOK-ENTRY ONLY SYSTEM" herein.

### **Redemption**

The Series 2023 Bonds maturing on or after September 1, 20\_\_ are subject to optional redemption prior to their stated maturities at the option of the Authority, in whole or in part, in any order of maturity as selected by the Authority and by lot within a maturity if less than all the Series 2023 Bonds of such maturity are to be redeemed, at any time on and after March 1, 20\_\_ at a Redemption Price equal to 100% of the principal amount of the Series 2023 Bonds to be so redeemed, plus accrued interest to the date fixed for redemption.

The Series 2023 Bonds maturing on September 1, 20\_\_ are subject to mandatory sinking fund redemption prior to their stated maturities, on September 1 in the years and in the amounts set forth in the tables below, through selection by the Trustee by lot and upon the giving of notice as provided in the Resolution, at a Redemption Price of one hundred percent (100%) of the principal amount thereof and accrued interest thereon to the date fixed for redemption, from moneys deposited in the Debt Service Fund established under the Resolution.

Bonds Maturing September 1, 20\_\_

Year

Amount

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\*Final maturity.

### **Notice of Redemption**

When the Trustee shall receive notice from the Authority of its election or direction to redeem any of the Series 2023 Bonds, the Trustee shall give notice, in the name of the Authority, of the redemption of such Series 2023 Bonds, which notice shall specify the series and maturities of the applicable Series 2023 Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the applicable Series 2023 Bonds of any like series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Series 2023 Bonds so to be redeemed, and, in the case of Series 2023 Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Any notice of redemption may state that the redemption is contingent upon the deposit of moneys with the Trustee in an amount sufficient to pay the Redemption Price of all Series 2023 Bonds or portions thereof which are to be redeemed on such date. Such notice shall further state that on such date there shall become due and payable upon each Series 2023 Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Series 2023 Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date (unless the notice stated that the redemption is contingent upon the deposit of funds and such deposit has not been made) interest thereon shall cease to accrue and be payable. Such notice shall be mailed by the Trustee, postage prepaid, not less than twenty-five (25) days prior to the redemption date, to the registered owners of any Series 2023 Bonds or portions of Series 2023 Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure of the registered owner of any Series 2023 Bonds which are to be redeemed to receive any notice as provided in the immediately preceding sentence, shall not affect the validity of the proceedings for the redemption of the applicable series of Series 2023 Bonds.

If at the time of the mailing of notice of redemption, the Authority shall not have deposited with the Trustee, as applicable, moneys sufficient to redeem all the Series 2023 Bonds called for redemption, such notice shall state that it is conditional and subject to the deposit of the redemption moneys with the Trustee or the Paying Agent, as applicable, on the Redemption Date, and such notice shall be of no effect unless such moneys are so deposited.

So long as DTC is acting as securities depository for the Series 2023 Bonds, all notices of redemption required to be given to the registered owners of the Series 2023 Bonds will be given to DTC.

### **Negotiable Instruments**

The Series 2023 Bonds issued pursuant to the Capital Improvement Fund Act and the Resolution are fully negotiable within the meaning of the Uniform Commercial Code of the State, subject only to provision for registration contained in the applicable Series 2023 Bond.

## **Book-Entry Only System**

The information in “APPENDIX VI – BOOK-ENTRY ONLY SYSTEM” concerning DTC and DTC’s book-entry system has been obtained from sources that the Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.

Neither the DTC participants nor the Beneficial Owners (as such terms are defined in “APPENDIX VI – DTC BOOK-ENTRY-ONLY SYSTEM”) should rely on such information with respect to such matters but should instead confirm the same with DTC or the DTC participants, as the case may be.

THE AUTHORITY, THE TRUSTEE AND THE PAYING AGENT CANNOT AND DO NOT GIVE ANY ASSURANCES THAT DTC WILL DISTRIBUTE TO THE DIRECT PARTICIPANTS OR THAT THE DIRECT PARTICIPANTS OR THE INDIRECT PARTICIPANTS WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE SERIES 2023 BONDS, (I) PAYMENTS OF PRINCIPAL OR REDEMPTION PRICE OF OR INTEREST ON THE SERIES 2023 BONDS, (II) CERTIFICATES REPRESENTING AN OWNERSHIP INTEREST OR OTHER CONFIRMATION OF BENEFICIAL OWNERSHIP INTEREST IN SERIES 2023 BONDS OR (III) NOTICES SENT TO DTC OR CEDE & CO., ITS NOMINEE, AS THE HOLDER OF THE SERIES 2023 BONDS, OR THAT THEY WILL DO SO ON A TIMELY BASIS OR THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN APPENDIX VI TO THIS OFFICIAL STATEMENT. NONE OF THE AUTHORITY, THE TRUSTEE OR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO ANY DIRECT PARTICIPANTS, ANY INDIRECT PARTICIPANTS, ANY PERSON CLAIMING A BENEFICIAL OWNERSHIP INTEREST IN THE SERIES 2023 BONDS UNDER OR THROUGH DTC OR ANY DIRECT PARTICIPANT OR ANY OTHER PERSON WHICH IS NOT SHOWN ON THE BOND REGISTER OF THE AUTHORITY KEPT BY THE TRUSTEE AS BEING A SERIES 2023 BONDHOLDER.

NEITHER THE AUTHORITY, THE TRUSTEE NOR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATION, EITHER SINGULARLY OR JOINTLY, TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER, AS DEFINED HEREIN, WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2023 BONDS UNDER THE RESOLUTION; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2023 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2023 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF SERIES 2023 BONDS; OR (VI) ANY OTHER MATTER.

SO LONG AS CEDE & CO., AS NOMINEE OF DTC, IS THE REGISTERED OWNER OF ALL OF THE SERIES 2023 BONDS, REFERENCES HEREIN TO THE OWNERS, HOLDERS, OR REGISTERED OWNERS OF THE SERIES 2023 BONDS (OTHER THAN UNDER THE CAPTION “TAX MATTERS” HEREIN) SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2023 BONDS.

In the event that the Series 2023 Bonds are no longer subject to the book-entry only system, the Authority shall immediately advise the Trustee in writing of the procedures for transfer of such Series 2023 Bonds from such book-entry only form to a fully registered form. Thereafter, bond certificates will be

printed and delivered as described in the Resolution and Beneficial Owners will become the registered owners of the Series 2023 Bonds.

## **SECURITY FOR THE SERIES 2023 BONDS**

### **General**

The Resolution provides, among other things, that: (i) such Resolution shall be deemed to be and shall constitute a contract between the Authority and the holders, from time to time, of all Bonds; (ii) the security interest granted and the pledge and assignment made in the Resolution and the covenants and agreements therein set forth to be performed by or on behalf of the Authority shall be for the equal benefit, protection and security of the holders of all Bonds payable on a parity with the Bonds which, regardless of their times of issue or maturity, shall be of equal rank without preference, priority or distinction over any of the Series 2023 Bonds or any Prior Bonds or any additional Series of Bonds payable on a parity with the Series 2023 Bonds, except as expressly provided in or permitted by the Resolution; (iii) the Authority pledges and assigns to the Trustee all of the Pledged Property (as hereinafter defined) as security for the payment of the Series 2023 Bonds and any Prior Bonds and any additional Series of Bonds payable on a parity with the Series 2023 Bonds and as security for the performance of any other obligation of the Authority under the Resolution; (iv) the pledge made by the Resolution is valid and binding from the time when such pledge is made and the Revenues and the Pledged Property shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority irrespective of whether such parties have notice thereof; and (v) the Series 2023 Bonds and any Prior Bonds and any additional Series of Bonds payable on a parity with the Series 2023 Bonds shall be special and limited obligations of the Authority payable solely from and secured by the Pledged Property as provided in the Resolution. For a further description of the Resolution, see “APPENDIX II – BOND RESOLUTION” hereto.

The term “Bonds” includes “Other Obligations” which may be issued and secured under the Resolution. The term “Other Obligations” includes bank loan agreements, lines of credit and other security agreements, and any other form of indebtedness which the Authority is authorized to enter into or obtain to provide direct payment of any loans which the Authority is authorized to pay pursuant to the Act.

In addition, under the Resolution, the Authority may enter into a “Financing Facility” with respect to any additional Series of Bonds. The term “Financing Facility” includes any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements, as approved by the Authority and by each Rating Agency which has issued a rating on the Series of Bonds to which such Financing Facility relates, in connection with the issuance of Bonds or Subordinated Debt. The term “Financing Facility” includes, without limitation, any Swap Agreement.

NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT SET FORTH IN THE RESOLUTION) IS OBLIGATED TO PAY, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF (OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT SET FORTH IN THE RESOLUTION) IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF AND INTEREST ON THE SERIES 2023 BONDS.



THE SERIES 2023 BONDS ARE SPECIAL AND LIMITED OBLIGATIONS OF THE AUTHORITY, PAYABLE SOLELY OUT OF THE REVENUES OR OTHER RECEIPTS, FUNDS OR MONEYS OF THE AUTHORITY PLEDGED UNDER THE RESOLUTION AND FROM ANY AMOUNTS OTHERWISE AVAILABLE UNDER THE RESOLUTION FOR THE PAYMENT OF THE SERIES 2023 BONDS. THE SERIES 2023 BONDS DO NOT NOW AND SHALL NEVER CONSTITUTE A CHARGE AGAINST THE GENERAL CREDIT OF THE AUTHORITY. THE AUTHORITY HAS NO TAXING POWER.

### **Pledge Securing the Series 2023 Bonds**

The Series 2023 Bonds are payable and secured on a parity with the Prior Bonds and all additional Series of Bonds. All Bonds are special and limited obligations of the Authority payable solely from the Pledged Property pledged to their payment as hereinafter described. Pursuant to the Resolution, all of such Pledged Property is pledged and assigned as security for the payment of the principal of, redemption price, if any, and interest on the Series 2023 Bonds. All such Pledged Property shall immediately become subject to the lien of said pledge without any physical delivery thereof or further act, and such lien shall be valid and binding against all persons having claims of any kind in tort, contract or otherwise against the Authority. See “APPENDIX II – BOND RESOLUTION” hereto.

Pursuant to the Resolution, the pledge securing the payment of the principal of and redemption price, if any, and interest on the Series 2023 Bonds consists of the Revenues (as hereinafter defined), the State Contract, and all amounts and Investment Securities which are held or set aside or which are to be held or set aside pursuant to the terms of the Resolution (except the Rebate Fund) in the funds established and created under the Resolution (collectively, the “Pledged Property”).

Under the Resolution, “Revenues” means: (i) all amounts appropriated and paid to the Authority pursuant to the State Contract; (ii) any other amounts appropriated and paid by the State to the Authority or received from any other source by the Authority and pledged by the Authority as security for the payment of Bonds; and (iii) interest received or to be received on any moneys or securities held pursuant to the Resolution and paid or required to be paid into the Revenue Fund; provided, however, that the term “Revenues” shall not include “Financing Facility Revenues” or interest received or to be received on any moneys or security held in the Capital Improvement Fund or the Rebate Fund.

### **State Contract**

Pursuant to the State Contract, the State Treasurer is required to pay the amount necessary to pay the principal or redemption price of and interest on the Series 2023 Bonds. However, all payments by the State Treasurer to the Authority, pursuant to the terms of the State Contract, shall be subject to and dependent upon appropriations being made from time to time by the State Legislature for such purpose. The State Legislature has no legal obligations to make any such appropriations. See “APPENDIX III – STATE CONTRACT” hereto.

The Authority shall collect and forthwith cause to be deposited with the Trustee all amounts, if any, payable to it pursuant to the State Contract. The Authority shall enforce the provisions of the State Contract and agreements thereunder. The Authority will not consent or agree to permit any amendment, change or modification to any State Contract that would reduce the amounts payable to the Authority or extend the times when such payments are to be made thereunder.

## **State's General Taxing Power Not Pledged**

Pursuant to the Capital Improvement Fund Act and the Resolution, the Series 2023 Bonds are special and limited obligations of the Authority and are not in any way a debt of the State or any political subdivision thereof (other than the Authority to the limited extent set forth in the Resolution) and shall not be or constitute a pledge of the faith and credit of the State or of any political subdivision thereof. All bonds, notes or other obligations of the Authority issued under the Resolution, unless funded or refunded by bonds, notes or other obligations of the Authority, shall be payable solely from the Pledged Property of the Authority.

## **Statutory Debt Issuance Limit**

The Capital Improvement Fund Act currently provides that the aggregate principal amount of bonds, notes or other obligations of the Authority under the Program outstanding at any one time may not exceed \$550,000,000 (the "Statutory Debt Issuance Limit"). All bonds, notes or other obligations issued for refunding purposes shall be excluded from the calculation against the Statutory Debt Issuance Limit, provided that the refunding shall be determined by the Authority to result in debt service savings. The Series 2023 Bonds, when issued, together with the Authority's Outstanding Prior Bonds (excluding Outstanding Refunding Bonds), will not exceed the Statutory Debt Issuance Limit.

## **Event of Non-Appropriation**

An "Event of Non-Appropriation" with respect to the Bonds shall be deemed to have occurred under the State Contract if the State Legislature shall fail to appropriate funds for any fiscal year in an amount sufficient to pay when due its obligations under the State Contract.

In addition, a failure by the Authority to pay when due any Bond Payment Obligations or Financing Facility Payment Obligations required to be made under the Resolution or the applicable Series of Bonds, or a failure by the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed under the Resolution or the Bonds resulting from the occurrence of an Event of Non-Appropriation, shall not constitute an Event of Default as defined under the Resolution.

Upon the occurrence of an Event of Non-Appropriation, the Trustee, on behalf of the holders of the applicable Series of Bonds, has no remedies. The Trustee may not seek to accelerate the Bonds. The Authority has no obligation to pay any Bond Payment Obligations with respect to which an Event of Non-Appropriation has occurred. However, the Authority would remain obligated to pay such Bond Payment Obligations, with interest thereon at the rate then in effect with respect to the applicable Series 2023 Bonds, and all future Bond Payment Obligations to the extent State appropriations are subsequently made for such purposes.

From and after the occurrence of an Event of Non-Appropriation, and provided that there shall not have occurred and then be continuing any Event of Default under the Resolution, all applicable Pledged Property received by the Trustee shall be applied as follows:

First, to the payment of any prior applicable Bond Payment Obligations which remain unpaid by reason of the occurrence of such Event of Non-Appropriation in the order in which such prior Bond Payment Obligations became due and payable, and, if the amount available shall not be sufficient to pay in full all the applicable Bond Payment Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal

or Redemption Price and interest due on such date, to the Persons entitled thereto, without any discrimination or preference;

Second, to the payment, to the extent permitted by law, of interest on the amounts described in paragraph First above at the rate in effect on the applicable Bonds, from the last Payment Date to which interest had been paid; and

Third, as provided in subsection 5 of Section 506 of the Bond Resolution.

### **Additional Series of Bonds**

The Authority may, with the prior written consent of the State Treasurer, issue additional Series of Bonds under the Capital Improvement Fund Act in a principal amount up to the maximum principal amount authorized under the Capital Improvement Fund Act, for the purpose of financing additional grants. See “HIGHER EDUCATION CAPITAL IMPROVEMENT FUND PROGRAM” herein. The additional Series of Bonds will be secured equally and ratably, without preference or priority, with the Prior Bonds and the Series 2023 Bonds. See “SECURITY FOR THE SERIES 2023 BONDS” herein. The issuance of additional Series of Bonds is subject to the Statutory Debt Issuance Limit. See “APPENDIX II – BOND RESOLUTION” hereto.

### **Refunding Bonds**

One or more series of Refunding Bonds may be issued at any time, with the prior written consent of the State Treasurer, to refund outstanding Bonds of one or more series or one or more maturities within a series of any Bonds. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make the deposits in the funds and accounts under the Bond Resolution required by the provisions of the supplemental resolution authorizing such Refunding Bonds. All bonds, notes or other obligations issued for refunding purposes shall be excluded from the calculation against the Statutory Debt Issuance Limit, provided that the refunding shall be determined by the Authority to result in a debt service savings. See “SECURITY FOR THE SERIES 2023 BONDS – Statutory Debt Issuance Limit” herein and “APPENDIX II – BOND RESOLUTION” hereto.

## ESTIMATED ANNUAL DEBT SERVICE REQUIREMENTS ON THE SERIES 2023 BONDS

The following table sets forth the debt service requirements on the Series 2023 Bonds in each fiscal year.

### Fiscal Year

**Ending  
June 30**

**Principal**

**Coupon**

**Interest**

**Debt Service**

**Total**

## LEGALITY FOR INVESTMENT

Pursuant to the Act, all bonds, notes and other obligations, including the Series 2023 Bonds, issued by the Authority under the provisions of the Act are securities in which the State and all political subdivisions of the State, their officers, boards, commissions, departments or other agencies; all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; all administrators, executors, guardians, trustees and other fiduciaries; and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State may properly and legally invest any funds including capital belonging to them or within their control. Bonds, notes or other securities or obligations of the Authority are also securities which may properly and legally be deposited with and received by any State or municipal officer or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is authorized by law.

## **LITIGATION**

There is no litigation pending, or, to the knowledge of the Authority, threatened, seeking to restrain or enjoin the issuance, sale, execution or delivery of the Series 2023 Bonds, of the contemplated uses of the proceeds of the Series 2023 Bonds, or in any way or questioning or affecting the validity of the Series 2023 Bonds, the State Contract, the Act or any proceedings of the Authority or the State taken with respect to the issuance, sale, execution or delivery thereof, or the pledge or application of any moneys or securities provided for the payment of Series 2023 Bonds, or the existence or powers of the Authority or the State Contract or the title of any officers or members of the Authority to their respective positions.

## **LEGAL MATTERS**

All legal matters incident to the authorization, execution, issuance and delivery of the Series 2023 Bonds are subject to the unqualified approving opinion of Chiesa Shahinian & Giantomasi PC, Roseland, New Jersey, Bond Counsel to the Authority (“Bond Counsel”). A copy of the approving opinion of Bond Counsel, in substantially the form provided in APPENDIX V hereto, will be available at the time of the delivery of the Series 2023 Bonds. Certain legal matters will be passed upon for the Authority and the State by the Attorney General of the State and for the Underwriters by their counsel, Nash Perez, LLC, Camden, New Jersey.

## **TAX MATTERS**

### **Federal Income Taxation**

In the opinion of Bond Counsel, under existing statutes, regulations, rulings and judicial decisions, and assuming continuing compliance with the provisions of the Internal Revenue Code of 1986, as amended (the “Code”) applicable to the Series 2023 Bonds, interest on the Series 2023 Bonds is excludable from gross income of the holders thereof for federal income tax purposes. Bond Counsel is also of the opinion that interest on the Series 2023 Bonds is not an item of tax preference for purposes of computing the federal alternative minimum tax applicable to individuals. For tax years beginning after December 31, 2022, interest on the Series 2023 Bonds may affect the federal alternative minimum tax imposed on certain corporations. Bond Counsel expresses no opinion regarding other federal tax consequences arising with respect to the Series 2023 Bonds or the receipt of interest thereon.

The Code and the Treasury Regulations promulgated thereunder (the “Treasury Regulations”) impose certain continuing requirements that must be satisfied subsequent to the issuance and delivery of the Series 2023 Bonds so that interest on the Series 2023 Bonds will be and remain excludable from gross income for federal income tax purposes, including, but not limited to, restrictions relating to the use of the proceeds of the Series 2023 Bonds and the investment of the proceeds of the Series 2023 Bonds and the requirement to rebate certain arbitrage earnings in excess of the yield on the Series 2023 Bonds to the Treasury of the United States. The Authority expects and intends to comply, and to the extent permitted by law, will comply, with such requirements, and the Institutions have covenanted to comply with such requirements. Noncompliance with such requirements may cause interest on the Series 2023 Bonds to become includable in gross income for federal income tax purposes retroactive to the date of issuance of the Series 2023 Bonds, regardless of the date on which such noncompliance occurs or is discovered. In rendering its opinion as to the tax-exempt status of interest on the Series 2023 Bonds, Bond Counsel has relied on certain representations, certifications of fact, statements of reasonable expectations and covenants by the Authority and the Institutions made in connection with the issuance of the Series 2023 Bonds, and Bond Counsel has assumed continuing compliance by the Authority and the Institutions with certain ongoing requirements of the Code to the extent necessary to effect or maintain the exclusion of interest on the Series 2023 Bonds from gross income under Section 103 of the Code.

The sale date of the Series 2023 Bonds is within fourteen (14) days of the sale date of the Authority's \$ \_\_\_\_\_ Revenue Bonds, Higher Education Equipment Leasing Fund Program Issue, Series 2023 A (the "ELF Bonds"). The ELF Bonds are being issued under and pursuant a separate bond resolution from the Series 2023 Bonds, are secured pursuant to a separate contract with the State Treasurer, and are being sold pursuant to a separate official statement from the Series 2023 Bonds. The ELF Bonds are being issued for the purpose of providing funds to finance the cost of acquiring and installing scientific, engineering, technical, computer, communications, and instructional equipment at Public Institutions and Private Institutions in the State and paying the costs of issuance of the ELF Bonds.

Pursuant to Treasury Regulations Section 1.150-1(c)(1), in general, if two or more bond issues are sold at substantially the same time, pursuant to a common plan of finance, and are reasonably expected to be paid from the same source of funds for federal income tax purposes, then such bonds will be treated as part of the same issue for federal income tax purposes. The effect of being treated as one issue for federal income tax purposes is that the failure of one of the bond issues to comply with the requirements of the Code and Treasury Regulations applicable to such bond issue could cause interest on such bond issue to be includable in gross income of the holders of the bonds of such bond issue retroactive to the date of issuance of such bond issue, and could also cause interest on such other bond issue to be includable in gross income of the holders of the bonds of such other bond issue retroactive to the date of issuance of such other bond issue.

Pursuant to Treasury Regulation Section 1.150-1(c)(3), bonds that would otherwise be treated as a single issue of bonds may be treated as separate issues for certain purposes of the Code if each such separate issue would separately qualify as an issue of tax-exempt bonds. A portion of the Series 2023 Bonds is being used to finance grants to Public Institutions and a portion of the Series 2023 Bonds is being used to finance grants to Private Institutions that are qualified Section 501(c)(3) organizations within the meaning of the Code, and a portion of the ELF Bonds will be used to finance grants to Public Institutions and a portion of the ELF Bonds will be used to finance grants to Private Institutions that are qualified Section 501(c)(3) organizations within the meaning of the Code. Collectively, the portions of the Series 2023 Bonds and the ELF Bonds used to finance grants to the Public Institutions are referred to herein as the "Governmental Bonds". Collectively, the portions of the Series 2023 Bonds and the ELF Bonds used to finance grants to the Private Institutions are referred to herein as the "Qualified 501(c)(3) Bonds". The Authority is electing to treat the Governmental Bonds and the Qualified 501(c)(3) Bonds as separate issues for certain purposes of the Code. However, under Treasury Regulation Section 1.150-1(c)(3), the Governmental Bonds and the Qualified 501(c)(3) Bonds are not being treated as separate issues for certain purposes of the Code, including those provisions of the Code that relate to arbitrage and rebate. Therefore, the continuing federal tax exemption of the Series 2023 Bonds will be dependent upon, among other things, compliance by the Authority and each Institution with certain requirements of the Code, as well as, in the case of the Qualified 501(c)(3) Bonds, continuation of the tax-exempt status of each of the Private Institutions under Code Section 501(c)(3).

[The Series 2023 Bonds maturing on \_\_\_\_\_ are herein referred to as the "Discount Bonds." The difference between the initial public offering price of the Discount Bonds set forth on the inside cover page hereof and the stated redemption price at maturity of each such Discount Bond constitutes "original issue discount," all or a portion of which will, on the disposition or payment of such Discount Bond, be treated as tax-exempt interest for federal income tax purposes. Original issue discount will accrue to a holder under a "constant interest method" utilizing periodic compounding of accrued interest. Prospective purchasers of Discount Bonds should consult their tax advisors regarding the tax treatment of original issue discount for federal, state and local law purposes.]

[The Series 2023 Bonds maturing on \_\_\_\_\_ are herein referred to as the “Premium Bonds.” Under Section 171(a)(2) of the Code, no deduction is allowed for the amortizable bond premium (determined in accordance with Section 171(b) of the Code) on tax-exempt bonds. Under Section 1016(a)(5) of the Code, however, an adjustment must be made to the owner’s basis in such bond to the extent of any amortizable bond premium that is disallowable as a deduction under Section 171(a)(2) of the Code. Prospective purchasers of Premium Bonds should consult their tax advisors regarding the treatment of premium for federal, state and local law purposes.]

### **Other Federal Tax Consequences Relating to the Series 2023 Bonds**

Prospective purchasers of the Series 2023 Bonds should be aware that the ownership of tax-exempt obligations may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, property and casualty insurance companies, individual recipients of Social Security and Railroad Retirement benefits, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or to carry tax-exempt obligations. Prospective purchasers of the Series 2023 Bonds who may be subject to such collateral consequences should consult their own tax advisors. Prospective purchasers of the Series 2023 Bonds should also consult their own tax advisors as to the applicability and the effect on federal income tax of the alternative minimum tax applicable to certain corporations, the branch profits tax, and the tax on S Corporations, as well as the applicability and the effect of any other federal income tax consequences. Prospective purchasers of the Series 2023 Bonds should also consult with their tax advisors with respect to the need to furnish certain taxpayer information to avoid backup withholding. Bond Counsel expresses no opinion as to any such matters.

### **New Jersey Gross Income Tax Act**

In the opinion of Bond Counsel, under current law, interest on the Series 2023 Bonds and any gain from the sale thereof are not includable as gross income under the New Jersey Gross Income Tax Act.

### **Future Events**

Legislation affecting municipal bonds is regularly under consideration by the United States Congress. Federal tax legislation, administrative action taken by federal tax authorities and court decisions at the federal level may adversely affect the exclusion from gross income of interest on the Series 2023 Bonds for federal income tax purposes, and State tax legislation, administrative action taken by State tax authorities and court decisions at the State level may adversely affect the exclusion of interest on and any gain realized from the sale of the Series 2023 Bonds under the New Jersey Gross Income Tax Act. In addition, any such federal or State legislation, administrative action or court decisions could adversely affect the market price or marketability of the Series 2023 Bonds. Further, no assurance can be given that any action of the Internal Revenue Service (the “IRS”), including, but not limited to, selection of the Series 2023 Bonds for examination, or the course or result of any IRS examination of the Series 2023 Bonds or of bonds which present similar tax issues, will not have an adverse effect on the federal tax-exempt status of the Series 2023 Bonds or affect the market price for or marketability of the Series 2023 Bonds.

Bond Counsel is rendering its opinion under existing law as of the issue date and assumes no obligation to update its opinion after the issue date to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. Bond Counsel expresses no opinion on the effect of any action taken or not taken after the date of the opinion or in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Series 2023 Bonds.

ALL POTENTIAL PURCHASERS OF THE SERIES 2023 BONDS SHOULD CONSULT WITH THEIR OWN TAX ADVISORS REGARDING ANY CHANGES IN THE STATUS OF PENDING OR PROPOSED FEDERAL OR NEW JERSEY STATE TAX LEGISLATION, ADMINISTRATIVE ACTION TAKEN BY TAX AUTHORITIES, OR COURT DECISIONS.

ALL POTENTIAL PURCHASERS OF THE SERIES 2023 BONDS SHOULD CONSULT WITH THEIR OWN TAX ADVISORS IN ORDER TO UNDERSTAND THE IMPLICATIONS OF THE CODE.

Bond Counsel will deliver its opinion, substantially in the form attached hereto as APPENDIX V, contemporaneously with the delivery of the Series 2023 Bonds.

### **CONTINUING DISCLOSURE**

In accordance with the provisions of Rule 15c2-12, as amended, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended, the State Treasurer and the Authority will, concurrently with the issuance of the Series 2023 Bonds, enter into a Continuing Disclosure Agreement with the Trustee, acting as dissemination agent, substantially in the form set forth in “APPENDIX IV – FORM OF CONTINUING DISCLOSURE AGREEMENT.”

For the Fiscal Year ended June 30, 2018, the Treasurer’s Annual Report was due to the Municipal Securities Rulemaking Board (“MSRB”) no later than March 15, 2019 in connection with its general obligation bonds and no later than April 1, 2019 in connection with its subject-to-appropriation bonds. On March 15, 2019, the Treasurer’s Annual Report was filed without including the State’s Annual Comprehensive Financial Report for the Fiscal Year ended June 30, 2018 (“ACFR”). On March 29, 2019, the State posted a notice on the MSRB’s Electronic Municipal Market Access system (“EMMA”) that the ACFR would not be filed by April 1, 2019, but would be filed as soon it was available. The ACFR was subsequently filed on EMMA on May 1, 2019.

In January 2019, the State Treasurer became aware that the Treasurer’s Annual Reports and the State’s ACFR for Fiscal Year 2014 were filed after the date specified in the continuing disclosure agreement for the New Jersey Economic Development Authority’s 1996 Liberty State Park Lease Rental Refunding Bonds. Such bonds were redeemed in full in December 2015, and are no longer outstanding.

For the Fiscal Year ended June 30, 2021, the Treasurer’s Annual Report was due to the MSRB no later than March 15, 2022, in connection with its general obligation bonds. On March 15, 2022, the State filed a notice of failure to provide annual information on EMMA that the ACFR would not be filed by March 15, 2022, but would be filed as soon as available. The ACFR was filed on EMMA on May 25, 2022.

For the Fiscal Year ended June 30, 2021, the Treasurer’s Annual Report was due to the MSRB no later than April 1, 2022, in connection with the State’s subject-to-appropriation bonds. On April 1, 2022, the State filed a notice of failure to provide annual information on EMMA that the ACFR would not be filed by April 1, 2022, but would be filed as soon as available. The ACFR was filed on EMMA on May 25, 2022.

The State Treasurer and the Authority have become aware of certain facts that they do not consider to be material but that are disclosed below for the benefit of the Bondholders and Beneficial Owners of its Bonds.

Some information that was made available in a timely manner on EMMA was not linked to all relevant CUSIP numbers. In addition, filings with respect to certain bond insurer ratings changes were



either posted late or the filings were not posted at all. The State Treasurer and the Authority are not always made aware of or may not have received notices from the rating agencies or the bond insurers of changes in the bond insurers' ratings. Such bond insurer rating changes may or may not have had an effect on the ratings of the Bonds.

## **UNDERWRITING**

Siebert Williams Shank & Co., LLC as representative of the underwriters of the Series 2023 Bonds shown on the cover page hereof (the "Underwriters"), has agreed, subject to certain conditions, to purchase the Series 2023 Bonds from the Authority on \_\_\_\_\_ 2023 at an aggregate purchase price of \$\_\_\_\_\_ (said aggregate purchase price reflecting the par amount of the Series 2023 Bonds, plus a net original issue premium of \$\_\_\_\_\_, and less an Underwriters' discount of \$\_\_\_\_\_.) The Underwriters intend to offer the Series 2023 Bonds to the public initially at the offering prices set forth on the inside cover page of this Official Statement, which may subsequently change without any requirement of prior notice. The Underwriters may offer and sell the Series 2023 Bonds to certain dealers (including dealers depositing the Series 2023 Bonds into investment trusts) at prices or yields lower than the offering prices or yields set forth on the inside cover page hereof.

## **MUNICIPAL ADVISOR**

Acacia Financial Group, Inc., of Mount Laurel, New Jersey, served as municipal advisor to the State with respect to the sale of the Series 2023 Bonds. Acacia Financial Group, Inc. is a financial advisory and consulting organization and is not engaged in the business of underwriting, marketing or trading of municipal securities or any other negotiable instruments.

## **RATINGS**

Fitch Ratings ("Fitch"), Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings, a division of Standard & Poor's Financial Services LLC ("S&P") have assigned municipal bond ratings of "A", "A2", and "A-" respectively, to the Series 2023 Bonds. Such ratings reflect only the views of each organization, and an explanation of the significance of such ratings can only be obtained from Fitch, Moody's and S&P. There is no assurance that the ratings will remain in effect for any given period of time or that they will not be revised downward or withdrawn entirely by Fitch, Moody's and S&P if, in the judgment of these rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Series 2023 Bonds.

## **MISCELLANEOUS**

Copies of the Resolution may be obtained upon request from the Authority, 103 College Road East, Princeton, New Jersey 08540.

The foregoing summaries and references to the provisions of the Act, the Capital Improvement Fund Act, the Resolution, the Series 2023 Bonds, the State Contract and the Continuing Disclosure Agreement do not purport to be complete and are made subject to the detailed provisions thereof to which reference is hereby made. These documents may be inspected at the principal corporate trust office of the Trustee.

The attached appendices are integral parts of this Official Statement and must be read together with all of the foregoing statements.

This Official Statement is distributed in connection with the sale and issuance of the Series 2023 Bonds and may not be reproduced or used as a whole or in part, for any other purpose. This Official Statement has been duly authorized and approved by the Authority and duly executed and delivered on its behalf by the official signing below.

Any statements in this Official Statement involving matters of opinion, projections or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. No representation is made that any of such statements will be realized. The agreements of the Authority are fully set forth in the Resolution in accordance with the Capital Improvement Fund Act and this Official Statement is not to be construed as a contract or agreement between the Authority and the purchasers or owners of any Series 2023 Bonds.

**NEW JERSEY EDUCATIONAL FACILITIES  
AUTHORITY**

By: \_\_\_\_\_  
Sheryl A. Stitt, Executive Director

Dated: \_\_\_\_\_, 2023

**APPENDIX I**

**FINANCIAL AND OTHER INFORMATION RELATING  
TO THE STATE OF NEW JERSEY**

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## APPENDIX I

**DATED: SEPTEMBER 11, 2023**

### **FINANCIAL AND OTHER INFORMATION RELATING TO THE STATE OF NEW JERSEY**

This Appendix I speaks only as of its date and contains information supplied by the State that a prospective investor might consider in reaching a decision to invest in securities of the State or securities issued by governmental authorities that are secured by amounts subject to appropriations by the State Legislature. Nothing contained in this Appendix I shall create any implication that there has been no change in the affairs of the State since the date hereof.

All quotations from and summaries and explanations of provisions of laws of the State contained in this Appendix I do not purport to be complete and are qualified in their entirety by reference to the official compilation of State laws.

All estimates and assumptions of financial and other information set forth in this Appendix I are and will be based on information available as of its date, are believed to be reasonable, and are not to be construed as assurances of actual outcomes. All estimates of future performance or events constituting “forward-looking statements” set forth in this Appendix I may or may not be realized because of a wide variety of economic and other circumstances. Included in such forward-looking statements are budgetary numbers and other information for the most recent past and current fiscal years.

From time to time, State officials or representatives of State governmental authorities may issue statements or reports, post information on websites, or otherwise make public information that contains predictions, projections or other information relating to the State’s financial condition, including potential operating results for the current fiscal year and for future fiscal years, that may vary materially from the information provided in this Appendix I. In addition, such officials and authorities as well as other persons and groups, with or without official State governmental approval and cooperation, may undertake studies and analyses, whether or not designed to be made public, which may contain information regarding the State and its financial condition which differs significantly from the information provided herein or on which the information provided herein is based. Such statements, reports and information are not part of this Appendix I or the Official Statement to which this Appendix I is appended and should not be relied upon by investors and other market participants.

To the extent the State determines it is necessary or appropriate to revise, update or supplement the information contained in this Appendix I, the State will prepare and make public supplements to this Appendix I. Investors and other market participants should refer to subsequent Official Statements containing updates to this Appendix I or filings with the Electronic Municipal Market Access System of the Municipal Securities Rulemaking Board (“MSRB”) for official revisions, updates or supplements to the information contained in this Appendix I. In determining the appropriate information concerning the State to be relied upon in making an investment decision, investors and other market participants should refer only to this Appendix I and official supplements thereto provided by the State.

The Annual Comprehensive Financial Report for the twelve months ending June 30, 2022, including Management’s Discussion and Analysis (the “2022 ACFR”), has been separately filed with the MSRB and is incorporated by specific reference herein and is considered to be part of this Appendix I. The State has also placed a copy of the 2022 ACFR on the following website at [www.nj.gov/treasury/omb](http://www.nj.gov/treasury/omb). No statement on that website or any other website is incorporated by reference herein.

Although the State has prepared the information on the above website for the convenience of those seeking that information, no decision in reliance upon that information should be made. Typographical or other errors may have occurred in converting the original source documents to their digital format, and the State assumes no liability or responsibility for errors or omissions contained on any website. Further, the State disclaims any duty or obligation to update or maintain the availability of the information contained on any website or any responsibility or liability for any damages caused by viruses contained within the electronic files on any website. The State also assumes no liability or responsibility for any errors or omissions or for any update to dated information contained on any website.

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**APPENDIX I**  
**FINANCIAL AND OTHER INFORMATION RELATING TO THE STATE OF NEW JERSEY**

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## **OVERVIEW OF THE STATE'S FINANCIAL CONDITION**

### **Recent Fiscal Years**

In Fiscal Years 2020, 2021 and 2022, the State faced challenges in projecting its revenues due to the multiple rounds of federal stimulus and major economic changes that occurred during the pandemic and its aftermath, and the State experienced substantially higher levels of revenues than the State expected. As a result, the State experienced a substantial increase in the State's combined ending fund balance which, as of June 30, 2022, was approximately \$8.319 billion. As this economic momentum continued through the first half of Fiscal Year 2023, revenue collections once again exceeded the State's revenue projections it made at the time of the Fiscal Year 2023 Appropriations Act, but the State did experience a decline in its revenues during Fiscal Year 2023 when compared to Fiscal Year 2022. The State projects its June 30, 2023 combined ending fund balance to grow to approximately \$10.210 billion. The State's combined ending fund balances at the end of Fiscal Year 2022 and Fiscal Year 2023 are the highest combined ending fund balances of the State in recent times, both in terms of the absolute amount and relative to the State's expenditures.

### **Fiscal Year 2024 Appropriations Act**

For the Fiscal Year 2024 Appropriations Act, the Governor's revenue certification anticipates that revenues will be largely stable when compared to Fiscal Year 2023, and projects a small increase in total revenues for Fiscal Year 2024 of about 1.6 percent when compared to Fiscal Year 2023. The State's revenue forecast accounts for various risk factors related to the economic uncertainties facing the State's and country's economy, some of which may result in lower level of revenues being generated compared to Fiscal Year 2023. The Fiscal Year 2024 forecast also includes the initial impact of the expiration of the 2.5 percent surtax of the Corporation Business Tax, which will reduce revenues in the forecast year and thereafter. Overall, Fiscal Year 2024 revenues anticipate slow growth will continue in personal income and consumer spending, offset by ongoing weakness in the real estate market and structural impacts such as the expiring surtax.

The Fiscal Year 2024 Appropriations Act, along with enacted supplemental appropriations, appropriates, in aggregate, approximately \$54.450 billion. These appropriations are mostly supported by certified State revenues for Fiscal Year 2024 of approximately \$52.748 billion, but will also be supported by a partial drawdown of the State's robust surplus of approximately \$1.7 billion. The Fiscal Year 2024 Appropriations Act projects a combined ending fund balance for the State as of June 30, 2024 of approximately \$8.255 billion, which would represent a decline from the projected combined ending fund balance as of June 30, 2023, of approximately \$10.210 billion.

### **Risk Factors Facing the State's Financial Condition**

The State's economy, like other parts of the country, is experiencing evolving economic conditions that differ from the recent past. The challenges from ongoing elevated price and wage inflation, rising interest rates, banking sector volatility, and the potential for weak economic growth, combine for ongoing fiscal uncertainties. See "FINANCIAL RESULTS AND ESTIMATES—New Jersey Current Economic Outlook" herein. As the State monitors its revenues and expenditures, the State is focused on the following aspects of its financial condition:

- As the State's revenues have increased during the pandemic and its aftermath, the State's ongoing expenditures have also increased, and this poses a potential challenge to structurally balanced budgets in future Fiscal Years. One of the reasons why the State expects to partially drawdown its combined ending fund balance during Fiscal Year 2024 is to continue to fund ongoing expenditures while projecting somewhat static revenue levels. As the State develops its budgets for future Fiscal Years, if revenues do not continue to increase from levels projected in the Fiscal Year 2024 Appropriations Act, the State will continue to experience deficits between its ongoing revenues and ongoing expenditures.
- The State's revenues rely, to some extent, on high-income taxpayers who generate wage and non-wage income through certain types of business income and the financial markets. The State experienced a decline in Gross Income Tax collections of an estimated \$1.9 billion in Fiscal Year

2023 compared to Fiscal Year 2022, as income tax collections from certain high-income sources such as capital gains realizations fell substantially. If financial markets continue to encounter volatility and disruption, State revenues in Fiscal Year 2024 may be adversely affected in contrast to the revenue surges experienced in prior years.

- Total budgeted salary costs, across all funding sources, are projected to increase due to contracted salary increases, regular anniversary step costs and assumptions regarding the timing of hiring, separations and the value of salaries for State employees. Economic forecasters anticipate wage and salary growth to exceed pre-pandemic levels this year and next year. Such pressures could increase the costs of various contracts or other expenditures throughout the budget. Most of the employee contracts expired on June 30, 2023, and the terms of any future contract are unknown as negotiations continue. See “STATE EMPLOYEES” herein for the status of employee contracts.
- Due to federal law, states have not been permitted over the past several years to disenroll beneficiaries from the Medicaid program. Under the provisions of the Fiscal Year 2023 federal omnibus bill, states began the eligibility review process as of April 1, 2023. This review process could possibly result in hundreds of thousands of beneficiaries losing their coverage. The Fiscal Year 2024 Appropriations Act assumes a pace of disenrollments based on historical trends. Funding in Fiscal Year 2024 assumes overall enrollment will decline by 308,000 compared to total Medicaid enrollment in June 2023 of 2.316 million. However, due to administrative burdens, the federal government issued guidance permitting states to temporarily delay disenrolling Medicaid beneficiaries. The State is taking advantage of this flexibility and, as a result, the State cannot project the actual level and pace of disenrollments.

While the State is focused on these aspects of its financial condition, the economic conditions that the Nation and the State are confronting have not been experienced in several decades. The potential for high inflation and weak economic growth may place additional pressure on other aspects of the State’s financial condition. Following enactment of the annual appropriations act, the State closely monitors revenues and expenditures, comparing actual results to projections. In addition to the factors listed above, there could be other supplemental appropriations in Fiscal Years 2023 and 2024. In prior fiscal years, however, mid-year budget savings have offset the cost of supplemental appropriations.

## **CERTAIN CONSTITUTIONAL PROVISIONS AND JUDICIAL DECISIONS**

The New Jersey State Constitution (the “State Constitution”) provides for a bicameral State Legislature which meets in biennial sessions. Members of the State Senate are elected to terms of four years, except for the election following a decennial census, in which case the election is for a term of two years. Members of the General Assembly are elected to terms of two years. Both the Governor and the Lieutenant Governor are elected to terms of four years each.

### **Budget Limitations**

The State Constitution provides, in part, that no money shall be drawn from the State Treasury but for appropriations made by law and that no law appropriating money for any State purpose shall be enacted if the appropriations contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of the revenue on hand and anticipated to be available to meet such appropriations during such fiscal period, as certified by the Governor (Article VIII, Sec. 2, para. 2) (the “Appropriations Clause”). In addition to line-item appropriations for the payment of debt service on bonds, notes or other obligations which are subject to appropriation, beginning in Fiscal Year 2005, the annual Appropriations Act contains a general language provision which appropriates such additional amounts necessary to pay such debt service obligations subject to the approval of the Budget Director (defined below). For bonds which must be paid for from constitutionally-dedicated sources, such supplemental appropriations would need to be from constitutionally-dedicated revenues. (For general information regarding the budget process, see “STATE FINANCES — Budget and Appropriation Process” herein; for the application of the budget process for Fiscal Year 2024, see “FINANCIAL RESULTS AND ESTIMATES” herein.)

## Debt Limitations

The State Constitution further provides, in part, that the State Legislature shall not, in any manner, create in any fiscal year a debt or liability of the State, which, together with any previous debts or liabilities, shall exceed at any time one percent of the total appropriations for such year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. No such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters voting thereon; provided, however, no such voter approval is required for any such law authorizing the creation of a debt for a refinancing of all or any portion of the outstanding debts or liabilities of the State, so long as such refinancing shall produce a debt service savings. Furthermore, any funds raised under these authorizations must be applied only to the specific object stated therein. The State Constitution provides as to any law authorizing such debt: “Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged.” This constitutional requirement for voter approval does not apply to the creation of debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet emergencies caused by disaster or act of God (Article VIII, Sec. 2, para. 3) (the “Debt Limitation Clause”).

The Debt Limitation Clause was amended by the voters on November 4, 2008 (the “Lance Amendment”). The Lance Amendment provides that, beginning after the effective date of the amendment, the State Legislature is prohibited from enacting any law that creates or authorizes the creation of a debt or liability of an autonomous State corporate entity, which debt or liability has a pledge of an annual appropriation as the means to pay the principal of and interest on such debt or liability, unless a law authorizing the creation of that debt or liability for some single object or work distinctly specified therein shall have been submitted to the people and approved by a majority of the legally qualified voters of the State voting thereon at a general election. The Lance Amendment does not require voter approval for any such law providing the means to pay the principal of and interest on such debt or liability subject to appropriations of an independent non-State source of revenue paid by third persons for the use of the single object or work thereof, or from a source of State revenue otherwise required to be appropriated pursuant to another provision of the State Constitution. Furthermore, voter approval is not needed for any law providing for the refinancing of all or a portion of any outstanding debts or liabilities of the State or of an autonomous State corporate entity provided that such law requires that the refinancing produces debt service savings, or for any law authorizing the issuance of general obligation bonds to meet an emergency caused by a disaster.

## Judicial Decisions

Pursuant to the Debt Limitation and the Appropriation Clauses described above, the State has issued various types of debt instruments. Under the Debt Limitation Clause, the State issues “General Obligation Bonds” pursuant to separate bond acts approved by the voters at a general election. The faith and credit of the State is pledged for the payment of such General Obligation Bonds. In addition, over the past fifty years, legislation has been enacted from time to time which provides for the issuance of obligations by various independent authorities, the debt service on which is paid by annual appropriations made by the State Legislature (“State Appropriation Obligations”).

In December 2000, a challenge was brought seeking a declaration that legislative programs authorizing State Appropriation Obligations violated the Debt Limitation Clause. In 2002, the New Jersey Supreme Court’s first ruling in this matter (“*Lonegan I*”) was limited solely to the issuance of State Appropriation Obligations by the New Jersey Economic Development Authority (“NJEDA”) authorized by the Educational Facilities Construction and Financing Act (“EFCFA”). The Court held that such bonds did not violate the Debt Limitation Clause because such debt was not legally enforceable against the State. The Court ordered additional briefing and argument on the other legislatively authorized State Appropriation Obligations. In 2003, in the New Jersey Supreme Court’s second ruling in the matter (“*Lonegan II*”), the Court rejected a broad challenge to the validity of fourteen New Jersey statutes authorizing the issuance of State Appropriation Obligations. The Court held that the Debt Limitation Clause does not apply to debt that is subject to future legislative appropriations because such debt is not legally enforceable against the State. Furthermore, the Court held that under New Jersey law, only debt that is legally enforceable against the State is subject to the Debt Limitation Clause. In reliance upon such rule, the State Legislature responded to changes in the financial markets that reflect modern economic realities to provide for the issuance of debt where the payment is subject to annual legislative appropriation.

Following *Lonegan II*, the State Legislature enacted two laws - the Cigarette Tax Securitization Act of 2004, L. 2004, c. 68 and the Motor Vehicle Surcharges Securitization Act of 2004, L. 2004, c. 70 (collectively, the “Securitization Acts”). The Securitization Acts authorized the issuance of State Appropriation Obligations by the NJEDA and provided that the proceeds of these bonds would be deposited into the General Fund and included as revenues to support the Governor’s certification of revenues for the annual appropriations act (the “Appropriations Act”) as required by the Appropriations Clause. A lawsuit was filed asserting that the Fiscal Year 2005 Appropriations Act was unconstitutional under the Appropriations Clause because of the inclusion of the proceeds of bonds as revenue for the purposes of the Governor’s certification of revenues. The plaintiffs further claimed that absent voter approval, these bonds would be unconstitutional under the Debt Limitation Clause. In July 2004, the Court issued its decision holding that the issuance of bonds under the Securitization Acts did not violate the Debt Limitation Clause but that the proceeds of bonds issued under such acts cannot be included as “revenue” for the purposes of the Appropriations Clause. However, the Court determined that this ruling would be given prospective application only and that the State and the NJEDA would be permitted to proceed with the sale of bonds authorized under the Securitization Acts because barring these bond sales would require significant revisions to, if not a complete overhaul of, that year’s budget, potentially resulting in great disruption to the State Government. *Lance v. McGreevey* (“*Lance v. McGreevey*”).

A further challenge was launched in August 2005, seeking a declaration that the Fiscal Year 2006 Appropriations Act violated the State Constitution because it anticipated revenues in the amount of \$150 million from the proceeds of Tobacco Settlement Asset-Backed Bonds (the “Tobacco Settlement Bonds”) to be issued by the Tobacco Settlement Financing Corporation, a public body corporate and politic and an instrumentality of the State (the “Corporation”). On August 12, 2005, the trial court entered an order in favor of the plaintiffs (i) permanently enjoining the issuance of that portion of the Tobacco Settlement Bonds in excess of that necessary to effectuate the refunding of the Corporation’s Series 2003 Bonds estimated to be \$150 million, (ii) permanently enjoining the transfer of any portion of the proceeds of the Tobacco Settlement Bonds to the State, and (iii) ruling that the proceeds from the sale of the Tobacco Settlement Bonds would not be “revenue” for purposes of the Fiscal Year 2006 Appropriations Act. No appeal was taken and the bonds were not issued.

In July 2008, a complaint was filed in the Superior Court against the State claiming that L. 2008, c. 39 (the “EFCFA Amendment”), was unconstitutional under the Debt Limitation Clause. The EFCFA Amendment, among other things, authorized the issuance by the NJEDA of an additional \$3.9 billion of State Appropriation Bonds. The Superior Court dismissed the complaint in its entirety, with prejudice, in December 2008. In November 2009, the Appellate Division affirmed the Superior Court’s dismissal of the complaint.

In November 2008, as discussed above, the voters approved the Lance Amendment. A suit was filed in December 2008 in the Superior Court, seeking a declaration that the Lance Amendment was unconstitutional. The Plaintiffs claimed that the ballot question and the interpretative statement were defective. In November 2009, the Court dismissed the Plaintiffs’ complaint for failure to state a claim upon which relief can be granted.

In June 2015, the New Jersey Supreme Court issued a decision on the Debt Limitation and Appropriations Clauses in *Burgos v. State* which was a challenge to the State’s failure to make the annual required pension contribution pursuant to L. 2011, c. 78 (“Chapter 78”). Chapter 78 provided for various reforms in the pension and health benefit systems and contained a provision providing a “contractual right” to the State making the annual required pension contribution. The State failed to do so, and the Court ruled that “the State Legislature and the Governor were without authority to enact an enforceable and legally binding long-term financial agreement through” Chapter 78. Therefore, the Court found that the pension funding right in Chapter 78 is subject to appropriation. *Burgos v. State of New Jersey, et al.*

In 2018, the Appellate Division issued decisions in cases claiming that State Appropriation Obligations issued to finance projects utilizing a “lease-leaseback” structure through the NJEDA violated the Debt Limitation and Appropriation Clauses. In *Wisniewski v. Murphy*, the Appellate Division affirmed the trial court decision and dismissed a challenge to State Appropriation Obligations issued by NJEDA to finance renovations to the New Jersey State House and the refunding of certain outstanding indebtedness of the New Jersey Building Authority (“NJBA”) relating to prior projects undertaken by the NJBA at the State House. The Appellate Division agreed with the State defendants’ position that the matter was moot and dismissed the case on those grounds. However, due to the likelihood that this type of immediate sale of bonds evading the potential for review could occur in the future, the Appellate Division addressed the merits of plaintiff’s claims. In that regard, the Appellate Division held that: (1) the Debt

Limitation Clause was not violated as the debt was issued by the NJEDA, an independent State authority; (2) the bonds stated on their face that they were not a debt or liability of the State; and (3) the lease-leaseback structure which provides a stream of rental payments, subject to appropriation, to NJEDA to pay the principal and interest on the bonds, is not considered as the State's assumption of such bonded indebtedness.

Two other cases, *Gusciora v. Dept. of the Treasury* and *Wisniewski v. Christie* challenged the issuance of bonds by the NJEDA utilizing a lease-sublease structure to finance the construction of new State buildings for the New Jersey Department of Health, the New Jersey Division of Taxation, and the Juvenile Justice Commission. The Appellate Division denied declaratory and injunctive relief to the plaintiffs who, among several grounds, sought, on an emergency basis, to prohibit the sale of the bonds as violating the Debt Limitation Clause. The trial court denied plaintiffs' motion for a stay, while also transferring the cases to the Appellate Division. The Appellate Division denied the *Gusciora* plaintiffs' request for emergent relief and summarily dismissed the *Gusciora* complaint on the merits, finding that there was no merit to the *Gusciora* plaintiffs' argument that the bond financing violated the Debt Limitation Clause as the bond resolution and the sublease between the NJEDA and the State Division of Property Management and Construction explicitly provided that the State's obligation to make rental payments was subject to appropriation by the State Legislature and that there was no violation of the Lance Amendment as no legislative enactments were involved. With respect to plaintiff Wisniewski, the Appellate Division found that Wisniewski's claim that the issuance of the bonds violated the Debt Limitation Clause did not have a likelihood of success on the merits, citing *Lonegan I* and the *Lance v. McGreevey* cases.

As part of the response to address the financial problems suffered by the State as a result of the consequences of the pandemic, the State Legislature enacted the New Jersey COVID-19 Emergency Bond Act (the "Emergency Bond Act"). The constitutionality of the Emergency Bond Act was challenged in *New Jersey Republican State Committee v. Murphy*. In August 2020, the New Jersey Supreme Court held that the Emergency Bond Act was valid under the Appropriations Clause and the Debt Limitation Clause of the State Constitution, subject to certain limitations. The Court held that subparagraph 3(e) of the Debt Limitation Clause (the "Emergency Exception") provides an exception from the voter approval requirement of subparagraph 3(a) of the Debt Limitation Clause for any debts or liabilities created to meet an emergency caused by a disaster. The Court found that the rare, once-in-a-century, infectious disease of the magnitude of the pandemic was a "disaster" and the subsequent public health emergency, economic emergency impacting individuals and families, and State fiscal crisis all constituted an "emergency" within the confines of the Emergency Exception. The Court also held that the Appropriations Clause does not prohibit borrowing for appropriate purposes under the Emergency Exception, as a contrary reading would lead to a situation where the State could borrow funds to meeting an emergency caused by a disaster but not be able to spend them. Such a finding would be in contradiction to the Framers of the 1947 Constitutional Convention's intent to impose fiscal discipline over the State's fiscal practices and, at the same time, provide flexibility to respond to emergencies caused by a disaster. The Court finally noted that it was not overruling its decision in *Lance v. McGreevey*, which did not consider the Debt Limitation Clause, the Emergency Exception, or their interplay with the Appropriations Clause.

## STATE FINANCES

### Accounting System

The Director of the Division of Budget and Accounting in the New Jersey Department of the Treasury (the "Budget Director") prescribes and approves the accounting policies of the State and directs their implementation.

#### *Financial Statements*

The State prepares its financial statements in accordance with current standards that are outlined in the Governmental Accounting Standards Board ("GASB") Statement No. 34, *Basic Financial Statements — and Management's Discussion and Analysis — for State and Local Governments*. The State's Annual Comprehensive Financial Report ("ACFR") includes government-wide financial statements and fund financial statements. These statements present different views of the State's financial information. The ACFR for the twelve months ending June 30, 2022, and the notes referred to therein (the "2022 ACFR") has been separately filed with the Municipal Securities Rulemaking Board ("MSRB") and is incorporated by specific reference herein and is considered to be part of this Appendix I. The 2022 ACFR presents the financial position and operating results of the State under generally

accepted accounting principles (“GAAP”) applicable to state and local governments as established by GASB. GASB is the standard setting body for establishing governmental accounting and financial reporting principles, which are primarily set forth in GASB’s *Codification of Governmental Accounting and Financial Reporting Standards*.

The significant accounting policies followed by the State are described in the “Notes to the Financial Statements” set forth in the 2022 ACFR.

Government-wide financial statements provide a broad view of the State’s operations conforming to private sector accounting standards and provide both short-term and long-term information regarding the State’s overall financial position through the fiscal year-end.

In addition to government-wide financial statements, the State prepares fund financial statements comprised of funds and component units with the State’s funds divided into three categories — governmental, proprietary, and fiduciary.

#### *Governmental Funds*

Governmental Funds finance most Direct State Services, which support the normal operations of State government. The governmental funds financial statements focus on current inflows and outflows of expendable resources and the unexpended balances at the end of a fiscal year that are available for future spending. Governmental fund information helps determine whether or not there was an addition or a reduction in financial resources that can be spent in the near future to finance State programs.

The State’s governmental funds are the General Fund, which receives revenues from taxes that are unrestricted by statute, most federal revenue and certain miscellaneous revenue items; the Property Tax Relief Fund, which receives revenues from the New Jersey Gross Income Tax and revenues derived from a tax rate of 0.5% imposed under the Sales and Use Tax, both of which are constitutionally dedicated toward property tax relief and reform; the Special Revenue Funds, which are used to account for resources legally restricted to expenditure for specified purposes; and the Capital Projects Funds, which are used to account for financial resources to be used for the acquisition or construction of major State capital facilities. The Capital Projects Funds includes the Special Transportation Fund which is used to account for financial resources for State transportation projects. These funds are reported using the modified accrual basis of accounting, which measures cash and all other financial assets that can readily be converted to cash.

#### *Proprietary Funds*

Proprietary Funds are used to account for State business-type activities. Since these funds charge fees to external users, they are known as enterprise funds.

#### *Fiduciary Funds*

Fiduciary Funds, which include the State’s Pension Plans, are used to account for resources held by the State for the benefit of parties outside of State government. Unlike other government funds, fiduciary funds are reported using the accrual basis of accounting.

#### *Component Units*

Component Units-Authorities account for operations where the intent of the State is that the cost of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges, or where periodic measurement of the results of operations is appropriate for capital maintenance, public policy, management control or accountability. Component Units-Colleges and Universities account for the operations of the eleven State colleges and universities including their foundations and associations.

## **Budget and Appropriation Process**

New Jersey's budget process is comprehensive and inclusive, involving every department and agency in the Executive Branch, the State Legislature, the Judicial Branch, and through a series of public hearings, the citizens of the State. The State operates on a fiscal year beginning July 1 and ending June 30.

Fiscal Year 2024 began on July 1, 2023 and ends on June 30, 2024.

Pursuant to the Appropriations Clause, no money may be drawn from the State Treasury except for appropriations made by law. In addition, all monies for the support of State government and all other State purposes, as far as can be ascertained or reasonably foreseen, must be provided for in one general appropriations law covering one and the same fiscal year. The State Legislature enacts the Appropriations Act on an annual basis which provides the basic framework for the operation of governmental funds, including the General Fund. No general appropriations law or other law appropriating money for any State purpose shall be enacted if the amount of money appropriated therein, together with all other prior appropriations made for the same fiscal year, exceeds the total amount of revenue on hand and anticipated to be available for such fiscal year. The Appropriations Clause requires that at the time of enactment of the annual Appropriations Act, the Governor certify that there are sufficient resources available to support the line item appropriations in the Appropriations Act.

### *Budget Requests and Preliminary Projections*

The budget process begins in the summer prior to the following fiscal year with preliminary projections of revenues and expenditures, which are the basis for development of budget targets for each branch, department and agency. Individual departments and agencies are required to prepare a funding plan or strategy for operating within the established target in the following fiscal year, which funding plan or strategy includes an analysis of the costs, benefits and priorities of every program.

### *Budget Director Review*

On or before October 1 in each year, each Department, Board, Commission, Office or other Agency of the State must file with the Budget Director a request for appropriation or permission to spend, specifying all expenditures proposed to be made by such spending agency during the following fiscal year. The Budget Director then examines each request and determines the necessity or advisability of the appropriation request. On or before December 31 of each year or such other time as the Governor may request, after review and examination, the Budget Director submits the requests, together with his or her findings, comments and recommendations, to the Governor.

### *Governor's Budget Message*

The Governor's budget message (the "Governor's Budget Message") is presented by the Governor during an appearance before a joint session of the State Legislature which, by law, is convened on a date on or before the fourth Tuesday in February in each year, except if such date is changed as provided by law, which generally occurs during the first year when a new governor is elected. The Governor's Budget Message must include the proposed complete financial program of the State government for the next ensuing fiscal year and must set forth in detail each source of anticipated revenue and the purposes of recommended expenditures for each spending agency (*N.J.S.A. 52:27B-20*).

### *Legislative Review*

The financial program included in the Governor's Budget Message is then subject to a process of legislative committee review. As part of such review, testimony is given by a number of parties. The Office of Legislative Services, which is an agency of the State Legislature, generally provides its own estimates of anticipated revenues which may be higher or lower than those included in the Governor's Budget Message, and the State Treasurer generally provides an updated statement of anticipated revenues in May of each year which may increase or decrease the amounts included in the Governor's Budget Message. In addition, various parties may release their own estimates of anticipated revenues and recommended expenditures to the media. After completion of the legislative committee review process, the budget, in the form of an appropriations bill, must be approved by the Senate and Assembly and

must be submitted to the Governor for review. The Appropriations Act includes the General Fund, and the Casino Control, Casino Revenue, Gubernatorial Elections, and Property Tax Relief Funds. In addition to anticipated revenues, the Appropriations Act also provides for the appropriation of non-budgeted revenue, including primarily federal funds and other dedicated funds. These “non-budgeted” revenues are excluded from all tables except for the table entitled “EXPENDITURES.”

#### *Governor’s Line-Item Veto Power*

Upon enactment by the Legislature of the Appropriations Act, the Governor may approve the bill, revise the estimate of anticipated revenues contained therein, delete or reduce appropriation items contained in the bill through the exercise of his or her line-item veto power, or veto the bill in its entirety. As with any gubernatorial veto, such action may be reversed by a two-thirds vote of each House of the State Legislature.

#### *Fiscal Controls*

The departments maintain legal control at the appropriation line item level and exercise budgetary control by individual appropriations and allocations within annual appropriations to various programs and major expenditure objects. Revisions to the Appropriations Act, reflecting program changes or interdepartmental transfers of an administrative nature, may be effected during the fiscal year with certain Executive and Legislative Branch approvals. Management may amend a department’s budget with approval by the Budget Director; provided that under specific conditions, additional approval by the Office of Legislative Services is required. Transfers of appropriations between departments or between line items within a department are authorized pursuant to general provisions of the Appropriations Act.

During the course of the fiscal year, the Governor may take steps to reduce State expenditures if it appears that revenues have fallen below those originally anticipated. Pursuant to various statutes, the Governor may order the Budget Director to set aside a reserve out of each appropriation, and if sufficient revenues are not available by the end of the fiscal year to fund such reserve, the amount reserved lapses back into the General Fund. In addition, the Governor is authorized to prohibit and enjoin and place conditions upon the expenditure of monies in the case of extravagance, waste or mismanagement.

Furthermore, under the State Constitution, no supplemental appropriation may be enacted after adoption of the Appropriations Act except where there are sufficient revenues on hand or anticipated, as certified by the Governor, to meet such appropriation and all prior appropriations for such fiscal year.

#### *State Budget Shutdown*

If the Appropriations Act is not enacted prior to the first day of the next fiscal year, under the Appropriations Clause, no moneys can be withdrawn from the State treasury. Accordingly, all non-essential operations of State government must be shut down until such time as the Appropriations Act is passed and approved by the Governor. If a shutdown occurs in a future fiscal year, no moneys, other than general obligation bond debt service and available amounts already held under bond financing documents will be available to make payment on obligations paid from State revenue subject to annual appropriation. See generally “STATE FINANCES – Budget and Appropriation Process” and “LONG-TERM OBLIGATIONS – State Appropriation Obligations”.

## **FINANCIAL RESULTS AND ESTIMATES**

### **Audit Reports**

The State Auditor is directed by statute (*N.J.S.A. 52:24-4*) to “examine and post-audit all the accounts, reports, and statements and make independent verifications of all assets, liabilities, revenues, and expenditures” of the State and its agencies. The 2022 ACFR, including the opinion of the State Auditor, has been separately filed with the MSRB, is incorporated by specific reference herein and is deemed a part of this Appendix I. The accounting and reporting policies of the State conform in all material respects to GAAP as applicable to governments.



## Balance Sheets

The comparative balance sheets for the General Fund, the Casino Control Fund, the Casino Revenue Fund, the Gubernatorial Elections Fund and the Property Tax Relief Fund as of June 30, 2022 and 2021 are set forth below.

### GENERAL FUND<sup>(1)</sup> COMPARATIVE BALANCE SHEETS (In Millions) (Audited)

	As of June 30,	
	2022	2021
<b>ASSETS</b>		
Cash and cash equivalents.....	\$ 174.1	\$ 70.4
Investments .....	23,943.7	19,974.4
Receivables, net of allowances for uncollectibles .....		
Federal government .....	862.9	1,364.6
Departmental accounts.....	2,870.6	2,785.5
Loans .....	133.6	150.8
Other .....	526.3	493.5
Due from other funds.....	1,351.5	770.6
Other .....	35.8	61.4
<b>Total Assets.....</b>	<b>\$29,898.5</b>	<b>\$25,671.2</b>
<b>LIABILITIES AND FUND BALANCES</b>		
Accounts payable and accruals .....	\$ 2,388.8	\$ 1,813.5
Unearned revenue .....	6,084.7	7,061.6
Due to other funds.....	9,213.4	6,438.8
Refunds payable.....	272.5	368.4
Other .....	276.2	258.9
<b>Total Liabilities .....</b>	<b>18,235.6</b>	<b>15,941.2</b>
<b>Deferred Inflows of Resources .....</b>	<b>638.5</b>	<b>610.8</b>
<b>Total Liabilities and Deferred Inflows of Resources .....</b>	<b>\$18,874.1</b>	<b>\$16,552.0</b>
<b>Fund Balances</b>		
Restricted .....	1,195.8	1,152.5
Committed .....	4,571.8	3,627.2
Unassigned.....	5,256.8	4,339.5
<b>Total Fund Balances .....</b>	<b>11,024.4</b>	<b>9,119.2</b>
<b>Total Liabilities and Deferred Inflows of Resources and Fund Balances.....</b>	<b>\$29,898.5</b>	<b>\$25,671.2</b>

<sup>(1)</sup> The General Fund is used to account for all State revenues not otherwise restricted by statute. The largest part of the total financial operations of the State is accounted for in the General Fund. Most revenues received from taxes, federal sources, and certain miscellaneous revenue items are recorded in the General Fund. The Appropriations Act enacted by the State Legislature provides the basic framework for the operation of the General Fund.

**OTHER BUDGETED FUNDS  
COMPARATIVE BALANCE SHEETS  
AS OF JUNE 30  
(Audited)  
(In Millions)**

	<b>Casino Control Fund<sup>(1)</sup></b>		<b>Casino Revenue Fund<sup>(2)</sup></b>		<b>Gubernatorial Elections Fund<sup>(3)</sup></b>		<b>Property Tax Relief Fund<sup>(4)</sup></b>	
	<b>2022</b>	<b>2021</b>	<b>2022</b>	<b>2021</b>	<b>2022</b>	<b>2021</b>	<b>2022</b>	<b>2021</b>
<b>ASSETS</b>								
Receivables, net of allowances for uncollectibles								
Department accounts .....	\$10.2	\$3.1	\$44.9	\$37.6	\$ –	\$ –	\$879.9	\$835.2
Due from other funds.....	–	3.3	0.6	0.8	0.2	0.3	3,055.5	2,404.3
<b>Total Assets .....</b>	<b>\$10.2</b>	<b>\$6.4</b>	<b>\$45.5</b>	<b>\$38.4</b>	<b>\$0.2</b>	<b>\$0.3</b>	<b>\$3,935.4</b>	<b>\$3,239.5</b>
<b>LIABILITIES AND FUND BALANCES</b>								
<b>Liabilities</b>								
Accounts payable and accruals .....	\$6.6	\$6.4	\$10.4	\$14.4	\$ –	\$ –	\$138.1	\$149.2
Due to other funds .....	3.6	–	22.4	11.6	0.2	0.3	172.0	118.9
Refunds payable.....	–	–	–	–	–	–	279.9	330.3
<b>Total Liabilities .....</b>	<b>\$10.2</b>	<b>\$6.4</b>	<b>\$32.8</b>	<b>\$26.0</b>	<b>\$0.2</b>	<b>\$0.3</b>	<b>\$590.0</b>	<b>\$598.4</b>
<b>Fund Balances</b>								
Restricted .....	–	–	–	–	–	–	3,345.4	2,641.1
Committed .....	–	–	12.7	12.4	–	–	–	–
<b>Total Fund Balances .....</b>	<b>–</b>	<b>–</b>	<b>12.7</b>	<b>12.4</b>	<b>–</b>	<b>–</b>	<b>3,345.4</b>	<b>2,641.1</b>
<b>Total Liabilities and Fund Balances .....</b>	<b>\$10.2</b>	<b>\$6.4</b>	<b>\$45.5</b>	<b>\$38.4</b>	<b>\$0.2</b>	<b>\$0.3</b>	<b>\$3,935.4</b>	<b>\$3,239.5</b>

- (1) The Casino Control Fund is used to account for fees from the issuance and annual renewal of casino licenses. Appropriations are made to fund the operations of the Casino Control Commission and the Division of Gaming Enforcement. The Casino Control Fund was established by *N.J.S.A. 5:12-143*, approved June 2, 1977.
- (2) The Casino Revenue Fund is used to account for the tax on gross revenues generated by the casinos. Gross revenue refers to the total of all sums actually received by a licensee from gaming operations, less the total sums paid out as winnings to patrons. Appropriations from this fund must be used for reductions in property taxes, utility charges and other expenses of eligible senior citizens and disabled residents. The Casino Revenue Fund was established by *N.J.S.A. 5:12-145*, approved June 2, 1977.
- (3) The Gubernatorial Elections Fund is used to account for receipts from the dollar designations on New Jersey Gross Income Tax returns. When indicated by the taxpayer, one dollar of the tax is reserved from Gross Income Tax revenues and credited to the Gubernatorial Elections Fund. These funds are available for appropriation pursuant to The New Jersey Campaign Contributions and Expenditures Reporting Act (*P.L. 1973, c.83*), as amended. The Gubernatorial Elections Fund was established by the New Jersey Gross Income Tax Act, *N.J.S.A. 54A:9-25.1*, approved July 8, 1976.
- (4) The Property Tax Relief Fund is used to account for revenues from the New Jersey Gross Income Tax and for revenues derived from a tax rate of 0.5% imposed under the Sales and Use Tax that is constitutionally dedicated toward property tax reform. Revenues realized from the Gross Income Tax and derived from a tax rate of 0.5% imposed under the Sales and Use Tax are dedicated by the State Constitution. All receipts from taxes levied pursuant to the New Jersey Gross Income Tax on personal income of individuals, estates, and trusts must be appropriated exclusively for the purpose of reducing or offsetting property taxes. Annual appropriations are made from the Property Tax Relief Fund, pursuant to formulas established by the State Legislature, to counties, municipalities and school districts. The Property Tax Relief Fund was established by the New Jersey Gross Income Tax Act, *N.J.S.A. 54A:9-25*, approved July 8, 1976.

**Changes in Fund Balances**

The following table sets forth a Summary of Revenues, Appropriations and Undesignated Fund Balances for Fiscal Years 2020 through 2024, covering budgeted funds. The Undesignated Fund Balances are available for appropriation in succeeding fiscal years. There have been positive Undesignated Fund Balances in the General Fund at the end of each year since the State Constitution was adopted in 1947.

Amounts shown for Fiscal Years 2020 through 2022 are actual and final. Amounts shown for Fiscal Year 2023 in the following tables and charts are based upon revised estimates for revenues and appropriations as of June 30, 2023. Amounts shown for Fiscal Year 2024 are estimates as contained in the Fiscal Year 2024 Appropriations Act, as amended by supplemental appropriations enacted shortly after the enactment of the Fiscal Year 2024 Appropriations Act. The ending undesignated fund balance for Fiscal Year 2024 may be revised as a result of changes in spending and/or anticipated revenues.

Budgeted State funds include the General Fund, the Property Tax Relief Fund, the Casino Revenue Fund, the Casino Control Fund and the Gubernatorial Elections Fund, but exclude federal funds and other non-budgeted funds. The Appropriations Act also provides for the appropriation of non-budgeted revenue, including primarily federal funds and other dedicated funds to the extent such revenue is received and permits the corresponding increase of appropriation balances from which expenditures can be made. See “STATE FINANCES — Accounting System” above.

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**SUMMARY OF REVENUES, APPROPRIATIONS AND  
UNDESIGNATED FUND BALANCES — BUDGETED STATE FUNDS<sup>(1)</sup>**  
(In Millions)

	2024 Estimated	2023 Estimated	2022 Actual	2021 Actual <sup>(2)</sup>	2020 Actual
<b>July 1st Beginning Balances</b>					
General Fund .....	\$ 9,986.1	\$ 5,256.8	\$ 1,892.6	\$ 2,050.6	\$ 1,287.8
Surplus Revenue Fund .....	222.9	—	2,446.9	6.7	420.6
Property Tax Relief Fund .....	—	3,062.4	2,544.9	1.8	3.0
Gubernatorial Elections Fund .....	0.7	—	—	1.1	0.8
Casino Control Fund .....	—	—	—	—	—
Casino Revenue Fund .....	—	—	—	—	—
<b>Total Beginning Balances</b> .....	<u>10,209.7</u>	<u>8,319.2</u>	<u>6,884.4</u>	<u>2,060.2</u>	<u>1,712.2</u>
<b>Anticipated Revenue</b>					
General Fund .....	31,561.9	31,449.9	30,355.7	29,721.3	20,625.6
Property Tax Relief Fund .....	20,585.6	19,907.1	21,778.9	18,413.8	17,074.5
Gubernatorial Elections Fund .....	0.7	0.7	0.2	0.3	0.3
Casino Control Fund .....	73.5	66.7	60.2	54.0	50.3
Casino Revenue Fund .....	526.7	483.6	458.0	363.5	262.5
<b>Total Revenues</b> .....	<u>52,748.4</u>	<u>51,908.0</u>	<u>52,653.0</u>	<u>48,552.9</u>	<u>38,013.2</u>
<b>Total Resources</b> .....	<u>\$62,958.1</u>	<u>\$60,227.2</u>	<u>\$59,537.4</u>	<u>\$50,613.1</u>	<u>\$39,725.4</u>
<b>Other Adjustments</b>					
General Fund					
Balances lapsed <sup>(3)</sup> .....	—	1,544.7	1,299.7	1,532.2	831.3
From (To) Reserved Fund Balance .....	(253.6)	123.5	26.8	(119.8)	19.2
From (To) Surplus Revenue Fund .....	—	(222.9)	2,446.9	(2,440.2)	413.9
From (To) Property Tax Relief Fund .....	—	(617.5)	(27.8)	(77.3)	(180.9)
Budget vs GAAP Adjustment .....	—	—	—	—	—
From (To) Casino Revenue Fund .....	—	19.1	—	—	—
From (To) Gubernatorial Elections Fund .....	—	—	—	(9.6)	—
From (To) Casino Control Fund .....	—	—	—	—	—
Surplus Revenue Fund					
From (To) General Fund .....	—	222.9	(2,446.9)	2,440.2	(413.9)
Property Tax Relief Fund					
Balances lapsed <sup>(3)</sup> .....	—	306.7	227.5	108.3	40.8
From (To) General Fund .....	—	617.5	8.4	77.3	180.9
Gubernatorial Elections Fund					
From (To) General Fund .....	—	—	18.9	9.6	—
Balances lapsed <sup>(3)</sup> .....	—	—	1.9	—	—
Budget vs GAAP Adjustment .....	—	—	0.5	—	—
Casino Control Fund					
From (To) General Fund .....	—	—	—	—	—
Balances lapsed <sup>(3)</sup> .....	—	1.4	2.5	7.5	5.6
Budget vs GAAP Adjustment .....	—	—	(0.3)	(0.6)	(0.2)
Casino Revenue Fund					
From (To) General Fund .....	—	(19.1)	—	—	—
Balances lapsed <sup>(3)</sup> .....	—	0.7	6.2	3.4	0.3
Budget vs GAAP Adjustment .....	—	—	—	—	—
<b>Total Other Adjustments</b> .....	<u>(253.6)</u>	<u>1,977.0</u>	<u>1,564.3</u>	<u>1,531.0</u>	<u>897.0</u>
<b>Total Available</b> .....	<u>\$62,704.5</u>	<u>\$62,204.2</u>	<u>\$61,101.7</u>	<u>\$52,144.1</u>	<u>\$40,622.4</u>
<b>Appropriations</b>					
General Fund .....	33,389.6	27,567.5	30,737.1	28,764.6	20,842.4
Property Tax Relief Fund .....	20,460.0	23,893.7	21,497.3	16,056.3	17,297.4
Gubernatorial Elections Fund .....	—	—	21.5	11.0	—
Casino Control Fund .....	73.5	68.1	62.4	60.9	55.7
Casino Revenue Fund .....	526.7	465.2	464.2	366.9	262.8
<b>Total Appropriations<sup>(4)</sup></b> .....	<u>\$54,449.8</u>	<u>\$51,994.5</u>	<u>\$52,782.5</u>	<u>\$45,259.7</u>	<u>\$38,458.3</u>
<b>June 30th Ending Balances</b>					
General Fund .....	7,904.8	9,986.1	5,256.8	1,892.6	2,154.5
Surplus Revenue Fund .....	222.9	222.9	—	2,446.9	6.7
Property Tax Relief Fund .....	125.6	—	3,062.4	2,544.9	1.8
Gubernatorial Elections Fund .....	1.4	0.7	—	—	1.1
Casino Control Fund .....	—	—	—	—	—
Casino Revenue Fund .....	—	—	—	—	—
<b>Total Ending Balances<sup>(5)(6)</sup></b> .....	<u>\$ 8,254.7</u>	<u>\$ 10,209.7</u>	<u>\$ 8,319.2</u>	<u>\$ 6,884.4</u>	<u>\$ 2,164.1</u>

(footnotes appear on next page)

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- (1) Budgeted State Funds include the General Fund, the Property Tax Relief Fund, the Casino Revenue Fund, the Casino Control Fund and the Gubernatorial Elections Fund. These amounts do not reflect amounts included under the caption "Other Adjustments" in the table entitled "SUMMARY OF REVENUES, APPROPRIATIONS AND UNDESIGNATED FUND BALANCES – BUDGETED STATE FUNDS" above.
  - (2) The General Fund opening undesignated fund balance for Fiscal Year 2021 was restated downward by \$103.9 million due to a reduction of receivables previously overstated.
  - (3) Upon the end of the Fiscal Year, any unexpended or unencumbered balance in an appropriation reverts (lapses) to the June 30th ending undesignated fund balance, unless otherwise provided for in the Appropriations Act.
  - (4) Fiscal Year 2022 and Fiscal Year 2023 appropriations reflect a \$5.2 billion deposit and a \$400 million deposit to the Debt Defeasance and Prevention Fund, respectively. The reduction in the deposit is the reason for the reduction in the level of appropriations for Fiscal Year 2023.
  - (5) The ending undesignated fund balance for Fiscal Year 2022 and the opening undesignated fund balance for Fiscal Year 2023 are actual and final. The ending undesignated fund balance for Fiscal Years 2023 and 2024 may be revised as a result of changes in spending and/or anticipated revenues.
  - (6) Revenues for Fiscal Year 2021 reflect \$4.288 billion in emergency general obligation borrowing, and appropriations include a \$3.7 billion deposit into the Debt Defeasance and Prevention Fund. Due to this, part of the growth in the ending undesignated fund balance for Fiscal Year 2021 can be attributed to almost \$600 million of this net additional, non-recurring resource.

## **New Jersey Demographic Information**

New Jersey is the most densely populated state in the Nation, with an average density of 1,263 persons per square mile as of 2022. The State is a part of a megalopolis that extends from Washington, D.C. in the south to Boston, Massachusetts in the north and includes about one-sixth of the Nation's population, making it an attractive location for businesses due to its central location and ability to access both regional and world markets.

The following industries are the center of the State's diverse economy: technology, transportation and logistics, health care, financial services, biopharmaceuticals, and advanced manufacturing. There is also a strong commercial agriculture sector in the rural areas. The Jersey Shore, part of the Atlantic Seaboard, is a focus of the State's tourism sector and includes casino gambling in Atlantic City. The State attracted 110.8 million visitors in 2018 and 116.2 million visitors in 2019. The number of visitors dropped to 84.6 million in 2020 as travel and tourism were disrupted by pandemic-related restrictions. The number of visitors rebounded to 96.6 million in 2021 and 114.6 million in 2022. The latter number is nearly a return to pre-pandemic levels. In March 2023, the private forecaster Tourism Economics predicted that the number of visitors would be 119.7 million in 2023, 124.1 million in 2024 and 127.4 million in 2025.

There are approximately 9.3 million people residing in New Jersey in 2022, according to the latest population estimate from the U.S. Census Bureau. New Jersey's population has grown an average of 0.4 percent per year from 2010 to 2022. This is above the average annual growth rate of 0.1 percent for New York and 0.2 percent for Pennsylvania. It is below the national growth rate of 0.6 percent. Approximately 21.5 percent of New Jersey's population is under the age of 18, which is slightly lower than the national average of 21.7 percent. In addition, 17.4 percent of the State's population is 65 years or older, which is similar to the national average.

New Jersey's population is highly educated. Based on the 5-year American Community Survey for 2017–2021, 41.5 percent of New Jersey residents 25 years of age or older have a bachelor's degree or higher. This is the fourth highest rate in the Nation and above the national average of 33.7 percent. New Jersey is also a diverse state. At 22.9 percent, New Jersey has the second highest share of foreign-born residents, behind only California, and above the national average of 13.6 percent. New Jersey has the fourth highest percentage of residents that speak a language other than English at home at 31.9 percent. The State ranks behind only California, Texas, and New Mexico and is above the national percentage of 21.7 percent.

According to New Jersey income tax return data, the number of high-income taxpayers has been growing faster than the total number of taxpayers. From calendar years 2007 to 2020, the total number of taxpayers increased by 1.0 percent per year on average. During the same period, the number of taxpayers whose total income was between \$500,000 and \$1 million increased by 6.7 percent per year on average, and the number of taxpayers whose total income was greater than \$1 million increased by 5.5 percent per year on average.

For more information, see the 2022 ACFR-Statistical Section, which has been separately filed with the MSRB, and is incorporated by specific reference herein and is deemed a part of this Appendix I.

### **New Jersey Current Economic Outlook**

In 2022, New Jersey's economy continued to recover from the recession caused by the COVID-19 pandemic. The State's Gross Domestic Product ("GDP") – a broad measure of economic output – showed moderate growth and employment levels continued to improve, surpassing pre-pandemic levels. Price inflation peaked during the summer, before easing somewhat by the end of 2022 and continuing to decline in 2023. Higher interest rates, intended to tame inflation, slowed economic activity in some sectors, most notably the housing market. In 2023, the near-term economic outlook for the State and Nation is for continued slowing with ongoing uncertainty related to the impact of inflation and interest rates.

Overall, the State's economy experienced moderate growth over the course of 2022. Real GDP growth slowed from its rapid pace in 2021 to a seasonally adjusted annual rate of 2.6 percent in 2022, faster than that of Pennsylvania and the U.S. (2.1 percent for each) but slower than that of New York (3.2 percent). New Jersey's real GDP growth of 2.6 percent for 2022 ranked thirteenth out of the fifty states and outpaced growth for the Nation as a whole (2.1 percent). Real GDP growth continued to taper into 2023 as New Jersey's GDP rose 1.0 percent in the first quarter, slower than New York (1.3 percent), Pennsylvania (1.9 percent), and the U.S. as a whole (2.0 percent).

New Jersey's labor market saw solid gains in 2022. Following a record 265,600 jobs gained in 2021, employment grew in ten out of twelve months, gaining 129,700 jobs through December 2022. This represented a sustained bounce-back from 2020, when employment fell by 303,600 net jobs, including an unprecedented initial decline of 730,200 jobs at the start of the pandemic in March and April 2020. Payroll employment grew by an average of 12,700 jobs per month from January 2022 to September 2022, then decelerated to an average of 5,000 jobs per month from October to December 2022. New Jersey's labor market has remained resilient in 2023, adding an average of 5,400 jobs per month through July of the calendar year. By July 2023, New Jersey had gained back 114.4 percent of the jobs lost in the spring of 2020, a greater share than that of New York (93.1 percent), Pennsylvania (105.4 percent), and Connecticut (98.2 percent).

The State's unemployment rate, which soared to 15.3 percent in May 2020, improved to a pre-pandemic level of 3.3 percent in December 2022, 2.1 percentage points lower than December 2021 (5.4 percent). The State's unemployment rate stood at 3.9 percent as of July 2023, the same as that of New York (3.9 percent), but above Pennsylvania (3.5 percent) and Connecticut (3.6 percent). New Jersey's December 2022 labor force participation rate of 64.1 percent was 0.4 percentage points lower than the pre-pandemic level of 64.5 percent, but 1.3 percentage point higher than in December 2021. The rate as of July 2023 was 65.5 percent, surpassing the pre-pandemic rate and exceeding that of New York (61.4 percent), Pennsylvania (61.9 percent) and Connecticut (64.1 percent).

Workers in low-wage sectors felt the brunt of the economic impact of the COVID-19 pandemic. The leisure and hospitality sector (hotels, restaurants, bars, arts and entertainment venues); trade, transportation and utilities sector (retail trade); and other services sectors accounted for 57.0 percent (415,600) of job losses in March and April 2020. As of July 2023, the leisure and hospitality sector had recovered 97.4 percent of total jobs lost, the other services sector had regained 89.3 percent and trade, transportation and utilities had regained 122.9 percent. Moreover, professional and business services, a relatively high-earning sector, recovered 129.5 percent of the jobs lost during March and April 2020, surpassing pre-pandemic employment levels by 24,700 jobs. Financial activities, another relatively high-earning sector, regained 154.3 percent of its jobs, surpassing pre-pandemic employment by 7,000 jobs as of July 2023.

The housing market in 2022 slowed substantially from the quick pace of the prior two years amidst rapidly rising mortgage interest rates and elevated home prices. The average U.S. 30-Year fixed rate mortgage in December 2022 hovered over 6.0 percent, double its 3.0 percent level in December 2021. According to New Jersey Realtors data, existing-home sales growth started to fall off near the end of 2021 and total closed sales fell 17.8 percent in 2022 from 2021, matching levels last seen in 2015. The number of single-family homes sold, which represents over two-thirds of existing-home sales in New Jersey, was 18.6 percent below its 2021 level, while the number of townhomes and condos sold was 17.8 percent lower. Transaction prices continued to rise substantially, with the average price of a single-family home reaching nearly \$593,000 in 2022, a 9.3 increase over 2021. Existing home sales continued to

slow into 2023, as tight inventory, high interest rates, and elevated median sales prices have constrained sales volumes. Closed sales year-to-date through June 2023 (40,672) were down 24.6 percent from 2022, while the median sales price grew to \$435,000, up 3.3 percent from the same point in 2022.

New Jersey wages and salaries increased 9.3 percent in 2022, while personal income, which was hindered by falling transfer receipts and weaker growth in other components, rose 2.1 percent overall. Personal income growth in New Jersey (2.1 percent) outpaced that of New York (0.8 percent) and Pennsylvania (1.4 percent) in 2022. New Jersey's wages and salaries growth of 9.3 percent also outpaced that of New York (7.4 percent) and Pennsylvania (8.5 percent). Personal income rose 5.8 percent in New Jersey in the first quarter of 2023, which was higher than New York's 3.2 percent rate, but lower than Pennsylvania's 6.7 percent rate.

National personal saving as a percentage of disposable personal income has fluctuated sharply in recent years. From a pre-pandemic level of over 8.0 percent, savings rose to a high of 26.4 percent spurred by federal economic impact payments and limited spending options. The savings rate fell to under 4.0 percent in the final three quarters of 2022 as households adjusted to high price inflation, but rebounded above that 4.0 percent threshold in the first two quarters of 2023. Despite this slight recovery, the savings rate still lagged pre-pandemic levels of at least 8.0 percent.

Price inflation is expected to continue to impact the economy. After reaching a high of 9.1 percent in June 2022, year-over-year growth in the U.S. Consumer Price Index (CPI) for all items eased to 6.5 percent in December 2022 and 3.2 percent in July 2023. Core CPI, which excludes food and energy items, was up 5.7 percent in December 2022, and 4.7 percent in July 2023. Inflation in the metropolitan area containing much of northern and central New Jersey has been more muted, and regional year-over-year CPI growth was 3.2 percent in July 2023 after reaching a high of 6.7 percent in June 2022. Regional core CPI was up 4.4 percent in July 2023. It is generally anticipated that the CPI will remain above 3.0 percent throughout 2023.

The economic outlook has softened recently for both the State and the Nation, as rising interest rates and persistently high inflation erode purchasing power and slow the pace of the economy. Wage gains have struggled to keep up with the pace of inflation, which has dampened consumer spending. The Federal Open Market Committee ("FOMC") lifted the benchmark federal funds rate to between 5.25 percent and 5.5 percent in July 2023 after lifting the rate 25 basis points in February, March, and June of 2023. The federal funds rate was raised 50 basis points in December 2022 and 75 basis points in November, September, July, and June 2022. As of the June 2023 projections, FOMC members expect one more 25 basis point increases in calendar year 2023 to combat persistently elevated inflation and most members expect the target federal funds rate to fall in the 5.5 percent and 5.75 percent range in 2023. As of June 2023, members of the FOMC project that real GDP in the Nation will grow 1.0 percent in 2023, while economists surveyed by the Wall Street Journal in April 2023 forecasted real GDP growth of 0.5 percent for the year.

## **Risk of Climate Events**

The State of New Jersey's location on the eastern seaboard of the United States exposes it to a variety of climate risks, such as severe storms and hurricanes, which can damage the State's infrastructure. In addition, much of the State's coastal and riverine areas may be vulnerable to sea level rise or flooding from increasing and extreme precipitation and other impacts of climate change. These climate-related phenomena may damage significant portions of the State's assets and may require the State to construct additional infrastructure. Further, a changing climate may negatively impact the economy of the State. However, the State cannot predict the impact that these climate events may have on its financial condition.

The State's Department of Environmental Protection ("NJDEP") is responsible for developing studies and strategies to reduce and respond to the effects of climate change. In 2020, the NJDEP released a scientific study regarding climate change and its impact upon the State, including New Jersey specific sea-level rise information. In 2021, the NJDEP released new data regarding the risk of extreme precipitation throughout the state. As a matter of practice, the NJDEP will incorporate this and other appropriate new data into the State's climate science report. The NJDEP also has developed short- and long-term strategies to make the State more resilient to the impacts of climate change, including through regulatory requirements aimed at better protecting public and private assets from risks associated with extreme weather, sea-level rise, and flooding. For example, on July 17, 2023, NJDEP issued the

Inland Flood Protection rule which will improve flood protection for development in New Jersey, including for state assets. The rule incorporates the current and future predicted precipitation data to ensure that projects are designed in consideration of these potential flood impacts. The NJDEP has also established a resilience planning program to provide technical and planning assistance to local governments. In 2023, the Resilient NJ program will provide support to more than 40 local governments to identify and enact appropriate measures to address climate impacts in coordination with State and federal agencies.

New Jersey has also established an Interagency Council on Climate Resilience (the “Interagency Council”) to develop consistent statewide policies and actions, and establish both short and long-term action plans, by which State departments and agencies will work both individually and collectively to address climate impacts. The council is made up of representatives from 22 State agencies and departments, and staffed by New Jersey’s Chief Resilience Officer. In 2021, the Interagency Council released New Jersey’s Statewide Climate Change Resilience Strategy that includes recommendations to promote the long-term mitigation, adaptation, and resilience of New Jersey’s economy, communities, infrastructure, and natural resources throughout the State. The Council is currently developing a Resilience Action Plan specific to extreme heat, expected to be released in 2024.

The State does not develop any of its climate change reports or strategies for purposes of investors making investment decisions and none of the NJDEP reports or strategies are incorporated by reference into this Appendix I.

## **Cybersecurity**

The New Jersey Office of Information Technology (“NJOIT”) serves as the State’s centralized infrastructure technology provider. NJOIT has enhanced existing technologies and put in place multiple additional measures to mitigate cyber risks over the past 24 months. These measures include working in conjunction with the New Jersey Office of Homeland Security and Preparedness’ cybersecurity arm, the New Jersey Cybersecurity & Communications Integration Cell (“NJCCIC”). This separation of accountability for cyber protection has served to substantially increase effectiveness due to focused skillsets, budgets, and technology platforms. These measures are recognized as industry standard modern cyber protection mechanisms and serve to reduce the risk of successful cyber-attacks upon the State’s information technology assets. However, despite these measures, it is recognized in the cybersecurity industry that no amount of preventative countermeasures and security features successfully prevent 100% of all cyber attacks. To further manage risk, the State maintains cyber liability insurance coverage.

## **Revenues**

### *Fiscal Year 2023 Revenues Decline from Fiscal Year 2022*

As New Jersey’s economy emerged from the COVID-19 Pandemic, State revenue growth was strong. Fiscal Year 2022 revenues of \$52.7 billion rose substantially above the \$38.0 billion recorded in Fiscal Year 2020, up 38.7 percent in just two years. Some retrenchment was anticipated for Fiscal Year 2023 relative to Fiscal Year 2022, as the Governor’s revenue certification projected an overall decline and a return toward historic trends. State revenues are now expected to reach \$51.9 billion in Fiscal Year 2023, a decline of about \$745.0 million, or 1.4 percent below Fiscal Year 2022. However, the decline was not as large as originally anticipated, and the \$51.9 billion total revenues are now estimated to finish about \$1.6 billion above the level the Governor certified at the time of enactment of the Fiscal Year 2023 Appropriations Act.

The revised Fiscal Year 2023 Gross Income Tax (“GIT”) revenue estimate of \$18.8 billion is a decline of \$1.9 billion, or 9.1 percent below Fiscal Year 2022. The estimate is \$1.1 billion below the Governor’s revenue certification for Fiscal Year 2023. In particular, final payments from Spring 2023 filers came in substantially below the prior year, likely due to the impact of a weak stock market on higher-income taxpayers in 2022. Withholding collections from employee wages continued to grow throughout the fiscal year, as the jobs market remained strong. The GIT estimate includes two tax policy changes: tax benefits for certain college costs, loan payments and savings (*L. 2021, c. 128*), estimated to save taxpayers approximately \$87.0 million; and a new child care tax credit for families with young children (*L. 2022, c. 24*), expected to save taxpayers about \$120.0 million.

The revised Fiscal Year 2023 Corporation Business Tax (“CBT”) revenue forecast of \$5.5 billion is \$247.8 million below Fiscal Year 2022, but \$232.5 million more than the amount certified at the time of the enactment of the



Fiscal Year 2023 Appropriations Act. Fiscal Year 2023 CBT revenue collections retracted due to dwindling profit margins as the national economic expansion slowed in the face of interest rate hikes. A shift of some partnership collections from CBT to PTBAIT, as well as elevated levels of credits issued under legacy tax credit programs also dampened collections. CBT revenue growth was very strong in the first quarter of Fiscal Year 2023, but eased during the remaining months of the fiscal year.

Sales and Use Tax (“SUT”) revenues are expected to reach \$13.1 billion in Fiscal Year 2023, up \$606.1 million, or 4.8 percent above the prior year and \$625.7 million above the amount certified at the time of the enactment of the Fiscal Year 2023 Appropriations Act. Revenue growth was relatively strong through the first half of Fiscal Year 2023, generally exceeding price inflation rates. Growth during the remainder of Fiscal Year 2023 slowed, tracking slightly below nominal price inflation.

Revised Pass-Through Business Alternative Income Tax (“PTBAIT”) collections of \$4.0 billion are expected to match last year’s level, up \$606.4 million from the total certified at the time of the enactment of the Fiscal Year 2023 Appropriations Act. Collections were initially forecasted to decline in Fiscal Year 2023, as December 2021 previously saw a significant payment surge from first-time PTBAIT filers. Taxpayers were expected to distribute those large December payments throughout their quarterly estimated payments for Tax Year 2022, which to a great degree occurred. However, in its brief history, changes have been made to capture additional sources of income, alter tax rates, and revise tax credit structures, which in turn have contributed to PTBAIT revenue coming in greater than forecasted. Much of the refund and payment activity that has carried across fiscal years has stabilized.

Among other notable tax revenues, the Transfer Inheritance Tax did not decline as sharply as anticipated, with revenues expected to total \$568.2 million for Fiscal Year 2023 compared to \$384.5 million anticipated at the time of the enactment of the Fiscal Year 2023 Appropriations Act. The Realty Transfer Fee is expected to decline further with revenue coming in \$163.9 million below Fiscal Year 2022, as high interest rates impact the housing market. The State’s investment earnings rose markedly in Fiscal Year 2023, yielding an estimated \$708.5 million, well above the certified level of \$72.8 million due to large State balances and strong investment returns.

#### *Fiscal Year 2024 Revenues Expected to Remain Relatively Stable*

The State’s anticipated revenues in the Fiscal Year 2024 Appropriations Act reflect largely stable revenues in Fiscal Year 2024 when compared to Fiscal Year 2023, with anticipated revenues of \$52.7 billion, up \$840.4 million, or 1.6 percent above Fiscal Year 2023 estimates. Most revenues are expected to grow slowly in Fiscal Year 2024, as the economy softens but avoids a possible recession. However, revenue growth will be partially offset by the expiration of the CBT surtax.

The Fiscal Year 2024 GIT projection of \$19.5 billion is an increase of \$658.1 million, or 3.5 percent above Fiscal Year 2023. Withholding revenue growth is expected to continue to slow as pressures driving up wage growth ease alongside inflation. Capital market performance has been positive early in 2023, but remains a concern as the markets grapple with an ever-changing economic picture, tightening monetary policy, and international events. Non-wage income sources are expected to remain relatively flat in Fiscal Year 2024 as most economic forecasts debate the prospects of weak economic growth or a very mild, short recession. The forecast also anticipates a tax cut related to the expansion of the State’s Child Tax Credit, which is estimated at \$123.2 million.

Fiscal Year 2024 SUT revenue collections are projected at \$13.6 billion, an increase of \$260.0 million or 1.9 percent over Fiscal Year 2023. Slowing consumer spending and inflation are expected to soften collections growth. Substantial federal governmental assistance, including stimulus checks and student loan relief that boosted discretionary income and contributed to the sharp rise in SUT growth in recent years, has largely dwindled and will wane in Fiscal Year 2024. Consumers are expected to continue their return toward pre-pandemic levels of spending on nontaxable services rather than taxable durable goods, while grappling with high levels of credit card debt and diminished savings.

Fiscal Year 2024 CBT revenue collections are projected to fall from Fiscal Year 2023 levels, declining to \$5.3 billion, a decrease of 2.6 percent, primarily due to the phase out of the CBT surtax. Concerns about the slowing economy have dampened expectations for 2023, which will impact Fiscal Year 2024 CBT revenue collections, and most economic forecasts expect corporate profits to stagnate. The CBT surtax is set to sunset on December 31, 2023,

and thus will first affect and reduce CBT revenues in Fiscal Year 2024 by \$333.1 million and by roughly \$1.0 billion in Fiscal Year 2025. The CBT will see a continued influx of collections from Banks and Financial Institutions as part of unitary combined reporting.

Stability in PTBAIT revenue collections is anticipated, but continued weakness in the housing market will again reduce anticipated Realty Transfer Fee collections in Fiscal Year 2024.

The following table sets forth actual and estimated revenues for fiscal years ended June 30, 2020 through 2024 for the General Fund, the Property Tax Relief Fund, the Gubernatorial Elections Fund, the Casino Control Fund and the Casino Revenue Fund. The amounts for Fiscal Years 2020 through 2022 are actual and final. The Fiscal Year 2023 estimates are subject to adjustment pending completion of the annual audit. The Fiscal Year 2024 estimates are as presented in the Fiscal Year 2024 Appropriations Act and are based on the economic data presented above. See “FINANCIAL RESULTS AND ESTIMATES – New Jersey Current Economic Outlook” above and “APPENDIX I-A – SUMMARY OF CERTAIN STATE TAXES” below.

<b>REVENUES</b>					
<b>(In Millions)</b>					
	<b>2024 Estimated</b>	<b>2023 Estimated</b>	<b>2022 Actual</b>	<b>2021 Actual</b>	<b>2020 Actual</b>
General Fund:					
Sales and Use Tax .....	\$13,608.6	\$13,348.6	\$12,630.0	\$11,366.6	\$9,786.0
Sales and Use Tax (Energy Tax Receipts) .....	798.4	788.5	788.5	788.5	788.5
Less: Property Tax Dedication .....	(1,062.4)	(1,042.0)	(1,013.0)	(917.3)	(798.1)
Net Sales and Use Tax .....	13,344.6	13,095.1	12,405.5	11,237.8	9,776.4
Corporation Business Tax .....	5,323.6	5,466.1	5,718.0	4,894.9	3,811.6
Business Alternative Income Tax.....	4,146.6	4,006.4	3,980.0	1,968.4	–
NJ COVID-19 State Emergency Fund .....	–	–	–	4,288.7	–
Transfer Inheritance Tax .....	504.5	568.2	601.7	485.3	358.1
Insurance Premium Tax .....	595.9	675.0	703.7	464.0	622.3
Fringe Benefit Recoveries.....	1,371.8	1,205.9	999.7	806.9	708.1
Motor Fuels Tax.....	462.4	462.9	461.8	434.4	440.4
Motor Vehicle Fees.....	402.4	384.4	393.4	477.2	420.3
Medicaid Uncompensated Care.....	383.4	492.7	477.6	524.2	518.5
Realty Transfer Tax .....	428.2	510.7	674.6	526.2	364.7
Petroleum Products Gross Receipts .....	1,419.3	1,420.9	1,553.9	1,624.2	1,338.4
Petroleum Products Gross Receipts-Capital Reserves.....	(519.9)	(563.3)	(756.3)	(844.3)	(578.5)
Corporation Business Tax-Banks and Financials.....	5.0	68.0	81.9	107.8	283.0
Cigarette Tax .....	42.7	65.6	38.0	71.0	80.1
Alcoholic Beverage Excise Tax .....	146.5	146.5	142.6	140.1	121.8
Other .....	3,504.9	3,444.8	2,879.6	2,514.5	2,360.4
Total General Fund <sup>(1)</sup> .....	31,561.9	31,449.9	30,355.7	29,721.3	20,625.6
Property Tax Relief Fund:					
Gross Income Tax .....	19,498.7	18,840.6	20,737.5	17,469.9	16,253.7
Plus: Property Tax Dedication.....	1,086.9	1,066.5	1,041.4	943.9	820.8
Gross Property Tax Relief Fund .....	20,585.6	19,907.1	21,778.9	18,413.8	17,074.5
Gubernatorial Elections Fund-Taxpayer Designations.....	0.7	0.7	0.2	0.3	0.3
Casino Control Fund-License Fees, Interest.....	73.5	66.7	60.2	54.0	50.3
Casino Revenue Fund-8% Gross Revenue Tax, Other Taxes and Fees, Interest.....	526.7	483.6	458.0	363.5	262.5
Total.....	\$52,748.4	\$51,908.0	\$52,653.0	\$48,552.9	\$38,013.2

<sup>(1)</sup> Excludes Non-Budgeted Revenues which include primarily Federal Funds. Non-Budgeted Revenues are offset by matching appropriations; therefore, these Non-Budgeted Revenues do not affect the General Fund’s undesignated fund balance.

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## Revenues — Dollar Growth

The following table sets forth actual and estimated incremental dollar growth in revenues for fiscal years ended June 30, 2020 through 2024 for the General Fund, the Property Tax Relief Fund, the Gubernatorial Elections Fund, the Casino Control Fund and the Casino Revenue Fund. The incremental dollar growth in revenues for Fiscal Years 2020 through 2022 are actual and final. The Fiscal Year 2023 estimates are subject to adjustment pending completion of the annual audit. The Fiscal Year 2024 estimates are as presented in the Fiscal Year 2024 Appropriations Act.

### REVENUES — DOLLAR GROWTH (In Millions)

	2024 Estimated	2023 Estimated	2022 Actual	2021 Actual	2020 Actual
General Fund:					
Sales and Use Tax .....	\$260.0	\$718.6	\$1,263.4	\$1,580.6	\$(152.6)
Sales and Use Tax (Energy Tax Receipts).....	9.9	—	—	—	—
Less: Property Tax Dedication .....	(20.4)	(29.0)	(95.7)	(119.2)	18.4
Net Sales and Use Tax .....	249.5	689.6	1,167.7	1,461.4	(134.2)
Corporation Business Taxes.....	(142.5)	(251.9)	823.1	1,083.3	(217.1)
Business Alternative Income Tax.....	140.2	26.4	2,011.6	1,968.4	—
NJ COVID-19 State Emergency Fund .....	—	—	(4,288.7)	4,288.7	—
Transfer Inheritance Tax .....	(63.7)	(33.5)	116.4	127.2	(59.3)
Insurance Premium Tax .....	(79.1)	(28.7)	239.7	(158.3)	100.1
Fringe Benefit Recoveries.....	165.9	206.2	192.8	98.8	(28.8)
Motor Fuels Tax.....	(0.5)	1.1	27.4	(6.0)	(59.8)
Motor Vehicle Fees.....	18.0	(9.0)	(83.8)	56.9	(16.6)
Medicaid Uncompensated Care.....	(109.3)	15.1	(46.6)	5.7	144.6
Realty Transfer Tax .....	(82.5)	(163.9)	148.4	161.5	(9.5)
Petroleum Products Gross Receipts.....	(1.6)	(133.0)	(70.3)	285.8	(127.6)
Petroleum Products Gross Receipts-Capital Reserves.....	43.4	193.0	88.0	(265.8)	294.1
Corporation Business Tax-Banks and Financials .....	(63.0)	(13.9)	(25.9)	(175.2)	(9.4)
Cigarette Tax.....	(22.9)	27.6	(33.0)	(9.1)	(18.8)
Alcoholic Beverage Excise Tax .....	—	3.9	2.5	18.3	9.6
Other .....	60.1	565.2	365.1	154.1	(494.0)
Total General Fund <sup>(1)</sup> .....	112.0	1,094.2	634.4	9,095.7	(626.7)
Property Tax Relief Fund:					
Gross Income Tax .....	658.1	(1,896.9)	3,267.6	1,216.2	350.4
Plus: Property Tax Dedication .....	20.4	25.1	97.5	123.1	(23.7)
Gross Property Tax Relief Fund .....	678.5	(1,871.8)	3,365.1	1,339.3	326.7
Gubernatorial Elections Fund-Taxpayer Designations .....	—	0.5	(0.1)	—	(0.5)
Casino Control Fund-Licenses, Interest .....	6.8	6.5	6.2	3.7	1.2
Casino Revenue Fund-8% Gross Revenue Tax, Other Taxes and Fees, Interest.....	43.1	25.6	94.5	101.0	(3.7)
Total.....	\$840.4	\$(745.0)	\$4,100.1	\$10,539.7	\$(303.0)

<sup>(1)</sup> Excludes Non-Budgeted Revenues which include primarily Federal Funds. Non-Budgeted Revenues are offset by matching appropriations; therefore, these Non-Budgeted Revenues do not affect the General Fund's undesignated fund balance.

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## Revenues — Percentage Growth

The following table sets forth actual and estimated year over year percentage growth in revenues for the fiscal years ended June 30, 2020 through 2024 for the General Fund, the Property Tax Relief Fund, the Gubernatorial Elections Fund, the Casino Control Fund and the Casino Revenue Fund. These growth percentages are calculated for each individual revenue source and are not intended to sum when reading down the table. Year over year percentage growth in revenues for Fiscal Years 2020 through 2022 are actual and final. The Fiscal Year 2023 estimates are subject to adjustment pending completion of the annual audit. The Fiscal Year 2024 estimates are as presented in the Fiscal Year 2024 Appropriations Act.

### REVENUES — PERCENTAGE GROWTH

	2024 Estimated	2023 Estimated	2022 Actual	2021 Actual	2020 Actual
General Fund:					
Sales and Use Tax.....	1.9%	5.7%	11.1%	16.2%	(1.5)%
Sales and Use Tax (Energy Tax Receipts) .....	1.3	—	—	—	—
Less: Property Tax Dedication .....	2.0	2.9	10.4	14.9	(2.3)
Net Sales and Use Tax .....	1.9	5.6	10.4	14.9	(1.4)
Corporation Business Taxes.....	(2.6)	(4.4)	16.8	28.4	(5.4)
Business Alternative Income Tax .....	3.5	0.7	102.2	—	—
NJ COVID-19 State Emergency Fund .....	—	—	(100.0)	—	—
Transfer Inheritance Tax .....	(11.2)	(5.6)	24.0	35.5	(14.2)
Insurance Premium Tax .....	(11.7)	(4.1)	51.7	(25.4)	19.2
Fringe Benefit Recoveries.....	13.8	20.6	23.9	14.0	(3.9)
Motor Fuels Tax .....	(0.1)	0.2	6.3	(1.4)	(12.0)
Motor Vehicle Fees.....	4.7	(2.3)	(17.6)	13.5	(3.8)
Medicaid Uncompensated Care .....	(22.2)	3.2	(8.9)	1.1	38.7
Realty Transfer Tax .....	(16.2)	(24.3)	28.2	44.3	(2.5)
Petroleum Products Gross Receipts .....	(0.1)	(8.6)	(4.3)	21.4	(8.7)
Petroleum Products Gross Receipts-Capital Reserves.....	(7.7)	(25.5)	(10.4)	45.9	(33.7)
Corporation Business Tax-Banks and Financials.....	(92.6)	(17.0)	(24.0)	(61.9)	(3.2)
Cigarette Tax .....	(34.9)	72.6	(46.5)	(11.4)	(19.0)
Alcoholic Beverage Excise Tax .....	—	2.7	1.8	15.0	8.6
Other .....	1.7	19.6	14.5	6.5	(17.3)
Total General Fund <sup>(1)</sup> .....	0.4	3.6	2.1	44.1	(2.9)
Property Tax Relief Fund:					
Gross Income Tax.....	3.5	(9.1)	18.7	7.5	2.2
Plus: Property Tax Dedication.....	1.9	2.4	10.3	15.0	(2.8)
Gross Property Tax Relief Fund.....	3.4	(8.6)	18.3	7.8	2.0
Gubernatorial Elections Fund-Taxpayer Designations.....	—	250.0	(33.3)	—	(62.5)
Casino Control Fund-Licenses, Interest .....	10.2	10.8	11.5	7.4	2.4
Casino Revenue Fund-8% Gross Revenue Tax, Other Taxes and Fees, Interest.....	8.9	5.6	26.0	38.5	(1.4)
Total .....	1.6%	(1.4)%	8.4%	27.7%	(0.8)%

<sup>(1)</sup> Excludes Non-Budgeted Revenues which include primarily Federal Funds. Non-Budgeted Revenues are offset by matching appropriations; therefore, these Non-Budgeted Revenues do not affect the General Fund's undesignated fund balance.

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## Revenues — Percent of Total

The following table sets forth actual and estimated revenues as a percent of total revenue for fiscal years ended June 30, 2020 through 2024 for the General Fund, the Property Tax Relief Fund, the Gubernatorial Elections Fund, the Casino Control Fund and the Casino Revenue Fund. The Fiscal Year 2023 estimates are subject to adjustment pending completion of the annual audit. The Fiscal Year 2024 estimates are as presented in the Fiscal Year 2024 Appropriations Act.

### REVENUES — PERCENT OF TOTAL

	2024 Estimated	2023 Estimated	2022 Actual	2021 Actual	2020 Actual
General Fund:					
Sales and Use Tax.....	25.8%	25.7%	24.0%	23.4%	25.8%
Sales and Use Tax (Energy Tax Receipts).....	1.5	1.5	1.5	1.6	2.1
Less: Property Tax Dedication.....	(2.0)	(2.0)	(1.9)	(1.9)	(2.1)
Net Sales and Use Tax.....	25.3	25.2	23.5	23.1	25.8
Corporation Business Taxes .....	10.1	10.5	10.9	10.1	10.0
Business Alternative Income Tax .....	7.9	7.7	7.5	4.1	—
NJ COVID-19 State Emergency Fund.....	—	—	—	8.8	—
Transfer Inheritance Tax.....	1.0	1.1	1.1	1.0	0.9
Insurance Premium Tax.....	1.1	1.3	1.3	1.0	1.6
Fringe Benefit Recoveries .....	2.6	2.3	1.9	1.7	1.9
Motor Fuels Tax .....	0.9	0.9	0.9	0.9	1.2
Motor Vehicle Fees .....	0.8	0.7	0.7	1.0	1.1
Medicaid Uncompensated Care .....	0.7	1.0	0.9	1.1	1.4
Realty Transfer Tax .....	0.8	1.0	1.3	1.1	1.0
Petroleum Products Gross Receipts .....	2.6	2.8	3.0	3.3	3.5
Petroleum Products Gross Receipts-Capital Reserves .....	(1.1)	(1.1)	(1.4)	(1.7)	(1.5)
Corporation Banks and Financials .....	0.0	0.1	0.2	0.2	0.7
Cigarette Tax .....	0.1	0.1	0.1	0.1	0.2
Alcoholic Beverage Excise Tax .....	0.3	0.3	0.3	0.3	0.3
Other.....	6.7	6.7	5.5	5.2	6.2
Total General Fund <sup>(1)</sup> .....	59.8	60.6	57.7	61.3	54.3
Property Tax Relief Fund:					
Gross Income Tax .....	37.0	36.3	39.4	36.0	42.8
Plus: Property Tax Dedication .....	2.1	2.1	2.0	1.9	2.2
Gross Property Tax Relief Fund.....	39.1%	38.4%	41.4%	37.9%	45.0%
Gubernatorial Elections Fund-Taxpayer Designations.....	—	—	—	—	—
Casino Control Fund-Licenses, Interest .....	0.1	0.1	0.1	0.1	0.1
Casino Revenue Fund-8% Gross Revenue Tax, Other Taxes and Fees, Interest .....	1.0	0.9	0.9	0.7	0.6
Total .....	100.0%	100.0%	100.0%	100.0%	100.0%

<sup>(1)</sup> Excludes Non-Budgeted Revenues which include primarily Federal Funds. Non-Budgeted Revenues are offset by matching appropriations; therefore, these Non-Budgeted Revenues do not affect the General Fund's undesignated fund balance.

## New Jersey Economic Development Authority Tax Credit Programs

The NJEDA administers a number of statutorily-authorized economic development tax credit programs. The programs that were in effect prior to January 7, 2021 are collectively referred to herein as the “Legacy Programs.” The New Jersey Economic Recovery Act of 2020, *L. 2020, c. 156* (the “NJ ERA”), which was enacted on January 7, 2021, and amended by *L. 2021, c. 160* and *L. 2023, c. 98*, established several new programs that will be collectively referred to herein as the “NJ ERA Programs.”

Generally, tax credits are awarded for use in specific tax years. However, for some of the Legacy Programs, the recipient of the tax credits may carry forward the value of the tax credits for up to twenty successive tax periods, depending upon the statutory provisions governing each individual tax credit program. In addition, for some of the Legacy Programs (not including the NJEDA's Angel Investor Tax Credit program) the recipient may transfer the tax credit for use by a transferee in the tax period for which it was issued. The original recipient may have up to three years after the date of the original issuance to transfer the tax credits to a potential transferee.

The NJEDA provides fiscal year data on the total dollar amount of actual and projected tax credit awards issued in each fiscal year. More specifically, the totals for past and future fiscal year tax credit awards shown in the table below represent the issuance of certified credits for current and past tax years, rather than the application of those credits to tax year liabilities (on current or past year returns) during the current fiscal year. Actual tax credit award amounts are typically less than projected because taxpayers may withdraw their application, projects may be canceled, a tax credit may be reduced based on performance, or certification may be delayed. In most cases, firms that are awarded tax credits under NJEDA tax credit incentive programs must demonstrate compliance on an annual basis with requirements that may include minimum hiring or employment targets, capital investment commitments, or other parameters, and compliance must be certified by the NJEDA before the tax credits for a given tax year are awarded. Once awarded, the taxpayer may apply the tax credits to their tax liability for the relevant tax year or transfer it to another firm if permitted under the applicable tax credit incentive program. Some tax credits are awarded for the most recent tax year, while reporting, processing and certification delays can result in tax credits being awarded for past tax years as well.

The table below compares the NJEDA’s projected award amounts of Legacy Program tax credits to actual award amounts from Fiscal Year 2019 to Fiscal Year 2023, and provides the current projected award amounts for Fiscal Year 2024. Actual award amounts ranged from 45.0 percent to 50.0 percent of the projected level from Fiscal Year 2019 to Fiscal Year 2021, then rose to 67.0 percent in Fiscal Year 2022, possibly accounting for some portion of the then record-high level of CBT refund activity that fiscal year. In Fiscal Year 2023, projected and actual credit award amounts for Legacy Programs were again elevated due to current and backlogged BEIP program credits reaching their anticipated peak, as well as increased use of the Film and Digital Tax Credit. Actual award amounts approved reached \$745.4 million, or 67.4 percent of their January 2023 projection, similar to the Fiscal Year 2022 percentage, with CBT refunds once again reaching record levels. Fiscal Year 2024 awards are currently projected at \$1.1 billion, similar to the Fiscal Year 2023 projection at this time last year. While the tax credits primarily impact CBT revenues, certain credits can also be applied to GIT liabilities, and the State’s Insurance Premiums Tax also has been impacted in recent years because credits may be sold or transferred to insurance companies on the secondary market.

**EDA Legacy Tax Credit Programs**  
**Projected Award Amounts vs Actual Award Amounts**  
(In Millions)

	<b>Fiscal Year 2019</b>	<b>Fiscal Year 2020</b>	<b>Fiscal Year 2021</b>	<b>Fiscal Year 2022</b>	<b>Fiscal Year 2023</b>	<b>Fiscal Year 2024</b>
Projected Award Amounts*	\$660.7	\$872.1	\$876.8	\$883.7	\$1,105.5**	\$1,086.1**
Actual Award Amounts	\$308.3	\$396.3	\$437.8	\$592.3	745.4	n/a
Difference	\$352.3	\$475.8	\$439.0	\$278.9	\$360.1	n/a

\* For Fiscal Year 2019 through Fiscal Year 2023, projected award amounts are estimates as of January of the given Fiscal Year. The Fiscal Year 2024 projection is as of July 2023.

\*\* Projection subject to revision.

*Newly Authorized Economic Development Tax Incentive Programs*

The NJ ERA established eight new tax credit programs. There are seven primary tax credit programs as well as an additional smaller program aimed at supporting the in-State manufacturing of personal protective equipment (“PPE”). The PPE Manufacturing Tax Credit Program is for Tax Years 2020 through 2022 and has an annual cap of \$10.0 million. PPE Manufacturing Tax Credits of \$3.3 million are projected to be issued in Fiscal Year 2024. The seven primary programs expire after nine years and have an overall cap of \$11.5 billion.

The NJ ERA sets annual award limits for each of the seven new primary tax credit programs. However, if any program’s annual limit is not reached, the NJEDA is authorized to add the unused amount to the subsequent year’s program limit. The annual program award caps are for the first six years of the nine-year period. After the completion of the sixth year, the NJEDA may award any unused amount that has been carried forward from the first six years of the program. The NJ ERA also permits the NJEDA to exceed program limits in a given year by up to \$200.0 million

annually. The table below summarizes the annual tax credit award limits and projected award amounts for the seven new primary programs created by the NJ ERA:

**Summary of NJ ERA Tax Credit Programs  
(In Millions)**

	Annual Cap	Total Cap	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024
Historic Property Reinvestment Act	\$ 50	\$ 300	\$ –	\$ –	\$ –
Brownfield Redevelopment Incentive Program Act	50	300	–	–	–
New Jersey Innovation Evergreen Act	60	300	–	50	60
Food Desert Relief Act	40	240	–	–	40
Community Anchored Development Act	200	1,200	–	–	–
New Jersey Aspire (Non-Transformative) + Emerge	1,100	6,600	–	–	17
New Jersey Aspire (Transformative)	–	2,500	–	–	–
Total “New NJ ERA Programs”	\$1,500	\$11,500	\$ –	\$50	\$117

*Newly Established Tax Credit Buy-Back Requirements*

The NJ ERA newly incorporates tax credit buy-back and surrender provisions. For the NJ ERA Programs, as well as for some of the Legacy Programs, and at the discretion of the Director of the Division of Taxation, the State may buy back awarded but unused tax credits at a maximum price of 75.0 percent of the value of the tax credit. In addition, only with respect to tax credits awarded in the Aspire/Emerge Program, the NJ ERA allows an awardee to “surrender” the unused credit as long as it is at least two years after the award, to the Division of Taxation for a cash payment equal to 90.0 percent of the face value of the tax credit.

**Statutory “Poison Pills”**

Some statutes contain provisions, commonly referred to as “poison pills,” that may automatically bar the State from collecting certain taxes in the event the Legislature acts, or fails to act, in a specified manner. A poison pill may be triggered, for instance, when the Legislature fails to appropriate a designated amount of money to a particular program. No court has opined on the constitutionality of poison pill provisions. To date, poison pill provisions have had no impact on the annual Appropriations Act.

**Appropriations**

*Appropriations — Fiscal Year 2020 through Fiscal Year 2024*

The following table sets forth the composition of annual appropriations in Fiscal Years 2020 through 2024, including supplemental appropriations and deappropriations, if any, from the General Fund, the Property Tax Relief Fund, the Gubernatorial Elections Fund, the Casino Control Fund and the Casino Revenue Fund. Should revenues be less than the amount anticipated in the Appropriations Act, the Governor may, pursuant to statutory authority, prevent expenditure under any appropriation. The amounts for Fiscal Years 2020 through 2022 are actual and final. The Fiscal Year 2023 estimates are subject to adjustment pending completion of the annual audit. The Fiscal Year 2024 estimates are as presented in the Fiscal Year 2024 Appropriations Act, as amended by supplemental appropriations enacted shortly after the enactment of the Fiscal Year 2024 Appropriations Act.

**APPROPRIATIONS FOR BUDGETED STATE FUNDS<sup>(1)</sup>**  
(In Millions)

	For the Fiscal Year Ended June 30,				
	2024 Estimated	2023 Estimated	2022 Actual	2021 Actual	2020 Actual
<b>General Fund</b>					
Legislature	\$ 118.7	\$ 111.8	\$ 107.1	\$ 96.5	\$ 80.9
Chief Executive	13.7	11.7	9.2	7.2	5.9
Department of:					
Agriculture	106.8	202.5	116.4	88.2	79.4
Banking and Insurance	90.3	90.3	89.5	64.0	140.6
Children and Families	1,405.0	1,359.9	1,283.0	1,212.1	1,144.0
Community Affairs	346.0	352.2	377.4	152.3	124.0
Corrections	1,154.7	1,182.5	1,101.1	1,044.7	1,033.6
Education	5,299.1	288.4	249.1	2,743.3	484.0
Environmental Protection	528.1	762.3	695.8	489.4	506.4
Health	1,376.1	1,179.7	1,183.8	1,120.6	985.7
Human Services	8,326.3	7,600.1	6,720.9	6,250.0	5,892.2
Labor and Workforce Development	204.4	206.2	207.6	176.3	169.6
Law and Public Safety	804.7	806.3	682.9	659.6	600.4
Military and Veterans' Affairs	121.2	109.7	100.0	96.4	95.9
State	2,067.6	1,839.8	1,759.7	1,496.0	1,300.3
Transportation	1,646.0	1,620.3	1,585.7	1,839.2	1,732.5
Treasury	1,760.6	1,950.7	1,749.9	1,640.5	1,038.4
Miscellaneous Commissions	1.0	1.0	1.0	0.8	0.7
Interdepartmental Accounts - Employee					
Benefits and Miscellaneous	7,137.0	7,016.8	11,885.3	8,777.0	4,638.6
Judicial Branch	882.3	875.3	831.7	810.5	789.3
Total, General Fund	<u>33,389.6</u>	<u>27,567.5</u>	<u>30,737.1</u>	<u>28,764.6</u>	<u>20,842.4</u>
<b>Property Tax Relief Fund</b>					
Department of:					
Agriculture	41.2	19.6	18.2	13.2	5.6
Community Affairs	1,138.7	997.5	856.5	824.9	742.4
Corrections	41.2	33.4	25.6	23.5	22.2
Education	14,597.9	18,517.1	18,009.2	12,893.3	14,458.0
Environmental Protection	16.3	14.3	7.8	6.5	4.0
Human Services	260.7	245.2	247.2	228.5	197.7
Law and Public Safety	9.5	5.5	5.0	4.6	3.0
State	7.2	6.8	5.0	3.7	3.7
Transportation	327.3	319.3	301.9	228.9	218.5
Treasury	3,974.0	3,689.5	1,975.5	1,783.8	1,602.2
Interdepartmental Accounts - Employee					
Benefits and Miscellaneous	45.5	45.5	45.4	45.4	40.1
Total, Property Tax Relief Fund	<u>20,460.0</u>	<u>23,893.7</u>	<u>21,497.3</u>	<u>16,056.3</u>	<u>17,297.4</u>
<b>Gubernatorial Elections Fund</b>					
Department of:					
Law and Public Safety	—	—	21.5	11.0	—
Total, Gubernatorial Elections Fund	<u>—</u>	<u>—</u>	<u>21.5</u>	<u>11.0</u>	<u>—</u>
<b>Casino Control Fund</b>					
Department of:					
Law and Public Safety	65.4	60.1	55.0	53.3	48.4
Treasury	8.1	8.0	7.4	7.6	7.3
Total, Casino Control Fund	<u>73.5</u>	<u>68.1</u>	<u>62.4</u>	<u>60.9</u>	<u>55.7</u>
<b>Casino Revenue Fund</b>					
Department of:					
Health	0.5	0.5	0.5	0.5	0.5
Human Services	523.9	462.4	461.4	364.1	260.0
Labor and Workforce Development	2.2	2.2	2.2	2.2	2.2
Law and Public Safety	0.1	0.1	0.1	0.1	0.1
Total, Casino Revenue Fund	<u>526.7</u>	<u>465.2</u>	<u>464.2</u>	<u>366.9</u>	<u>262.8</u>
<b>Total Appropriations</b>	<u>\$ 54,449.8</u>	<u>\$ 51,994.5</u>	<u>\$ 52,782.5</u>	<u>\$ 45,259.7</u>	<u>\$ 38,458.3</u>

<sup>(1)</sup> These amounts do not reflect amounts included under the caption "Other Adjustments" in the table entitled "SUMMARY OF REVENUES, APPROPRIATIONS AND UNDESIGNATED FUND BALANCES — BUDGETED STATE FUNDS" above.



The following table sets forth, by major category, the original and actual supplemental appropriations for Fiscal Years 2020 through 2022, the adjusted appropriations for Fiscal Year 2023, which is subject to further adjustment pending completion of the annual audit and the appropriations for Fiscal Year 2024 as presented in the Fiscal Year 2024 Appropriations Act, as amended by supplemental appropriations enacted shortly after the enactment of the Fiscal Year 2024 Appropriations Act.

**SUMMARY OF APPROPRIATIONS BY MAJOR CATEGORY**  
(In Millions)

	<b>Fiscal Year 2024 Estimated</b>	<b>Fiscal Year 2023 Estimated</b>	<b>Fiscal Year 2022 Actual</b>	<b>Fiscal Year 2021 Actual</b>	<b>Fiscal Year 2020 Actual</b>
State Aid .....	\$23,278.3	\$21,862.4	\$20,861.7	\$18,231.0	\$17,359.4
Grants-in-Aid .....	17,709.3	16,216.9	14,023.2	12,204.3	10,804.1
Direct State Services .....	10,908.9	10,596.4	10,148.2	8,593.6	8,123.2
Capital Construction .....	1,971.5	2,698.0	7,354.2	5,589.6	1,827.2
Debt Service on General Obligation Bonds ...	581.8	620.8	395.2	641.2	344.4
<b>Total .....</b>	<b>\$54,449.8</b>	<b>\$51,994.5</b>	<b>\$52,782.5</b>	<b>\$45,259.7</b>	<b>\$38,458.3</b>

Total Fiscal Year 2024 appropriations increased by \$2.455 billion as compared to total Fiscal Year 2023 adjusted appropriations. Significant increases include increased recommended funding for PreK-12 school aid, increased funding to pay the contributions to the Pension Plans, increased costs in entitlement programs such as NJFamilyCare, enhanced payments to child care providers, net increases in Health Benefits costs, as well as support for enhanced ANCHOR benefits and for StayNJ. StayNJ is a new property tax relief program that will provide a property tax credit for eligible seniors, and is scheduled to begin in January 2026. The Fiscal Year 2024 appropriation of \$100 million for the StayNJ program is part of a scheduled buildup to ensure the program has resources to support the costs of the program when implemented. These combined increases are partially offset by the removal in Fiscal Year 2023 of one-time appropriations enacted in Fiscal Year 2023.

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The following tables set forth appropriations by department and by major category for Fiscal Year 2024 and adjusted appropriations by department and major category for Fiscal Year 2023.

**APPROPRIATIONS FOR BUDGETED STATE FUNDS  
FOR THE FISCAL YEAR ENDING JUNE 30, 2024  
(In Millions)**

<b>Government Branch</b>	<b>Direct State Services</b>	<b>Grants-in-Aid</b>	<b>State Aid</b>	<b>Capital Construction</b>	<b>Debt Service</b>	<b>Total</b>
Chief Executive.....	\$13.7	\$ —	\$ —	\$ —	\$ —	\$13.7
Agriculture .....	10.9	95.9	41.2	—	—	148.0
Banking and Insurance.....	90.3	—	—	—	—	90.3
Children and Families .....	405.3	999.7	—	—	—	1,405.0
Community Affairs .....	66.8	256.6	1,161.3	—	—	1,484.7
Corrections.....	1,064.1	90.6	41.2	—	—	1,195.9
Education .....	110.3	95.6	19,691.1	—	—	19,897.0
Environmental Protection .....	293.0	12.7	22.3	185.0	31.4	544.4
Health.....	451.2	925.4	—	—	—	1,376.6
Human Services .....	320.7	8,300.3	489.9	—	—	9,110.9
Labor and Workforce Development....	120.2	86.4	—	—	—	206.6
Law and Public Safety .....	814.0	45.9	19.8	—	—	879.7
Military and Veterans' Affairs.....	114.6	6.6	—	—	—	121.2
State .....	81.0	1,968.0	25.8	—	—	2,074.8
Transportation.....	106.0	162.0	127.3	1,578.0	—	1,973.3
Treasury .....	624.2	2,910.2	1,658.4	—	550.4	5,743.2
Miscellaneous Commissions.....	1.0	—	—	—	—	1.0
Interdepartmental .....	5,220.6	1,753.4	—	208.5	—	7,182.5
<b>Subtotal.....</b>	<b>9,907.9</b>	<b>17,709.3</b>	<b>23,278.3</b>	<b>1,971.5</b>	<b>581.8</b>	<b>53,448.8</b>
<b>Legislature.....</b>	<b>118.7</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>118.7</b>
<b>Judiciary .....</b>	<b>882.3</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>882.3</b>
<b>Grand Total.....</b>	<b>\$10,908.9</b>	<b>\$17,709.3</b>	<b>\$23,278.3</b>	<b>\$1,971.5</b>	<b>\$581.8</b>	<b>\$54,449.8</b>

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**ADJUSTED APPROPRIATIONS FOR BUDGETED STATE FUNDS  
FOR THE FISCAL YEAR ENDING JUNE 30, 2023  
(In Millions)**

<b>Government Branch</b>	<b>Direct State Services</b>	<b>Grants-in-Aid</b>	<b>State Aid</b>	<b>Capital Construction</b>	<b>Debt Service</b>	<b>Total</b>
Chief Executive.....	\$11.7	\$ –	\$ –	\$ –	\$ –	\$11.7
Agriculture .....	10.8	93.9	19.6	97.8	–	222.1
Banking and Insurance .....	90.3	–	–	–	–	90.3
Children and Families .....	395.2	964.7	–	–	–	1,359.9
Community Affairs .....	60.8	281.6	1,007.3	–	–	1,349.7
Corrections.....	1,055.3	127.2	33.4	–	–	1,215.9
Education .....	119.7	85.5	18,600.3	–	–	18,805.5
Environmental Protection.....	293.0	2.6	20.7	429.3	31.0	776.6
Health .....	460.8	719.4	–	–	–	1,180.2
Human Services .....	315.2	7,504.4	488.1	–	–	8,307.7
Labor and Workforce Development....	118.0	90.4	–	–	–	208.4
Law and Public Safety.....	816.0	45.4	7.1	3.5	–	872.0
Military and Veterans' Affairs .....	106.8	2.9	–	–	–	109.7
State.....	80.5	1,730.9	35.2	–	–	1,846.6
Transportation .....	147.3	120.1	119.3	1,552.9	–	1,939.6
Treasury .....	608.6	2,918.4	1,531.4	–	589.8	5,648.2
Miscellaneous Commissions .....	1.0	–	–	–	–	1.0
Interdepartmental .....	4,918.3	1,529.5	–	614.5	–	7,062.3
<b>Subtotal .....</b>	<b>9,609.3</b>	<b>16,216.9</b>	<b>21,862.4</b>	<b>2,698.0</b>	<b>620.8</b>	<b>51,007.4</b>
<b>Legislature .....</b>	<b>111.8</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>111.8</b>
<b>Judiciary .....</b>	<b>875.3</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>875.3</b>
<b>Grand Total .....</b>	<b>\$10,596.4</b>	<b>\$16,216.9</b>	<b>\$21,862.4</b>	<b>\$2,698.0</b>	<b>\$620.8</b>	<b>\$51,994.5</b>

**Programs Funded Under Appropriations in Fiscal Year 2024**

\$54.450 billion is appropriated for Fiscal Year 2024 from the General Fund, the Property Tax Relief Fund, the Casino Control Fund and the Casino Revenue Fund. \$23.278 billion (43%) is appropriated for State Aid, which consists of payments to, or on behalf of, local government entities including counties, municipalities and school districts, to assist them in carrying out their local responsibilities. \$17.709 billion (32%) is appropriated for Grants-in-Aid, which represents payments to individuals or public or private agencies for benefits to which a recipient is entitled by law or for the provision of services on behalf of the State. \$10.909 billion (20%) is appropriated for Direct State Services, which supports the operation of the State government's departments, the Governor's Office, several commissions, the State Legislature and the Judiciary. \$1.972 billion (4%) is appropriated for Capital Construction, which supports capital construction pay-as-you-go and debt service on bonds issued to fund capital construction. \$582 million (1%) is appropriated for Debt Service on State General Obligation Bonds.

In Fiscal Year 2024, \$5.971 billion of State funds has been appropriated to the Pension Plans. This amount is equal to the actuarially recommended contribution less a Special Asset Adjustment calculated by LECA. See "STATE FUNDING OF PENSION PLANS" herein. For more information on the fiscal impact of the Lottery Enterprise contribution on the Teachers' Pension and Annuity Fund ("TPAF"), the Public Employees' Retirement System ("PERS") and Police and Firemen's Retirement System ("PFRS"), see "STATE FUNDING OF PENSION PLANS - Lottery Enterprise Contribution Act."

*Capital Construction*

All appropriations for capital projects are subject to the review of the New Jersey Commission on Capital Budgeting and Planning (the "Commission") which voted to recommend such funding at its meeting on February 24, 2023. The Commission is charged with the preparation of the State's seven-year Capital Improvement Plan. The Capital Improvement Plan is a detailed account of capital construction projects requested by State departments, agencies and institutions of higher education for the next three fiscal years and forecasts as to the requirements for

capital projects for the four fiscal years following. The Capital Improvement Plan includes the Commission's recommendations as to the priority of such capital projects and the means of funding them. The Capital Improvement Plan is also required to include a report on the State's overall debt. This debt report includes information on the outstanding general obligation debt and debt service costs for the prior fiscal year, the current fiscal year, and the estimated amount for the subsequent five fiscal years. The report also provides similar information on capital leases and installment obligations. *L. 2009, c. 304*, enacted in January 2010, requires that the debt report also include data on other State liabilities as reported in the ACFR, as well as the unfunded actuarial accrued liability for pension plans and the actuarial accrued liability for other post-employment medical benefits. The debt report is not an audited report.

For Fiscal Year 2024, requests for Capital Construction funding were substantially higher than the amount recommended by the Commission. The appropriations for Capital Construction contained in the Fiscal Year 2024 Appropriations Act are largely based on the recommendations of the Commission. There can be no assurance that the amounts ultimately appropriated are sufficient to maintain or improve the State's capital facilities and infrastructure assets, or that such capital funding requests will not be substantially greater in future years.

### *Transportation Capital Program*

The Fiscal Year 2024 Appropriations Act includes a \$2 billion Transportation Capital Program for the New Jersey Department of Transportation ("NJDOT"), NJ Transit and local governments. *L. 2016, c. 56*, provides for an eight (8) year, \$16 billion Transportation Capital Program between Fiscal Year 2017 and Fiscal Year 2024. *L. 2022, c. 38* increased the overall Transportation Capital Program size to \$16.6 billion in order to maintain the Program at least an average of \$2 billion after the advancement of \$600 million of capital projects in Fiscal Year 2021 to help stimulate the State economy during the height of the pandemic. Fiscal Year 2024 is the last year of the current eight (8) year program.

### *Debt Service on General Obligation Bonds and State Appropriation Obligations*

The total Fiscal Year 2024 appropriation for debt service on General Obligation Bonds and State Appropriation Obligations is \$4.335 billion. Of this amount, \$581.8 million represents principal and interest payments for General Obligation Bonds.

The Fiscal Year 2024 Appropriations Act includes appropriations for debt service on State Appropriation Obligations are in the aggregate amount of \$3.753 billion. Such appropriations are contained within the multiple functional categories, including State Aid, Grants-in-Aid, Direct State Services and Capital Construction. Appropriated debt service differs from the amounts shown in the tables entitled "SUMMARY OF LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023" and "ESTIMATED FUTURE DEBT SERVICE ON LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023" due to various budgetary adjustments.

## **Federal Aid**

### *Federal Aid Receipts*

In general, federal aid receipts in the General Fund and Special Transportation Fund of the State do not have a material impact on the financial condition of the General Fund of the State because federal aid receipts are required to be applied to specific designated expenditures, and the amount of federal aid receipts matches the amount of such expenditures. In some circumstances, federal aid receipts do impact the General Fund because they offset expenditures that the State would otherwise be required to make. In addition, with respect to many of the programs pursuant to which the State receives federal aid, the State is subject to audits of the expenditures to ensure that the State complied with the program requirements. In instances in which the State makes expenditures in violation of program requirements, the State may be obligated to repay the federal government the amounts of such expenditures and other associated amounts.

Actual federal aid receipts in the General Fund and Special Transportation Fund for Fiscal Years 2020 through 2022, which are non-budgeted revenues, amounted to \$16,414.2 million, \$20,348.0 million and \$24,103.9 million, respectively. Federal receipts in the General Fund and the Special Transportation Fund for Fiscal Year 2023

and for Fiscal Year 2024 are estimated to be \$23,299.1 million and \$25,312.9 million respectively. Such federal aid receipts for Fiscal Year 2024 are composed of \$16,364.7 million for health-related family programs under Titles XIX and XXI, \$1,469.4 million for other human services, \$1,143.7 million for Title I and other education, \$585.0 million for labor, \$1,674.9 million for transportation, and the remainder for all other federal aid programs.

#### *Federal Coronavirus Relief Aid*

The federal government has provided substantial relief to States to help recover from, and mitigate the financial pressures of, the pandemic. These stimulus packages have not only largely offset the need for the State to incur costs related to the public health emergency, but also have provided opportunities for the State to offset current expenditures and potentially replace lost revenues. The major stimulus packages have included the CARES Act, which established the \$150 billion Coronavirus Relief Fund (“CRF”); the CRRSA, which amended and supplemented the CARES Act, and the ARP, which established a \$350 billion State and Local Fiscal Recovery Fund (“SLFRF”). The CRF and the SLFRF were only two of the many grants made available by the federal government to help mitigate the financial pressures of the pandemic.

The State has utilized some of the federal funding streams to offset State budgeted costs. The State received \$6.2 billion in direct SLFRF and as of the enactment of the Fiscal Year 2024 Appropriations Act, all remaining SLFRF balances have been allocated across a variety of, largely one-time, programs. The State will work to ensure that all SLFRF balances are obligated by the December 31, 2024 deadline and the entire \$6.2 billion award is expended by the December 31, 2026 deadline.

As with all federal aid grants, the expenditure and use of these funds will be subject to federal audit. The State is utilizing a host of internal controls and documentation to ensure, to the greatest extent possible, that the expenditure of funds complies with the federal regulations and guidance.

#### **Expenditures**

As used herein, the term “expenditures” refers to a fiscal year’s net disbursements plus amounts obligated for payment in a subsequent fiscal year for budgeted, non-budgeted and federal funds. The table entitled “EXPENDITURES” on the next page displays the expenditures for Fiscal Years 2020 through 2022.

Expenditures exceed the dollar amounts enumerated in the appropriations acts by reason of and only to the extent of specific provisions in the authorizing acts which appropriate (or permit the expenditure of) unexpended balances of prior appropriations, certain cash receipts (such as student service fees and extension fees at State colleges) and most federal aid. Such unexpended balances, cash receipts and federal aid are not included in the tables of appropriations or revenues previously presented herein.

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**EXPENDITURES**  
(In Millions)

	For the Fiscal Year Ended June 30		
	2022	2021	2020
<u>General Fund:</u>			
Legislative Branch	\$ 93.2	\$ 89.7	\$ 86.9
Chief Executive's Office	8.2	8.0	8.2
Department of:			
Agriculture	1,219.3	746.7	675.6
Banking and Insurance	80.0	54.5	90.5
Children and Families	2,042.3	1,799.3	1,910.7
Community Affairs	2,799.1	1,466.7	821.3
Corrections	1,229.0	1,149.2	1,169.9
Education	2,272.4	6,961.7	1,766.5
Environmental Protection	708.1	647.9	584.2
Health	2,564.5	2,450.8	2,086.7
Human Services	23,202.8	20,380.1	18,725.4
Labor and Workforce Development	924.7	885.0	788.0
Law and Public Safety	2,110.1	1,843.9	1,476.8
Military and Veterans' Affairs	175.1	157.2	161.1
State	1,760.4	1,732.9	1,366.9
Transportation	3,208.0	2,819.2	3,198.1
Treasury	2,164.8	2,118.1	1,495.2
Miscellaneous Executive Commissions	1.0	0.8	0.7
Interdepartmental Accounts	11,603.0	8,829.9	4,622.2
Judicial Branch	950.7	904.1	901.4
Total General Fund	<u>\$59,116.7</u>	<u>\$55,045.7</u>	<u>\$41,936.3</u>
<u>Property Tax Relief Fund:</u>			
Department of:			
Agriculture	\$ 14.1	\$ 8.6	\$ 5.6
Community Affairs	384.4	363.5	319.8
Corrections	23.9	21.9	21.6
Education	17,867.8	12,832.6	14,217.2
Environmental Protection	5.1	4.8	4.8
Health	—	—	—
Human Services	246.0	220.2	200.0
Law and Public Safety	5.2	4.5	3.0
State	5.0	3.7	3.6
Transportation	301.9	223.4	218.8
Treasury	2,334.8	2,164.8	1,996.8
Interdepartmental	45.4	45.2	39.8
Total Property Tax Relief Fund	<u>\$21,233.6</u>	<u>\$15,893.2</u>	<u>\$17,031.0</u>
<u>Gubernatorial Elections Fund:</u>			
Law and Public Safety	<u>\$ 19.1</u>	<u>\$ 10.6</u>	<u>\$ —</u>
<u>Casino Control Fund:</u>			
Department of:			
Law and Public Safety	\$ 53.6	\$ 49.1	\$ 45.2
Treasury	6.0	5.3	5.3
Total Casino Control Fund	<u>\$ 59.6</u>	<u>\$ 54.4</u>	<u>\$ 50.5</u>
<u>Casino Revenue Fund:</u>			
Department of:			
Health	\$ 0.5	\$ 0.5	\$ 0.5
Human Services	458.2	363.9	259.7
Labor and Workforce Development	2.2	0.8	2.2
Law and Public Safety	0.1	0.1	0.1
Total Casino Revenue Fund	<u>\$ 461.0</u>	<u>\$ 365.3</u>	<u>\$ 262.5</u>
Total Expenditures	<u><u>\$80,890.0</u></u>	<u><u>\$71,369.2</u></u>	<u><u>\$59,280.3</u></u>

## **CASH MANAGEMENT**

Timing imbalances of the revenue collections and expenditures of the General Fund and the Property Tax Relief Fund exist because approximately 60% of the State's net major tax revenues is received in the second half of the fiscal year and over 35% of net major tax revenues is received during the last quarter of the fiscal year. At times, this timing imbalance has led to State revenues only exceeding State expenditures late in the third quarter or early in the fourth quarter of the fiscal year. In past fiscal years, the State's negative cash flow position through the first three quarters of a fiscal year was exacerbated by the fact that GIT receipts are not known until around early May of each fiscal year.

Furthermore, *L. 2016, c. 83* (the "Pension Contribution Act") requires the State to make its payments to the Pension Plans in quarterly installments on September 30, December 31, March 31 and June 30 commencing in Fiscal Year 2018. Prior to Fiscal Year 2018, the State had made its payments to the Pension Plans at the end of each fiscal year. The Pension Contribution Act reduces the State's flexibility to decrease expenditures in a fiscal year if revenues are less than anticipated. To address these challenges, the State employs a cash flow modeling system in order to manage cash on a daily basis and forecast cash flow throughout the fiscal year. Should it become necessary, the State may utilize a variety of tools to manage its cash flow. These tools include, but are not limited to: issuance of Tax and Revenue Anticipation Notes ("TRANs"); management of the impact of debt issuances during a fiscal year; interfund borrowing during a fiscal year; and eliminating and/or limiting the use of General Fund balances to provide upfront cash for other funds' expenditures, such as the Transportation Trust Fund ("TTF").

## **TAX AND REVENUE ANTICIPATION NOTES**

The State has the ability to issue TRANs to aid in providing effective cash flow management by funding timing imbalances that occur in the collection and disbursement of the General Fund and Property Tax Relief Fund revenues. TRANs do not constitute a general obligation of the State or a debt or liability within the meaning of the State Constitution. Such TRANs constitute special obligations of the State payable solely from monies on deposit in the General Fund and the Property Tax Relief Fund and legally available for such payment. TRANs are payable solely from revenues attributable to the fiscal year in which the TRANs were issued. No TRANs have been issued since Fiscal Year 2020 and the State does not expect to issue TRANs during Fiscal Year 2024.

## **LONG-TERM OBLIGATIONS**

### **General Obligation Bonds**

General Obligation Bonds of the State are authorized from time to time by Acts of the State Legislature. Each such "Bond Act" sets forth the authorized amounts and purposes of the bonds as well as certain parameters for issuing bonds, such as maximum term. Purposes under the Bond Acts have included open space and farmland preservation, water supply protection, transportation, higher education, port development, economic development, hazardous waste remediation, and many other public purposes. The Bond Acts provide that the bonds issued represent a debt of the State, and the faith and credit of the State are pledged to their repayment. Generally, each Bond Act requires voter approval. However, the Emergency Exception provides that no voter approval is required for bonds issued to meet an emergency caused by a disaster. See "CERTAIN CONSTITUTIONAL PROVISIONS AND JUDICIAL DECISIONS – Debt Limitations" herein. To address the financial consequences of the pandemic, the Emergency Bond Act was passed pursuant to which, on November 24, 2020, the State issued its \$3,672,360,000 New Jersey COVID-19 General Obligation Emergency Bonds, 2020 Series A. The State no longer has authorization to issue any additional bonds under the Emergency Bond Act.

Certain decisions relating to a general obligation bond sale, including the setting of interest rates and amortization of the bonds, are delegated to the "Issuing Officials" of the State, comprising the Governor, State Treasurer and Budget Director. The State Treasurer is directed to hold and invest the proceeds of the bond sale pending their expenditure in separate funds as established by the Bond Act. The Refunding Bond Act of 1985 sets forth the procedures and parameters for issuing bonds for the purpose of refunding outstanding bonds issued under any other Bond Act.

General Obligation Bonds are described in the “Notes to the Financial Statements” and the Statistical Section set forth in the 2022 ACFR which is incorporated by specific reference herein. See also the table captioned “STATE OF NEW JERSEY — LEGISLATIVELY AUTHORIZED BUT UNISSUED DEBT, 2022 AND 2021” in the 2022 ACFR.

### **State Appropriation Obligations**

The State has entered into a number of leases and contracts described below (collectively, the “Agreements”) with several governmental authorities to secure the financing of various projects and programs in the State. Under the terms of the Agreements, the State has agreed to make payments equal to the debt service on, and other costs related to, the obligations sold to finance the projects, including payments, if any, on swap agreements defined below under “- Swap Agreements.” The State Legislature has no legal obligation to enact appropriations to fund such payments, but has done so to date for all such obligations. The amounts appropriated to make such payments are included in the appropriation for the department, authority or other entity administering the program or in other line item appropriations. See “STATE FINANCES — Budget and Appropriation Process” and “FINANCIAL RESULTS AND ESTIMATES — Appropriations” herein. The principal amount of bonds which may be issued and the notional amount of swap agreements which may be entered into by such governmental authorities is, in certain cases, subject to specific statutory dollar ceilings or programmatic restrictions which effectively limit such amounts. In other cases, there are currently no such ceilings or limitations. In addition, the State Legislature may at any time impose, remove, increase or decrease applicable existing ceilings or limitations and impose, modify or remove programmatic restrictions. The State Legislature may also authorize new swap agreements with the governmental authorities listed below or other governmental authorities to secure the financing of projects and programs in the future. Certain of these changes may require voter approval.

The State expects that additional State Appropriation Obligations will be issued during Fiscal Year 2024 and future fiscal years. The Lance Amendment, described under “CERTAIN CONSTITUTIONAL PROVISIONS AND JUDICIAL DECISIONS — Debt Limitations” herein, prohibits the State Legislature from enacting legislation authorizing State Appropriation Obligations payable from sources other than constitutionally dedicated sources unless such legislation is submitted and approved by a majority of legally qualified voters of the State voting thereon at a general election. The State Legislature is not legally obligated to appropriate amounts for the payment of such State Appropriation Obligations debt service in any year, and there can be no assurance that the State Legislature will make any such appropriations. See also the table captioned “STATE OF NEW JERSEY — LEGISLATIVELY AUTHORIZED BUT UNISSUED DEBT, 2022 AND 2021” in the 2022 ACFR.

The following tables set forth the State’s long-term obligations. The first table summarizes by issuer and by program the principal amounts outstanding on June 30, 2023 and the estimated Fiscal Year 2024 debt service on such obligations. The second table depicts the aggregate estimated future debt service as of June 30, 2023 on all such General Obligation Bonds and State Appropriation Obligations. The data contained in the tables has not been adjusted to reflect subsequent activity. The tables include certain data that are (1) for governmental entities or programs that are not considered part of the State’s long-term obligations for financial reporting purposes under generally accepted accounting principles or (2) for a component unit of the State. These items are therefore not reflected in Note 11 — Long-Term Obligations and the Schedule of Long-Term Obligations in the 2022 ACFR. In addition, there are certain obligations which are included in such Note 11, which are not included in the following tables or elsewhere in this Appendix I. The amounts included in Note 11 which are not included in the following tables consist of Business Employment Incentive Program (“BEIP”) payments to private businesses. The State Legislature has never failed to appropriate amounts for the payment of debt service on the State Appropriation Obligations included in the following tables.



**SUMMARY OF LONG-TERM OBLIGATIONS  
AS OF JUNE 30, 2023**

<b>Issuer</b>	<b>Type of Agreement</b>	<b>Principal Amount Outstanding<sup>(1)</sup></b>	<b>Fiscal Year 2024 Debt Service<sup>(2)</sup></b>
General Obligation Bonds	General Obligation	\$ 4,602,325,000	\$ 589,565,510
<i>State Appropriation Bonds by Issuer or Program:</i>			
Garden State Preservation Trust	Contract	358,302,140	97,640,775
New Jersey Building Authority	Lease	32,125,000	7,957,500
New Jersey Economic Development Authority			
Biomedical Research Facilities	Contract	37,590,000	3,465,723
Department of Human Services Programs	Service Contract	646,000	375,673
Liberty State Park Project	Lease	29,175,000	8,115,225
Motor Vehicle Surcharges Revenue	Contract	590,185,000	64,875,506
Motor Vehicle Surcharges Revenue - Special Needs Housing	Contract	103,511,483	32,750,538
Municipal Rehabilitation	Contract	61,095,000	14,228,457
New Jersey Transit Corporation Projects	Lease	1,448,940,000	146,448,338
Offshore Wind Port Project	Lease	160,000,000	21,015,700
School Facilities Construction	Contract	4,812,196,000	928,791,858
State House Project	Lease	301,610,000	23,795,534
State Government Buildings Projects	Lease	341,375,000	24,571,950
State Pension Funding	Contract	1,765,690,700	506,962,677
New Jersey Educational Facilities Authority			
Capital Improvement Fund	Contract	245,370,000	30,271,053
Facilities Trust Fund	Contract	102,215,000	19,692,081
Technology Infrastructure Fund	Contract	16,745,000	3,734,975
New Jersey Health Care Facilities Financing Authority			
Greystone Park Psychiatric Hospital Project	Contract	128,275,000	17,564,213
Hospital Asset Transformation Program	Contract	150,015,000	14,891,250
Marlboro Psychiatric Hospital Project	Contract	60,370,000	3,870,575
New Jersey Sports and Exposition Authority	Contract	54,250,000	22,551,071
New Jersey Transportation Trust Fund Authority			
Transportation Program Bonds	Contract	7,447,380,000	410,328,082
Transportation System Bonds	Contract	7,795,875,716	969,289,562
State-Supported County College Bonds	Statutory	197,126,093	34,614,429
State Equipment Line of Credit	Lease	30,658,111	14,355,773
Master Energy Lease Purchase Agreement	Lease	51,601,268	5,361,046
<b>TOTALS</b>		<b>\$ 30,924,647,512</b>	<b>\$ 4,017,085,071</b>

<sup>(1)</sup> Amounts for outstanding capital appreciation bonds do not include accretion from date of issuance.

<sup>(2)</sup> For variable rate obligations, estimated interest amounts were calculated using the rates in effect on June 30, 2023. (See "LONG-TERM OBLIGATIONS – Description of Certain Long-Term Obligations – Variable Rate Obligations" herein.)

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**ESTIMATED FUTURE DEBT SERVICE ON LONG-TERM OBLIGATIONS  
AS OF JUNE 30, 2023**

Fiscal Year	General Obligation Bonds		State Appropriation Obligations		Total
	Principal	Interest	Principal <sup>(1)</sup>	Interest <sup>(1)(2)</sup>	
2024	\$ 392,185,000	\$ 197,380,510	\$ 1,867,657,775	\$ 1,559,861,786	\$ 4,017,085,071
2025	410,755,000	178,661,335	1,812,727,975	1,619,991,401	4,022,135,711
2026	430,080,000	159,418,045	1,908,274,645	1,377,604,240	3,875,376,930
2027	450,255,000	139,310,033	1,753,322,509	1,236,194,606	3,579,082,148
2028	451,030,000	117,939,533	1,922,599,594	1,149,169,107	3,640,738,233
2029	444,905,000	96,338,013	1,431,068,136	1,091,401,857	3,063,713,006
2030	466,440,000	75,112,120	783,164,087	965,425,896	2,290,142,103
2031	467,440,000	57,191,330	845,115,265	940,720,276	2,310,466,871
2032	485,550,000	39,145,005	874,128,903	913,000,448	2,311,824,356
2033	120,945,000	21,871,903	948,204,859	859,191,271	1,950,213,033
2034	94,175,000	7,689,288	959,684,860	822,424,985	1,893,974,132
2035	97,490,000	14,631,013	997,226,528	786,962,117	1,896,309,658
2036	60,340,000	11,459,325	874,222,738	866,383,612	1,812,405,676
2037	62,275,000	9,774,250	854,150,824	809,365,165	1,735,565,239
2038	34,460,000	8,011,500	801,498,026	800,769,584	1,644,739,110
2039	36,285,000	6,700,000	806,257,420	854,786,475	1,704,028,895
2040	37,860,000	4,885,750	993,809,782	722,351,228	1,758,906,760
2041	40,040,000	2,992,750	1,218,809,582	390,919,370	1,652,761,702
2042	19,815,000	990,750	781,662,500	209,631,751	1,012,100,001
2043	-	-	668,666,500	173,575,158	842,241,658
2044	-	-	545,385,000	142,131,175	687,516,175
2045	-	-	465,150,000	117,139,481	582,289,481
2046	-	-	441,205,000	97,061,619	538,266,619
2047	-	-	437,180,000	77,352,750	514,532,750
2048	-	-	431,830,000	58,134,113	489,964,113
2049	-	-	423,515,000	39,281,775	462,796,775
2050	-	-	370,475,000	20,673,700	391,148,700
2051	-	-	33,370,000	4,432,250	37,802,250
2052	-	-	35,080,000	2,721,000	37,801,000
2053	-	-	36,880,000	922,000	37,802,000
	<u>\$4,602,325,000</u>	<u>\$1,159,502,450</u>	<u>\$26,322,322,512</u>	<u>\$18,709,580,193</u>	<u>\$50,793,730,155</u>

<sup>(1)</sup> For capital appreciation bonds, the original issue amount is reflected as principal and the accretion in value from the date of issuance is reflected as interest in the year of bond maturity.

<sup>(2)</sup> For variable rate bonds, interest amounts were calculated using the rates in effect on June 30, 2023. (See “LONG-TERM OBLIGATIONS – Description of Certain Long-Term Obligations – Variable Rate Obligations” herein.)

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## New Jersey Debt Defeasance and Prevention Fund

### *Establishment of Debt Defeasance and Prevention Fund and Deposits*

As a result of higher-than-expected revenues during Fiscal Year 2021, at the end of Fiscal Year 2021, the State established the New Jersey Debt Defeasance and Prevention Fund (the “Debt Defeasance and Prevention Fund”). Under the legislation that established the Debt Defeasance and Prevention Fund in Fiscal Year 2021, amounts in the Debt Defeasance and Prevention Fund were available to retire and defease State debt (including General Obligation Bonds and State Appropriation Obligations) and to fund capital projects on a pay-as-you-go basis. At the end of Fiscal Year 2021, the State Legislature appropriated \$3.7 billion from the State’s General Fund into the Debt Defeasance and Prevention Fund for the following purposes: \$2.5 billion for retiring and defeasing State debt and \$1.2 billion for funding capital construction projects.

At the end of Fiscal Year 2022, the State Legislature appropriated \$5.15 billion to the Debt Defeasance and Prevention Fund. While the general purposes of the amounts appropriated at the end of Fiscal Year 2022 were consistent with the purposes of the amounts appropriated in Fiscal Year 2021, the State Legislature took a different approach in that it specifically allocated a portion of the appropriated amount and then provided that the unallocated balance would be allocated in the future for either the retirement or defeasance of State debt (including General Obligation Bonds and State Appropriation Obligations) or to fund capital projects on a pay-as-you-go-basis. The portion that was specifically allocated included \$1.9 billion to the New Jersey Schools Development Authority for the purpose of funding school facilities projects, emergent needs, and capital maintenance in school districts; \$230 million to the NJDOT for various capital projects and \$814 million to NJ Transit for various capital projects.

The State Legislature made an additional appropriation to the Debt Defeasance and Prevention Fund in an amount equal to \$400 million at the end of Fiscal Year 2023. This amount may be used for the same general purposes - to retire and defease State debt and to fund capital projects on a pay-as-you-go basis. However, the State Legislature designated specific allocations for capital projects from this source, including \$90 million to the Department of Corrections for the design and construction of a new correctional facility; \$120 million to the Department of Law and Public Safety for the design and construction of a State Police Training Center; \$24 million to the South Jersey Port Corporation for the purpose of funding capital projects; and \$137 million for the NJDOT to support the State match required as a condition of receiving federal funds to support various transportation projects. After this deposit and allocations, the unallocated balance in the Debt Defeasance and Prevention Fund was \$2 billion as of June 30, 2023. Pursuant to *L. 2023, c. 68*, amounts in the Debt Defeasance and Prevention Fund may be allocated to the defeasance of State debt as determined by the State Treasurer and may be allocated to capital projects as recommended by the State Treasurer upon the approval of the Joint Budget Oversight Committee.

### *State Debt Defeased from Debt Defeasance and Prevention Fund*

During Fiscal Year 2023, the State defeased the following obligations:

#### **Description and Par Amount of Defeased Obligations**

<b>Bond Issue</b>	<b>Par Amount Defeased</b>
NJEDA School Facilities Construction Refunding Bonds, 2018 Series EEE	\$119,515,000
NJEDA School Facilities Construction Bonds, 2016 Series AAA	158,420,000
NJEDA School Facilities Construction Refunding Bonds, 2015 Series WW	336,945,000
NJEDA School Facilities Construction Refunding Bonds, 2017 Series DDD	194,860,000
NJEDA School Facilities Construction Bonds, 2015 Series XX	145,625,000

These Fiscal Year 2023 defeasances are included in the amounts shown in the tables entitled “SUMMARY OF LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023 and “ESTIMATED FUTURE DEBT SERVICE ON LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023.” The escrow deposit agreement for each defeasance has been filed with the MSRB in connection with each series of defeased bonds. The State intends to utilize approximately \$500 million from the Debt Defeasance and Prevention Fund to defease additional State debt in Fiscal Year 2024. As

of the date hereof and except as stated above, the State has not allocated any additional amounts from the Debt Defeasance and Prevention Fund.

### **Issuers of State Appropriation Obligations**

#### *Garden State Preservation Trust*

The Garden State Preservation Trust (“GSPT”) issues bonds for the purpose of preserving open space and farmland. Pursuant to the Garden State Preservation Trust Act, as amended, the principal amount of bonds, notes or other obligations which could have been issued prior to July 1, 2009, other than refunding bonds, cannot exceed \$1.15 billion. The GSPT has issued all of its \$1.15 billion statutory bonding authorization. After July 1, 2009, only refunding bonds can be issued. The bonds issued by the GSPT are special obligations of the GSPT payable from amounts paid to it under a contract between the GSPT and the State Treasurer, subject to appropriation by the State Legislature.

#### *New Jersey Building Authority*

The New Jersey Building Authority (“NJBA”) issues bonds for the acquisition, construction, renovation and rehabilitation of various State office buildings, historic buildings and correctional facilities. Pursuant to a lease agreement, the State makes rental payments to the NJBA in amounts sufficient to pay debt service on the bonds, subject to appropriation by the State Legislature.

#### *New Jersey Economic Development Authority*

The NJEDA is authorized to issue bonds for various purposes described below.

The NJEDA has issued revenue bonds on behalf of non-profit community service providers. The payment of debt service on these revenue bonds is the obligation of the community service providers. However, such debt service payments as well as the payment of certain other provider expenses are reimbursed by the State pursuant to service contracts between the State Department of Human Services and these providers, subject to appropriation by the State Legislature. The contracts have one-year terms, subject to annual renewal.

The Motor Vehicle Surcharges Securitization Act of 2004, *L. 2004, c. 70*, authorizes the NJEDA to issue bonds payable from, and secured by, dedicated motor vehicle surcharge revenues as defined in the legislation. Debt service on the bonds is payable pursuant to a contract between the NJEDA and the State Treasurer, subject to appropriation by the State Legislature. Pursuant to *L. 2005, c. 163*, *L. 2004, c. 70* was amended to authorize the issuance of bonds by NJEDA in an amount not to exceed \$200 million to fund grants and loans for the costs of special needs housing projects in the State.

The Municipal Rehabilitation and Economic Recovery Act, *L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.)*, authorizes the NJEDA to issue bonds for the purpose of making deposits into certain funds described in *N.J.S.A. 52:27BBB-49* and *N.J.S.A. 52:27BBB-50*, to provide loans and grants to sustain economic activity in qualified municipalities under the Act. Debt service on the bonds is paid pursuant to a contract between the NJEDA and the State Treasurer, subject to appropriation by the State Legislature.

The Educational Facilities Construction and Financing Act, *L. 2000, c. 72 (“EFCFA”)* authorizes the NJEDA to issue bonds to finance the State share of costs for school facilities construction projects. EFCFA originally provided that the aggregate principal amount of bonds, notes or other obligations issued by NJEDA shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects, \$6,000,000,000 for the State share of costs for “Abbott District” school facilities projects, and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. Debt service on the bonds issued pursuant to EFCFA is paid pursuant to a contract between the State Treasurer and the NJEDA, subject to appropriation by the State Legislature. EFCFA was amended in July 2008 to increase the amount of bonds, notes or other obligations authorized to be issued by the NJEDA in additional aggregate principal amounts not to exceed: \$2,900,000,000 for the State share of costs for school facilities projects in the “SDA Districts” (formerly “Abbott Districts”), and

\$1,000,000,000 for the State share of costs for school facilities projects in all other districts, \$50,000,000 of which is allocated for the State share of costs for county vocational school district facilities projects. In regard to this increase in the amount of bonds authorized to be issued by NJEDA pursuant to this amendment, debt service on these bonds or refunding bonds issued by NJEDA and any additional costs authorized pursuant to Section 14 of EFCFA shall first be payable from revenues received from the GIT except that debt service on bonds issued to pay for administrative, insurance, operating and other expenses of the NJEDA and the Schools Development Authority in connection with school facilities projects shall be payable from the General Fund. The additional bonds issued pursuant to this amendment are also payable pursuant to the contract between the State Treasurer and the NJEDA, mentioned above, subject to appropriation by the State Legislature.

The State Pension Funding Bonds were issued pursuant to legislation enacted June 1997 to pay a portion of the State's unfunded accrued pension liability for the State's retirement system, which together with amounts derived from the revaluation of pension assets pursuant to companion legislation enacted at the same time, were sufficient to fully fund the then unfunded accrued pension liability at that time. Debt service on the bonds is payable pursuant to a contract between the State Treasurer and the NJEDA, subject to appropriation by the State Legislature.

L. 2006, c. 102 authorized the issuance of \$270 million of bonds by the NJEDA to fund various State capital construction projects, including stem cell research facilities in New Brunswick and Newark, biomedical research facilities, blood collection facilities and cancer research facilities. On September 14, 2016, the NJEDA issued \$46.850 million of Biomedical Research Facilities Bonds, Series 2016A. Debt service on the bonds is payable pursuant to a contract between the NJEDA and the State Treasurer, subject to appropriation by the State Legislature.

In addition, the State has entered into a number of leases with the NJEDA relating to the financing of certain real property, office buildings and equipment. The rental payments required to be made by the State under these lease agreements are sufficient to pay debt service on the bonds issued by the NJEDA to finance the acquisition and construction of such projects and other amounts payable to the NJEDA, including certain administrative expenses of the NJEDA. Amounts payable under the lease agreements are subject to appropriation by the State Legislature. See "CERTAIN CONSTITUTIONAL PROVISIONS AND JUDICIAL DECISIONS – Judicial Decisions" herein.

#### *New Jersey Educational Facilities Authority*

The New Jersey Educational Facilities Authority ("NJEFA") issues bonds pursuant to seven separate programs to finance: (i) the purchase of equipment to be leased to institutions of higher learning (the "Equipment Leasing Fund"); (ii) grants to the State's public and private institutions of higher education for the development, construction and improvement of instructional, laboratory, communication and research facilities (the "Facilities Trust Fund"); (iii) grants to public and private institutions of higher education to develop a technology infrastructure within and among the State's institutions of higher education (the "Technology Infrastructure Fund"); (iv) capital projects at county colleges; (v) grants to public and private institutions of higher education to finance the renewal, renovation, improvement, expansion, construction, and reconstruction of educational facilities and technology infrastructure (the "Capital Improvement Fund"); (vi) grants to public libraries to finance the acquisition, expansion and rehabilitation of buildings to be used as public library facilities and the acquisition and installation of equipment to be located therein (the "Public Library Project Grant Program"); and (vii) loans to public and private institutions of higher education and public or private secondary schools, military schools or boarding schools located in the State which are required under the Dormitory Safety Trust Fund Act to install automatic fire suppression systems for the cost or a portion of the cost of the construction, reconstruction, development, extension or improvement of dormitory safety facilities, including fire prevention and sprinkler systems (the "Dormitory Safety Trust Fund"). The debt service on the bonds issued under these programs is payable by the State pursuant to statutory provisions or contracts between the NJEFA and the State Treasurer, subject to appropriation by the State Legislature. Under the financing programs for the Equipment Leasing Fund, the Facilities Trust Fund, the Technology Infrastructure Fund and the Capital Improvement Fund, as bonds mature or are redeemed, the bonding capacity revolves. As of June 30, 2023, under these programs, the NJEFA has, in aggregate, approximately \$625,240,000 of bonding capacity.

#### *New Jersey Health Care Facilities Financing Authority*

The New Jersey Health Care Facilities Financing Authority ("HCFFA") is authorized to acquire, construct and lease projects to the New Jersey Department of Human Services ("DHS") and to issue bonds to finance such

projects, the debt service on which shall be paid by DHS, subject to appropriation by the State Legislature. The State has financed the construction of a new Greystone Park Psychiatric Hospital, the demolition of the old Greystone Park Psychiatric Hospital and the demolition of the old Marlboro Psychiatric Hospital through the issuance of bonds by HCFFA that are secured by payments made by DHS, subject to appropriation by the State Legislature.

Under the Hospital Asset Transformation Program established by *L. 2000, c. 98*, as amended by *L. 2007, c. 110*, and *L. 2009, c. 2*, HCFFA is authorized to issue bonds to provide funds to any nonprofit health care organization in order to, among other things, satisfy the outstanding indebtedness of a hospital, pay the costs of transitioning or terminating the provision of hospital acute care services at a specific location, including the costs of construction, renovation, equipment, information technology and working capital, and pay the costs associated with the closure or acquisition of a general hospital. Such bonds are special obligations of HCFFA payable from amounts paid to it under a contract between HCFFA and the State Treasurer, subject to appropriation by the State Legislature.

#### *New Jersey Sports and Exposition Authority*

The New Jersey Sports and Exposition Authority (the “NJSEA”) issues bonds for various purposes payable from a contract between the NJSEA and the State Treasurer (the “NJSEA State Contract”). Pursuant to the NJSEA State Contract, the NJSEA undertakes certain projects and the State Treasurer credits to the NJSEA amounts from the General Fund sufficient to pay debt service and other costs related to the bonds, subject to appropriation by the State Legislature.

#### *New Jersey Transportation Trust Fund Authority*

The New Jersey Transportation Trust Fund Authority (the “TTFA”) issues bonds for the purpose of funding a portion of the State’s share of the cost of improvements to the State’s transportation system. The bonds issued by the TTFA are special obligations of the TTFA payable from a contract among the TTFA, the State Treasurer and the Commissioner of Transportation, subject to appropriation by the State Legislature. The issuance of refunding bonds to refund prior obligations of the TTFA is not subject to the debt issuance restrictions described below, but is subject to the approval of the Joint Budget Oversight Committee.

The New Jersey Transportation Trust Fund Authority Act of 1984, as amended by *L. 2016, c. 56* authorizes the issuance of \$12 billion in Transportation Program Bonds between Fiscal Year 2017 and Fiscal Year 2024, the payment of debt service on which must be paid solely from revenues dedicated for transportation purposes pursuant to Article VIII, Section II, paragraph 4 of the State Constitution.

An amendment to Article VIII, section II, paragraph 4 of the State Constitution was approved by the voters on November 8, 2016, dedicating all revenue from the motor fuels and petroleum products gross receipts taxes for transportation purposes. These constitutionally dedicated monies are available to be appropriated by the Legislature to the TTFA to pay debt service on Transportation Program Bonds issued by the TTFA and as pay-as-you-go-funding. Any constitutionally dedicated revenues in excess of the amount needed to pay debt service on TTFA bonds and Transportation Capital Program project costs are appropriated to the Transportation Trust Fund Account - Subaccount for Capital Reserves to meet future Transportation Capital Program needs.

#### *State Supported County College Bonds*

Legislation provides for appropriations for State Aid to counties equal to a portion of the debt service on bonds issued by or on behalf of such counties for construction of county college facilities (*L. 1971, c. 12*, as amended). The State Legislature has no legal obligation to make such appropriations, but has done so to date for all obligations issued under this legislation. The NJEFA is also authorized to issue its obligations to finance county college capital facilities which are secured in whole or in part by an agreement with the State Treasurer, subject to appropriation by the State Legislature.

### *State Equipment Lease Financing*

The State finances the acquisition of certain equipment and vehicles to be used by various State departments through equipment lease financings established from time to time with one or more financial services providers. Repayments of amounts drawn under the equipment lease financings are subject to appropriation by the State Legislature.

### *Master Energy Lease Purchase Agreement*

The State finances the acquisition of certain energy efficiency projects at State facilities through equipment lease financings established from time to time with one or more financial services providers. Repayments of amounts drawn under the equipment lease financings are subject to appropriation by the State Legislature.

## **Description of Certain Long-Term Obligations**

### *Variable Rate Obligations*

As of June 30, 2023, the NJEDA had outstanding \$60,850,000 of floating rate notes (“FRN”), which bear interest at rates that reset weekly and are based on the Securities Industry and Financial Markets Association (“SIFMA”) rate plus a fixed spread. There are no letters of credit in support of these notes. Such notes are included within the Long-Term Obligations tables herein.

The following table provides a summary of the State-supported variable rate obligations outstanding as of June 30, 2023.

### **SUMMARY OF VARIABLE RATE OBLIGATIONS AS OF JUNE 30, 2023**

<b>Issuer</b>	<b>Series</b>	<b>Type-Reset Period</b>	<b>Amount Outstanding as of 6/30/23</b>	<b>Index Rate (if applicable)</b>	<b>Interest Rate as of 6/30/23</b>	<b>Maturity Date</b>
NJEDA - School Facilities Construction	2013 Series I	FRN-Weekly	\$60,850,000	SIFMA + 1.25%	5.26%	9/01/25

### *Bank Loan Bonds*

The NJEDA and the NJEFA have issued certain series of bonds to finance school facilities construction projects and higher education capital improvement projects pursuant to term loan agreements with several banks. A bank’s rights under such term loan agreements are essentially the same as bondholders’ rights except for a few differences. The bank may require the mandatory term out of the bonds for a shortened amortization period if certain events occur under the loan agreement, including, without limitation, the failure to pay, or cause to be paid, when due, principal of or interest on the bonds, a debt moratorium, a ratings downgrade, a material failure to perform under the applicable State contract, an action that materially adversely affects the rights, remedies or security of the trustee under the bond resolution or the bank under the term loan agreement or a material amendment or modification to the applicable State contract without the prior written consent of the bank. For tax-exempt bonds, the term loan agreements provide that if an event of taxability occurs, the interest rate on the bonds will increase. The aggregate amount of such bank loan bonds outstanding as of June 30, 2023 is \$1,041,651,000. Such bonds are included within the Long-Term Obligations tables herein.

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The following table provides a summary of the State-supported term loan agreements outstanding as of June 30, 2023.

### BANK LOAN PORTFOLIO

<u>Lender</u>	<u>Series</u>	<u>Tax Status</u>	<u>Amount Outstanding as of 6/30/23</u>	<u>Fixed Interest Rate*</u>	<u>Maturity Date</u>
<b><u>NJEDA School Facilities Construction Bonds</u></b>					
Bank of America, N.A.	2014 Series SS	Tax Exempt	\$ 41,800,000	2.910%	6/15/2024
Barclays Capital Inc.	2019 Series GGG	Tax Exempt	79,440,000	5.250	9/1/2023
Barclays Capital Inc.	2019 Series GGG	Tax Exempt	102,850,000	5.250	9/1/2024
Barclays Capital Inc.	2019 Series GGG	Tax Exempt	86,620,000	5.250	9/1/2025
Barclays Capital Inc.	2019 Series GGG	Tax Exempt	104,200,000	5.250	9/1/2026
Barclays Capital Inc.	2019 Series GGG	Tax Exempt	30,555,000	5.250	9/1/2027
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	1,567,000	3.070	12/15/2023
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	7,579,000	3.070	12/15/2024
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	2,355,000	3.070	12/15/2025
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	13,065,000	3.070	12/15/2026
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	18,856,000	3.070	12/15/2027
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	10,946,000	3.070	12/15/2028
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	10,304,000	3.070	12/15/2029
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	25,544,000	3.070	12/15/2030
Capital One Public Funding, LLC	2019 Series III	Tax Exempt	8,344,000	3.070	12/15/2031
PNC Bank, N.A.	2019 Series JJJ	Tax Exempt	8,360,000	2.765	9/1/2023
PNC Bank, N.A.	2019 Series JJJ	Tax Exempt	351,000	2.765	9/1/2024
PNC Bank, N.A.	2019 Series JJJ	Tax Exempt	361,000	2.765	9/1/2025
PNC Bank, N.A.	2019 Series JJJ	Tax Exempt	9,528,000	2.765	9/1/2026
PNC Bank, N.A.	2019 Series JJJ	Tax Exempt	9,795,000	2.765	9/1/2027
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	467,000	3.470	12/15/2023
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	483,000	3.470	12/15/2024
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	500,000	3.470	12/15/2025
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	518,000	3.470	12/15/2026
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	536,000	3.470	12/15/2027
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	555,000	3.470	12/15/2028
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	575,000	3.470	12/15/2029
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	595,000	3.470	12/15/2030
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	27,695,000	3.470	12/15/2031
PNC Bank, N.A.	2019 Series KKK	Tax Exempt	21,782,000	3.470	12/15/2032
Bank of America, N.A.	2020 Series OOO	Tax Exempt	99,245,000	4.240	6/15/2024
Bank of America, N.A.	2020 Series OOO	Tax Exempt	79,935,000	4.390	6/15/2025
Bank of America, N.A.	2020 Series PPP	Taxable	98,900,000	4.750	6/15/2024
Bank of America, N.A.	2020 Series PPP	Taxable	79,655,000	4.900	6/15/2025
<b>Total</b>			<b>\$983,861,000</b>		
<b><u>NJEDA Municipal Rehabilitation Bonds</u></b>					
Barclays Capital Inc.	2019 Series A	Tax Exempt	10,545,000	5.250	4/1/2025
Barclays Capital Inc.	2019 Series A	Tax Exempt	10,430,000	5.250	4/1/2026
Barclays Capital Inc.	2019 Series A	Tax Exempt	9,320,000	5.250	4/1/2027
Barclays Capital Inc.	2019 Series A	Tax Exempt	13,435,000	5.250	4/1/2028
Barclays Capital Inc.	2019 Series B	Taxable	1,790,000	4.580	4/1/2026
Barclays Capital Inc.	2019 Series B	Taxable	3,500,000	4.580	4/1/2027
<b>Total</b>			<b>\$ 49,020,000</b>		
<b><u>NJEFA Higher Education Capital Improvement Fund Bonds</u></b>					
DNT Asset Trust	Series 2016 A	Tax Exempt	4,650,000	3.300	9/1/2023
DNT Asset Trust	Series 2016 A	Tax Exempt	4,120,000	3.440	9/1/2024
<b>Total</b>			<b>\$ 8,770,000</b>		
<b>Grand Total</b>			<b>\$1,041,651,000</b>		

\* Interest rate subject to adjustment upon a downgrade in the State's credit rating.



### *Swap Agreements*

The various independent State authorities authorized to issue State Appropriation Obligations in certain cases are also authorized to enter into interest rate exchange agreements (“Swap Agreements”). As of June 30, 2023, the notional amount of Swap Agreements supported by State appropriations is zero.

### **MORAL OBLIGATIONS**

The authorizing legislation for certain State entities provides for specific budgetary procedures with respect to certain obligations issued by such entities. Pursuant to such legislation, a designated official is required to certify any deficiency in a debt service reserve fund maintained to meet payments of principal of and interest on the obligations, and a State appropriation in the amount of the deficiency is to be made. However, the State Legislature is not legally bound to make such an appropriation. Bonds issued pursuant to authorizing legislation of this type are sometimes referred to as moral obligation bonds. There is no statutory limitation on the amount of moral obligation bonds which may be issued by eligible State entities.

The following table sets forth the moral obligations outstanding as of June 30, 2023 and debt service for Fiscal Year 2024.

	<b>Principal Amount Outstanding</b>	<b>Fiscal Year 2024 Debt Service</b>
South Jersey Port Corporation .....	\$ 170,960,000	\$ 18,883,020
South Jersey Port Corporation Subordinated .....	255,000,000	15,640,000
Higher Education Student Assistance Authority.....	1,382,780,000	183,073,167
	<u>\$ 1,808,740,000</u>	<u>\$ 217,596,187</u>

#### **South Jersey Port Corporation**

The State, under its moral obligation, has provided the South Jersey Port Corporation (the “Port Corporation”) with funds to replenish its debt service reserve fund to the extent drawn upon by the Port Corporation when Port Corporation revenues are insufficient to pay debt service on its outstanding bonds. Such payments to the Port Corporation are subject to appropriation by the State Legislature.

The following table sets forth the amounts paid to the Port Corporation to replenish its debt service reserve fund and subordinated debt service reserve fund for the past five fiscal years. The State expects the Port Corporation to request that the State replenish the debt service reserve funds of the Port Corporation in Fiscal Year 2024.

<b>Fiscal Year</b>	<b>Amounts Paid for Debt Service</b>	<b>Amounts Paid for Debt Service (Subordinated)</b>
2019.....	\$ 17,650,000	\$ -
2020.....	17,000,000	11,375,275
2021.....	17,873,000	11,291,000
2022.....	16,925,000	12,710,000
2023.....	15,100,000	12,710,000

#### **Higher Education Student Assistance Authority**

The Higher Education Student Assistance Authority (“HESAA”) has not had a revenue deficiency which required the State to appropriate funds to meet its moral obligation. It is anticipated that the HESAA’s revenues will continue to be sufficient to pay debt service on its bonds.

## OTHER OBLIGATIONS

The following Other Obligations are not considered State Appropriation Obligations and are therefore not included in the amounts shown in the tables entitled “SUMMARY OF LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023” and “ESTIMATED FUTURE DEBT SERVICE ON LONG-TERM OBLIGATIONS AS OF JUNE 30, 2023”.

### **New Jersey Transportation Trust Fund Authority – “GARVEES”**

On November 2, 2016, the TTFA issued \$3.241 billion of Federal Highway Reimbursement Revenue Notes (“GARVEE Notes”) which consisted of \$2.741 billion of publicly offered 2016 Series A GARVEE Notes and \$500 million of 2016 Series B GARVEE Notes, which are bank loan notes, purchased by Bank of America, N.A. Both Series of Notes are secured solely by reimbursements received by or on behalf of the NJDOT pursuant to Title 23 of the United States Code from the Federal Highway Administration. On July 25, 2018, \$1.2 billion of 2018 Series A GARVEE Refunding Notes were issued to refund a portion of the 2016 Series A GARVEE Notes. As of June 30, 2023, the aggregate amounts of GARVEE Notes and Refunding Notes outstanding are \$1,360,810,000 and \$851,580,000, respectively.

### **Qualified Bonds**

L. 1976, c. 38, as amended by L. 2015, c. 95, and L. 1976, c. 39 (the “Acts”) provide for the issuance of “Qualified Bonds” by municipalities and school districts. Whenever a local board of education or the governing body of a municipality determines to issue bonds, it may file an application with the Local Finance Board, and, in the case of a local board of education, also with the Commissioner of Education, to qualify bonds pursuant to the Acts. Upon approval of such application, the State Treasurer shall withhold from certain State appropriations of revenues or other State aid payable to the municipalities or appropriations of State school aid payable to the school district, as appropriate, an amount sufficient to pay debt service on such bonds. Additionally, with respect to Qualified Bonds issued by municipalities, a statutory lien and trust, superior to all other liens, automatically attaches to such appropriations, in favor of the holders of Qualified Bonds, for the sole purpose of paying debt service on the Qualified Bonds. These Qualified Bonds are not direct, guaranteed or moral obligations of the State, and debt service on such bonds will be paid by the State only to the extent that the State aid or State school aid has been appropriated by the State Legislature. As of June 30, 2023, the aggregate amounts of municipal and school district Qualified Bonds outstanding are \$1,003,277,634 and \$20,080,000, respectively.

### **Tobacco Settlement Asset-Backed Bonds**

The State has transferred to the Corporation, established pursuant to L. 2002, c. 32 (the “Act”), the State’s right to receive all tobacco settlement receipts (the “TSRs”) to be received by the State after December 1, 2003 from the multi-state Master Settlement Agreement (“MSA”) which settled litigation with the participating tobacco companies. In April 2018, the Corporation refunded all of its outstanding Tobacco Settlement Asset-Backed Bonds, Series 2007-1 with the proceeds of its Tobacco Settlement Bonds, Series 2018A (Senior) & 2018B (Subordinate). As of June 30, 2023, the Corporation had \$2,573,210,000 in outstanding bonds secured by TSRs.

## STATE EMPLOYEES

### **Public Employer-Employee Relations Act**

The State, as a public employer, is covered by the New Jersey Public Employer-Employee Relations Act, as amended (*N.J.S.A. 34:13A-1 et seq.*), which guarantees public employees the right to negotiate collectively through employee organizations certified or recognized as the exclusive collective negotiations representatives for units of public employees found to be appropriate for collective negotiations purposes. Approximately 55,689 full-time Executive Branch employees are paid through the State payroll system. Of the 55,689 employees, approximately 51,705 are represented by certified or recognized exclusive majority representatives and are organized into various negotiation units. There are twelve plus civilian units, ten of which presently represent approximately 51,705 employees in the Executive Branch. The Health Care and Rehabilitation Services Unit is represented by the American

Federation of State, County and Municipal Employees (“AFSCME”) and includes about 6,016 employees. The Administrative and Clerical Services Unit, the Primary Supervisory Unit, the Professional Unit and the Higher Level Supervisory Unit are all represented by the Communications Workers of America (“CWA”) and include about 5,467 employees, 6,982 employees, 15,369 employees and 2,366 employees, respectively, for a total of 30,184 employees. The Crafts Unit, the Inspection and Security Unit, and the Operations, Maintenance and Services Unit are represented by the International Federation of Professional and Technical Engineers (“IFPTE”) and the New Jersey State Motor Vehicle Employees Union, Service Employees International Union (“SEIU”), and combined include about 4,292 employees. The Deputy Attorneys General (“DAsG”) unit and the State Government Managers (“Managers”) Unit are both represented by the International Brotherhood of Electrical Workers (“IBEW”) and include approximately 404 employees (represented by IBEW Local 33) and 742 employees (represented by IBEW Local 30), respectively. There are approximately 10,066 employees represented by twelve law enforcement units.

## **Negotiation Process**

The New Jersey Public Employer-Employee Relations Act specifies a negotiation process for non-police and non-fire units which includes mediation and advisory fact-finding in the event of a negotiations impasse. This process is geared to the public employer’s budget submission process. The economic provisions included in these negotiated agreements generally take effect at the beginning of each fiscal year or at other times provided in the agreements. Police and fire negotiations units may also submit to mediation and fact-finding in the event that negotiations with the State produces an impasse and the parties agree to do so, but where no agreement is achieved by exhaustion of these processes, police and fire units are additionally entitled to submit their final demands to binding interest arbitration. Approximately 10,066 State employees come under the binding interest arbitration process. Of the 10,066, approximately 2,887 are in the State Police.

## **Contract Status**

The State has entered into a four-year contract for Fiscal Years 2020-2023 with the IFPTE Local 195 and the Motor Vehicle Inspector Division of Local 32BJ SEIU, CTW, CLC. The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 2% in Fiscal Year 2022 (effective the first full pay period after July 1, 2021) and 2% in Fiscal Year 2023 (effective the first full pay period after April 1, 2022). In addition to these 2% increases, any full-time employee on the active payroll with an annual base salary under \$41,400 shall receive a cash bonus, not included in base salary, equal to the difference between the across the board increase on an annual salary of \$41,400 and the across the board increase of that employee’s base salary. In June 2020, the parties entered into a memorandum of agreement to defer the 2% increase and the under \$41,400 cash bonus payment due in Fiscal Year 2021 to the first full pay period after December 1, 2021 and the 2% increase and under \$41,400 cash bonus due in Fiscal Year 2022 (April 2022 and June 2022 (for 10 month employees)) to the first full pay period after July 1, 2022. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State has entered into a four-year contract for Fiscal Years 2020-2023 with the CWA representing four (4) units. The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 2% in Fiscal Year 2022 (effective the first full pay period after July 1, 2021) and 2.0% in Fiscal Year 2023 (effective the first full pay period after April 1, 2022). In June 2020, the parties entered into a memorandum of agreement to defer the 2% increase effective in Fiscal Year 2021 to the first full pay period after December 1, 2021 and the 2% increase due in Fiscal Year 2022 (April 2022 and June 2022 (for 10 month employees)) to the first full pay period after July 1, 2022. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State has entered into a four-year contract for Fiscal Years 2020-2023 with AFSCME New Jersey Council 63. The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 2% in Fiscal Year 2022 (effective the first full pay period after July 1, 2021) and 2.0% in Fiscal Year 2023 (effective the first full pay period after April 1, 2022). Any full-time employee on the active payroll with an annual base salary under \$39,900 shall receive a cash bonus, not included in base salary, equal to the

difference between the across the board increase on an annual salary of \$39,900 and the across the board increase of that employee's base salary. In June 2021, the parties entered into a memorandum of agreement to defer the 2% increase and the employees making under \$39,900 cash bonus payment due in Fiscal Year 2021 to the first full pay period after December 1, 2021 and the 2% increase and the employees making under \$39,900 cash bonus due in Fiscal Year 2022 (April 2022 and June 2022 (for 10 month employees)) to the first full pay period after July 1, 2022. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State has entered into a four-year contract for Fiscal Years 2020-2023 with the IBEW, Local 33, Deputy Attorneys General (DAsG) unit. The contract provides for an upward adjustment of the salary schedules, with DAsG placed on the appropriate step prior to the across the board increases. The contract provides for across the board salary increases of 8% as follows: 2% in Fiscal Year 2020 (effective February 1, 2020), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2022 and 2% effective the first full pay period after January 1, 2022). The contract provides for a salary cap of \$145,000. In January 2021, the parties entered into a memorandum of agreement to defer the 2% increase effective in Fiscal Year 2021 to the first full pay period after December 1, 2021 and the 2% increase due in Fiscal Year 2022 (first full pay period after January 1, 2022) to the first full pay period after May 1, 2022. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State has entered into a four-year contract for Fiscal Years 2020-2023 with the IBEW, Local 30, State Government Managers' Unit (SGM Unit). The contract provides for an upward adjustment of the salary schedules, with unit members placed on the appropriate step prior to the FY 2021 across the board increases. The contract provides for across the board salary increases of 8% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after April 1, 2022). The contract provides for a salary cap of \$150,000. In June 2021, the parties entered into a memorandum of agreement to defer the 2% increase effective in Fiscal Year 2021 (July 2020) to the first full pay period after September 1, 2021, the 2% increase due in Fiscal Year 2022 (July 2021) to the first full pay period after January 1, 2022 and the 2% increase effective Fiscal Year 2022 (April 2022) to the first full pay period after July 1, 2022. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State entered into a four-year contract for Fiscal Years 2020-2023 with the Policemen's Benevolent Association Local 105 ("PBA 105"). The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December 1, 2021), and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State entered into a four-year contract for Fiscal Years 2016-2019 with the New Jersey Investigators Association, State Fraternal Order of Police Lodge 174 ("NJIA" or "FOP Lodge 174"). The contract expired and negotiations have commenced for a successor agreement. The parties did not reach a mutual agreement and the union filed for interest arbitration in early 2023 for a contract that would commence in Fiscal Year 2020. On June 9, 2023, the arbitrator issued a decision and awarded a four-year contract for Fiscal Years 2020-2023, with percentage increases as follows: 2% effective October 2019; 2% effective July 2021; 2.75% effective December 2021; 2.75% effective July 2022.

The State entered into a four-year contract for Fiscal Years 2016-2019 with the New Jersey Policemen's Benevolent Association State Law Enforcement Unit ("SLEU"). The contract has expired and negotiations are ongoing for a successor agreement. The parties did not reach a mutual agreement. The parties are now in Interest Arbitration for a contract that would commence in Fiscal Year 2020.

The State entered into a four-year contract for Fiscal Years 2020-2023 with the New Jersey Law Enforcement Supervisors Association ("NJLESA"). The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December

1, 2021), and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State entered into a four-year contract for Fiscal Years 2020-2023 with the New Jersey Superior Officers Law Enforcement Association (“NJSOLEA”), which was resolved through binding arbitration. The binding interest arbitration decision of the hearing officer was issued on April 17, 2022 and affirmed by the Public Employment Relations Commission on June 30, 2022. The award provided for across the board salary increase for the successor agreement as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 5% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 3% effective the first full pay period after December 1, 2021), and 3% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State entered into a four-year contract for Fiscal Years 2020-2023 with the New Jersey Law Enforcement Commanding Officers Association (“NJLECOA”). The contract provides for across the board salary increases of approximately 8.0% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December 1, 2021), and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). In addition to the across-the-board increases, the Chief, Bureau Law Enforcement, DEP, Assistant Chief, JJC, and Deputy Chief Investigator, DOC will receive salary adjustments. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State entered into a four-year contract for Fiscal Years 2020-2023 with the Policemen’s Benevolent Association, Local 383 (“PBA 383”) formerly, FOP Lodge 91. The contract provides for the following across the board salary increases: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December 1, 2021), an additional 15% in Fiscal Year 2022 (effective the first full pay period after January 1, 2022), and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

The State has entered into a four-year contract for Fiscal Years 2022-2025 with the State Troopers Non-Commissioned Officers Association (“STNCOA-Sergeants”), which was resolved through binding arbitration. The arbitration award was issued on September 16, 2022 and provides for across the board salary increases as follows: 4% in Fiscal Year 2022 (2 % effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after April 1, 2022), 2.75% in Fiscal Year 2024 (effective the first full pay period after July 1, 2023) and 2.75% in Fiscal Year 2025 (effective the first full pay period after July 1, 2024). Maintenance allowance increases in each year of the contract effective the first full pay period after the following dates: July 1, 2021 \$16,565.67, January 1, 2022 \$17,315.67, April 1, 2022, \$17,661.98, January 1, 2023 \$18,411.98, July 1, 2023 2.75% increase and July 1, 2024 2.75% increase.

The State has entered into a four-year contract for Fiscal Years 2022-2025 with the State Troopers Superior Officers Association (“STSOA-Lieutenants and Captains”), which was resolved through binding arbitration. The arbitrations award was issued on September 16, 2022 and provides for across the board salary increases as follows: 4% in Fiscal Year 2022 (2 % effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after April 1, 2022), 2.75% in Fiscal Year 2024 (effective the first full pay period after July 1, 2023) and 2.75% in Fiscal Year 2025 (effective the first full pay period after July 1, 2024). Effective the first full pay period after July 1, 2024, a 6% differential will be maintained between the ranks of State Police Captain and Lieutenant. The 6% differential is predicated upon the Lieutenants highest base salary. Maintenance allowance increases in each year of the contract effective the first full pay period after the following dates: July 1, 2021 \$16,565.67, January 1, 2022 \$17,315.67, April 1, 2022, \$17,661.98, January 1, 2023 \$18, 411.98, July1, 2023 2.75% increase and July 1, 2024 2.75% increase.

The State has entered into a four-year contract for Fiscal Year 2020-2023 with the State Troopers Fraternal Associations (“STFA-Troopers”) The contract provides for across the board salary increases of 8% as follows: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019), 2% in Fiscal Year 2021 (effective the first full pay period after July 1, 2020), 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after April 1, 2022). Maintenance allowance increased in each year of the

contract: \$14,942.01 in Fiscal Year 2020, \$16,240.85 in Fiscal Year 2021, \$17,661.98 in Fiscal Year 2022 and \$18,411.98 in Fiscal Year 2023. The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

In March 2022, the State entered into a four-year contract for Fiscal Years 2020-2023 with the Division of Criminal Justice Non-Commissioned Officer Assoc., Sergeant, State Investigator Unit, Dept. of Law & Public Safety, PBA 383 A. The contract provides for the following across the board salary increases: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019); 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December 1, 2021); an additional 15% in Fiscal Year 2022 (effective the first full pay period after January 1, 2022); and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

In March 2022, the State entered into a four-year contract for Fiscal Years 2020-2023 with the Division of Criminal Justice Superior Officers Assoc., Lieutenant, State Investigator Unit, Dept. of Law & Public Safety, PBA 383 B. The contract provides for the following across the board salary increases: 2% in Fiscal Year 2020 (effective the first full pay period after October 1, 2019); 4% in Fiscal Year 2022 (2% effective the first full pay period after July 1, 2021 and 2% effective the first full pay period after December 1, 2021); an additional 15% in Fiscal Year 2022 (effective the first full pay period after January 1, 2022); and 2% in Fiscal Year 2023 (effective the first full pay period after July 1, 2022). The parties have commenced negotiations for the successor agreement to the Fiscal Years 2020-2023 agreement.

## **STATE FUNDING OF PENSION PLANS**

### **Background**

The State sponsors and operates seven defined benefit pension plans (the “Pension Plans”), which fund retirement benefits for almost all of the public employees of the State. The Pension Plans will fund those retirement benefits from their assets, earnings on their assets, contributions by the State and contributions from Pension Plan members. Local governments within the State participate as employers sponsoring two of the Pension Plans. In both of these Pension Plans, the assets that the State and the local governments contribute are invested together and generate one investment rate of return. However, both of these Pension Plans segregate the active and retired members and the related actuarial liabilities between the State and the local governments. The following description of the State’s funding of the Pension Plans solely relates to the State’s portion of the Pension Plans. The State makes contributions to the Pension Plans under the State statutes and such contributions are subject to the appropriation by the State Legislature and actions by the Governor.

### **Overview of the Financial Condition of the Pension Plans**

As a result of lower-than-recommended contributions by the State to the Pension Plans for an extended period, lower than assumed investment returns on an actuarial basis, benefit enhancements enacted during the late 1990s and early 2000s, and reductions in member contributions, the Pension Plans’ aggregate funded ratio (which compares the value of Pension Plan assets to the present value of future benefit payments) deteriorated and, as of June 30, 2016, before giving effect to the State’s contribution of its Lottery Enterprise and other actions, was 44.7%. Since 2016, the State has taken the following steps to strengthen the financial condition of the Pension Plans (among other actions taken by the State):

- The State followed a funding policy for the pension plans since 2016 that has resulted in fully funding the actuarially recommended contribution since Fiscal Year 2022, which the State has continued in the Fiscal Year 2024 Appropriations Act;
- The State Legislature adopted the Pension Contribution Act in 2016, under which the State is required to make its contributions to the Pension Plans quarterly instead, as the practice before then had been, at the end of a Fiscal Year; and

- Under the LECA, the State contributed its Lottery Enterprise (which is defined and explained below) to the Pension Plans as of June 30, 2017.

While the State projects that its annual contributions will increase at a much slower rate than when the State was ramping up to full actuarially recommended contributions, the Pension Plans still face potential risks and uncertainties from State and national economic conditions. Outcomes that differ from assumed investment returns, lottery net proceeds, employer contributions, as well as changes in valuation assumptions and methodologies could impact the financial condition of the Pension Plans. The information presented in this Appendix I reflects reasonable expectations of trends over the next thirty years. Uncertain economic conditions and other factors beyond the control of the State may result in a future change in the assumptions used to generate forward-looking estimates that could ultimately affect the level of State contributions.

### **Prospective Financial Information of Pension Plans**

The following sets forth a projection of the financial condition of the Pension Plans, contributions from the State, contributions from members of the Pension Plans, and other related information. The following information constitutes forward-looking information and does not represent a prediction of actual results. It is based on numerous assumptions and methodologies reflected in actuarial valuations as of June 30, 2022 and actual results will likely differ. Investors should read carefully all of the footnotes to the following table and the related cross-references to understand the assumptions and methodologies upon which the following information is based.

The following table is based on the actuarial valuations for the Pension Plans as of June 30, 2022.

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**AGGREGATE PROJECTED ANNUAL CASH FLOWS AND  
NET VALUE OF ASSETS OF STATE'S PORTION OF PENSION PLANS  
Fiscal Year Ending June 30, 2024 through June 30, 2053  
(In Millions)**

<b>Fiscal Year Ending (June 30)</b>	<b>Beginning Value of Net Assets<sup>(1)</sup></b>	<b>Member Contributions<sup>(2)</sup></b>	<b>State Contributions<sup>(3)(4)</sup></b>	<b>Lottery Net Proceeds<sup>(5)</sup></b>	<b>Investment Earnings<sup>(6)</sup></b>	<b>Benefit Payments<sup>(7)</sup></b>	<b>Ending Value of Net Assets</b>
2024	\$37,843	\$1,376	\$5,677	\$1,116	\$2,613	\$7,785	\$40,840
2025	40,840	1,409	5,761	1,126	2,821	7,964	43,993
2026	43,993	1,443	5,834	1,135	3,038	8,148	47,295
2027	47,295	1,476	5,899	1,147	3,266	8,346	50,737
2028	50,737	1,510	5,951	1,157	3,503	8,549	54,309
2029	54,309	1,545	5,996	1,168	3,749	8,752	58,014
2030	58,014	1,579	6,034	1,190	4,004	8,962	61,860
2031	61,860	1,614	6,056	1,202	4,267	9,185	65,814
2032	65,814	1,650	6,049	1,214	4,538	9,409	69,857
2033	69,857	1,687	6,041	1,226	4,815	9,632	73,994
2034	73,994	1,724	6,031	1,238	5,098	9,860	78,226
2035	78,226	1,762	6,015	1,251	5,388	10,087	82,554
2036	82,554	1,803	6,000	1,263	5,685	10,302	87,003
2037	87,003	1,845	5,987	1,276	5,991	10,506	91,595
2038	91,595	1,888	5,976	1,289	6,307	10,703	96,353
2039	96,353	1,934	5,967	1,302	6,635	10,889	101,303
2040	101,303	1,981	5,960	1,315	6,978	11,060	106,476
2041	106,476	2,031	5,957	1,328	7,337	11,213	111,916
2042	111,916	2,082	5,960	1,341	7,715	11,354	117,660
2043	117,660	2,134	5,967	1,355	8,115	11,495	123,736
2044	123,736	2,187	5,976	1,368	8,537	11,648	130,157
2045	130,157	2,240	5,985	1,382	8,984	11,808	136,941
2046	136,941	2,295	5,995	1,396	9,456	11,970	144,112
2047	144,112	2,352	6,007	1,410	9,955	12,140	151,696
2048	151,696	2,411	6,891	-	10,456	12,314	159,140
2049	159,140	2,472	6,909	-	10,973	12,449	166,996
2050	166,996	2,536	6,064	-	11,497	12,691	174,401
2051	174,401	2,602	3,004	-	11,932	12,879	179,060
2052	179,060	2,672	1,798	-	12,222	13,070	182,681
2053	182,681	2,743	1,774	-	12,471	13,278	186,390

- (1) Beginning value of net assets represents the projected value of the State's portion of Pension Plan net assets at the beginning of each Fiscal Year. Net assets equal the full market value of assets at the beginning of the Fiscal Year *less* member and employer contribution receivables included in the full market value of assets. The beginning value of net assets for Fiscal Year 2024 reflects a (7.90)% rate of return for the Pension Plans in Fiscal Year 2022. It also includes preliminary Lottery Net Proceeds of \$1.103 billion for Fiscal Year 2023. However, more recent unaudited Lottery Net Proceeds for Fiscal Year 2023 of \$1.140 billion are estimated to be \$37 million higher than the preliminary Fiscal Year 2023 Lottery Net Proceeds amount. The net value of assets for future Fiscal Years assume that the other contributions are made, investment returns are earned, and benefits are paid as shown above.
- (2) Represents contributions from members of the State's portion of the Pension Plans at current statutory contribution rates. Under the State statute, State employees make contributions to the Pension Plans ranging from 7.5% to 12% of their salary. The level of these contributions in the future could be changed through subsequent legislation.
- (3) Represents projected contributions by the State. For Fiscal Year 2023, the contribution reflects the State's contribution set forth in the State's Fiscal Year 2023 Appropriations Act. For future Fiscal Years, the State assumes that its pension contributions will equal 100% of the actuarially recommended contribution. The projected State contribution amounts reflect the annual credit against the actuarially recommended contribution pursuant to LECA.
- (4) Does not include \$294 million in contributions that the State makes in respect to local governmental participation in the Pension Plans. In connection with increases in retirement benefits in the local governmental portion of the Pension Plans, the State has undertaken to make contributions to pay for a portion of the impact of those retirement benefits.

*(footnotes continue on next page)*



- (5) Lottery Net Proceeds represent projected net proceeds from the Lottery Enterprise. See “—Lottery Enterprise Contribution Act” below. Through 2029, these projections are consistent with the Division’s management services agreement for sales and marketing with Northstar NJ. Pursuant to LECA, the State is required to revalue the Lottery Enterprise every five years. The revaluation was completed as of December 31, 2021. See “Lottery Enterprise Contribution Act—Lottery Enterprise – Valuation” below.
- (6) The projection of investment earnings is based on an assumed rate of return of 7.0% for assets of the State’s portion of the Pension Plans. See “—Actuarial Valuations and Actuarial Funded Status of Pension Plans—Assumptions used in Actuarial Valuations” below.
- (7) Benefit payments represent projected retirement benefit payments by the State’s portion of the Pension Plans to current and future retired members over the forecasted period. The amounts of projected retirement benefits are based on the various applicable benefit formulas as well as numerous assumptions and methodologies made by the actuaries of the Pension Plans. Key assumptions include, among others, demographic assumptions relating to periods of employment, ages of retirement and life expectancy of members and economic assumptions such as salary growth and inflation. In addition, these projections use methodologies to calculate projected retirement benefits. As opposed to how the actuaries prepare the actuarial valuations, the projected benefit payments also include an estimate of the amount of retirement benefits that members are likely to earn in the future. In addition, the projected benefit payments assume that the State does not increase or enhance retirement benefits during the forecasted period. Under pension reforms, the State has created committees that are authorized to make some specified increases in retirement benefits for Pension Plans that achieve specified levels of funding status. The projected benefit payments assume that none of those retirement benefits are increased although the State, based on the assumptions of the projections above, expects that several of the Pension Plans will achieve the specified levels of funding status. With respect to PFRS, the projection also assumes that the PFRSNJ Board that was established pursuant to *L. 2018, c. 55*, will not increase or enhance benefits during the forecasted period. See “—Actuarial Valuations and Actuarial Funded Status of Pension Plans—Assumptions used in Actuarial Valuations” and “—Methodologies used in Actuarial Valuations” below.

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## State's Pension Plan Funding Policy

### *Historical Funding Policy*

The level of the State's annual contributions has significantly varied since the 1990's. In some years, the State's contributions to the Pension Plans have been minimal or none. In other years, the State has contributed a percentage of the actuarially recommended contribution. Since Fiscal Year 2022, the State has contributed more than the full actuarially recommended contribution. For a description of the calculation of actuarially recommended contributions, see "—Actuarial Valuations and Actuarial Funded Status of Pension Plans" below. The following sets forth the State's aggregate annual contributions to the Pension Plans for Fiscal Years ended June 30, 1997 through June 30, 2024, together with a comparison of those contributions to the actuarially recommended contributions. Since Fiscal Year 2018, the State calculates the percentage of its contribution relative to the actuarial recommended contribution for a Fiscal Year by adding the annual contribution set forth in the Appropriations Act together with the projected Lottery Net Proceeds for that Fiscal Year, and then dividing that sum by the actuarially recommended contribution for the Pension Plans for that Fiscal Year. Under LECA, the State appropriates a contribution to the Pension Plans for each Fiscal Year equal to the actuarially recommended contribution less a Special Asset Adjustment calculated by LECA. Starting with Fiscal Year 2023, the amount of the Special Asset Adjustment is intended to be less than the projected Lottery Net Proceeds for each Fiscal Year, which the State expects will cause contributions for future Fiscal Years to exceed 100% of the actuarially recommended contribution.

### **AGGREGATE STATE CONTRIBUTIONS TO PENSION PLANS For the Fiscal Years Ending June 30, 1997 through June 30, 2024<sup>(1)</sup> (In Millions)**

<b>Fiscal Year Ending June 30,</b>	<b>Actuarial Recommended Contributions</b>	<b>Actual Contributions</b>	<b>Percentage<sup>(2)</sup></b>
<b>State</b>			
1997 <sup>(3)</sup> .....	\$ 297.6	\$ 104.6	35%
1998.....	443.9	90.2	20
1999.....	511.4	284.2	56
2000.....	583.4	63.7	11
2001.....	629.6	0.0	0
2002.....	654.8	0.6	0
2003.....	663.0	10.4	2
2004.....	783.2	26.4	3
2005.....	1,066.2	61.1	6
2006.....	1,450.8	164.4	11
2007.....	1,778.6	1,023.2	58
2008.....	2,089.8	1,046.1	50
2009.....	2,230.7	106.3	5
2010.....	2,518.8	0.0	0
2011.....	3,060.5	0.0	0
2012.....	3,391.4	484.5	14
2013.....	3,600.2	1,029.3	29
2014.....	3,691.2	699.4	19
2015.....	3,935.4	892.6	23
2016.....	4,353.5	1,307.1	30
2017.....	4,663.1	1,861.6	40
2018 <sup>(4)</sup> .....	5,017.9	2,484.1	50 <sup>(5)</sup>
2019.....	5,352.2	3,280.9	60 <sup>(6)</sup>
2020.....	5,438.7	3,751.6	70 <sup>(7)</sup>
2021.....	6,109.7	4,787.4	78 <sup>(8)</sup>
2022.....	6,387.8	6,908.0	108 <sup>(9)</sup>
2023.....	6,586.4	6,859.2	104 <sup>(10)</sup>
2024.....	6,842.6	7,086.9	104 <sup>(11)</sup>

Source: New Jersey Department of the Treasury, Division of Pensions and Benefits. Information regarding the actuarially recommended contributions of the State was derived from the actuarial valuation reports as of July 1, 1995 through July 1, 2021. Information regarding the actual contributions of the State for Fiscal Years 1997 through 2024 was provided by the Division of

Pensions and Benefits. Actual contributions include Lottery Net Proceeds from the Lottery Enterprise beginning in Fiscal Year 2018. See “–Lottery Enterprise Contribution Act” below.

- (1) For all Pension Plans, the State contributions relating to an actuarial valuation as of the end of a fiscal year are made in the second succeeding fiscal year. For example, the State’s actuarial recommended contribution for Fiscal Year 2024 was determined in the actuarial valuation as of July 1, 2022.
- (2) Percentage of actual contributions by the State to the Pension Plans to the actuarially recommended contribution for the applicable Fiscal Year. Percentages may not be exact due to rounding.
- (3) As a result of the enactment of L. 1997, c. 114, the Pension Plans received a contribution of \$2.75 billion from the sale of pension obligation bonds by NJEDA, which, pursuant to statute, was applied toward the State’s share of the unfunded pension liabilities.
- (4) The actual contribution consists of the State’s contribution of \$1.508 billion and Lottery Net Proceeds of \$976 million.
- (5) The State planned to make a \$2.509 billion pension contribution for Fiscal Year 2018 representing 50% of the full actuarial recommended contribution of \$5.018 billion. The State made a \$1.508 billion general fund appropriation and \$1.001 billion of Lottery Net Proceeds were expected to be transferred to the eligible Pension Plans. While actual lottery proceeds matched targeted levels, a small percentage of the actual Lottery Net Proceeds in Fiscal Year 2018 pertained to prior year unclaimed prizes. Since these proceeds were earned prior to the enactment of LECA, the State determined that the eligible Pension Plans were not entitled to such proceeds, which lowered the actual Lottery Net Proceeds realized to \$976 million. As a result of this technical adjustment, the State’s total contribution to the Pension Plans for Fiscal Year 2018 was slightly less than the 50% planned contribution.
- (6) For purposes of calculating the percentage of the State’s contribution relative to the actuarially recommended contribution, the State adds the sum of the State’s contribution of \$2.176 billion and the Lottery Net Proceeds of \$1.105 billion. As a result of higher than expected Lottery Net Proceeds in Fiscal Year 2019, the overall funded percentage was slightly greater than 60%.
- (7) For Fiscal Year 2020, Lottery Net Proceeds were \$55 million lower than the Special Asset Adjustment amount set in LECA for Fiscal Year 2020 due to lower sales from multistate jackpot games and, to a much lesser extent, the pandemic. As a result, the overall funded percentage was slightly lower than 70%.
- (8) For Fiscal Year 2021, the State expects the overall funded percentage to be slightly above 78%.
- (9) For Fiscal Year 2022, the State made a contribution of \$5.797 billion. After taking into account the Lottery Net Proceeds contribution, the overall percentage of the actuarially recommended contribution was 108%.
- (10) For Fiscal Year 2023, the State made pension contributions of \$5.719 billion. This, when combined with unaudited Lottery Net Proceeds of \$1.140 billion, brings the overall pension contribution to 104% of the actuarially recommended contribution.
- (11) The State’s Fiscal Year 2024 Appropriations Act appropriated \$5.971 billion for pension contributions. This amount includes State contributions of \$294 million for certain local government participants in the Pension Plans. After taking into account projected Lottery Net Proceeds of \$1.116 billion, the State expects that the overall contribution will be 103.6% of the actuarially recommended contribution.

## Membership, Benefits and Governance of the Pension Plans

### *Membership of Pension Plans*

Almost all of the public employees of the State and its counties, municipalities and political subdivisions are members of the Pension Plans administered by the State. Listed in order of active membership based on the most recent actuarial valuation reports dated July 1, 2022, the Pension Plans and their active and retired membership are as follows:

Plan	Membership at June 30, 2022	
	Active	Retired
Public Employees’ Retirement System (“PERS”).....	241,151	191,699
Teachers’ Pension and Annuity Fund (“TPAF”).....	158,156	111,736
Police and Firemen’s Retirement System (“PFRS”) .....	41,816	48,813
State Police Retirement System (“SPRS”).....	3,059	3,612
Judicial Retirement System (“JRS”) .....	394	687
Consolidated Police and Firemen’s Pension Fund (“CP&FPF”).....		24
Prison Officers’ Pension Fund (“POPF”).....		42
<b>Total</b> .....	<b>444,576</b>	<b>356,613</b>

From June 30, 2021 to June 30, 2022, the total number of active members of all of the State-administered plans increased by 3,017, or 0.68%, and the total number of retired members increased by 5,562, or 1.58%.

#### *Local Government Pension Plans*

The State is not the only employer sponsoring PERS and PFRS. Local governments within the State also participate as employers. In both PERS and PFRS, contributions from State and local governments are invested together and generate one investment rate of return. In calculating actuarial liabilities, both PERS and PFRS break out the liabilities between active and retired members as well as between State and local government members. As of June 30, 2022, the State was responsible for the employer contributions for 74,154 active and 62,989 retired PERS members and 6,471 active and 7,371 retired PFRS members.

#### *Benefits*

Almost all State employees participate in one of the Pension Plans, with eight to ten years of employment required before retirement benefits become vested. The level of retirement benefits varies among the different Pension Plans and is calculated based on a member's years of service, compensation and age of retirement. State law provides that the retirement benefits of the Pension Plans are not subject to negotiations between the State and other public employers and the employee members of the Pension Plans. The State Legislature has in the past adopted laws that increased the retirement benefits payable by the Pension Plans and may do so again in the future.

#### *Governance*

The Pension Plans were established by various State laws between January 1, 1941 and June 1, 1973. These Pension Plans are overseen and administered by the State of New Jersey, Division of Pensions and Benefits within the Department of the Treasury. Each Pension Plan has a board of trustees and related committees in which is vested the general responsibility for the proper operation of the Pension Plan. The Division of Pensions and Benefits is responsible for all administrative and financial functions of the Pension Plans except for the investment of the pension assets, which is the responsibility of the Division of Investment. The rules and regulations governing the operation and administration of the Pension Plans are set forth in State law and regulations.

With respect to PFRS, the State Legislature adopted *L. 2018, c. 55* in July 2018, which transferred management of PFRS from the New Jersey Department of the Treasury, Division of Pensions and Benefits to a twelve-member PFRS Board of Trustees (the "PFRSNJ"). The PFRSNJ, which was established in February 2019 pursuant to the legislation, has more powers and authority as compared to the former PFRS Board of Trustees. In addition to overseeing the management of PFRS, the PFRSNJ Board will have certain investment authority, in addition to having the authority to adjust current benefit levels and to change member and employer contribution rates. With regard to changes to current benefit provisions, such changes can only be made with the approval of a supermajority of eight (8) of the twelve (12) members of the PFRSNJ Board. In addition, benefit enhancements can only be made if an independent actuary certifies that such benefit enhancement will not jeopardize the long-term viability of PFRS. Under prior law, benefit enhancements, including the reinstatement of cost-of-living adjustments for retirees, could only be considered when the funded level of the pension fund reached 80%. An actuarial certification was also required that the funded levels would remain at or above 80% over a 30-year period following the benefit enhancement.

The PFRSNJ consists of twelve (12) members with seven (7) employee representatives (including three (3) active policemen, three (3) active firemen, and one (1) retiree), and five (5) employer representatives (four (4) municipal or county government officials and one current or former member of the Executive Branch).

#### **Pension Plan Assets**

As of June 30, 2022, the State's portion of the market value of assets in the Pension Plans is \$41.4 billion, which amount does not include the value of the Lottery Contribution. See "—Lottery Enterprise Contribution Act" below. The Division of Investment of the New Jersey Department of the Treasury invests the cash and investments of the Pension Plans. State law and State Investment Council regulations regulate the types of investments that are permitted. The State Investment Council is responsible for formulating the policies that govern the methods, practices

and procedures for investments, reinvestments, sale or exchange transactions to be followed by the Director of the Division of Investment. However, pursuant to *L. 2018, c. 55*, responsibility for formulating investment policies of the assets of the PFRS has been transferred from the State Investment Council to the PFRSNJ Board.

### **Lottery Enterprise Contribution Act**

In accordance with the Lottery Enterprise Contribution Act, *L. 2017, c. 98* (“LECA”), and a Memorandum of Lottery Contribution dated July 5, 2017 and effective as of June 30, 2017 (the “MOLC”), executed by the State Treasurer and acknowledged by the Director of the Division of Investment, New Jersey Department of the Treasury, the State’s lottery and related assets, including intellectual property, (the “Lottery Enterprise”) was contributed to TPAF, PERS, and PFRS for a 30-year term (the “Lottery Contribution”). Under LECA, the Department of the Treasury, Division of the State Lottery (“State Lottery Division”) will continue to operate the Lottery Enterprise with a goal of maximizing net proceeds for the benefit of the applicable Pension Plans. Starting on October 1, 2013, Northstar New Jersey Lottery Group, LLC (“Northstar NJ”) officially began a 15-year contract to provide growth management services to the State Lottery Division. The Northstar NJ contract, as amended, which will remain in effect through the end of Fiscal Year 2029, contains incentives for the vendor to maximize net proceeds while reducing downside risk through minimum payment requirements imposed on the vendor.

Neither LECA nor the MOLC contain a provision permitting the termination of the contribution prior to the end of the 30-year term of the contribution. However, a future Legislature could pass legislation to reverse the contribution prior to the expiration of its term. Any termination of the Lottery Contribution could implicate the exclusive benefit rule of the Internal Revenue Code, which requires the assets of the Pension Plans to exist for the exclusive benefit of their members in order for the Pension Plans to qualify for the favorable tax treatment under the Internal Revenue Code. The term of the contribution of the Lottery Enterprise will expire at the start of Fiscal Year 2048. At that time, the Lottery Enterprise contributions will revert back to the State.

#### *Lottery Enterprise – Valuation*

To determine the value of the Lottery Enterprise contribution, Acacia Financial Group was hired as the independent valuation service provider. In calculating the fair value, Acacia applied Actuarial Standard of Practice (“ASOP-44”) of the Actuarial Standards Board. ASOP-44 provides that for assets like the Lottery Enterprise that have no comparable valuations and are difficult to value, the present value of reasonably expected future cash flows may operate as the market value. The independent valuation service provider calculated the fair present value using the financial projections provided by Northstar NJ, for Fiscal Years 2018 through 2029. Estimates for Fiscal Years 2030 through 2048 assumed a 1.0 percent annual growth rate.

The first five-year revaluation of the Lottery Enterprise was completed on December 31, 2021, by the Acacia Financial Group. This revaluation determined the fair market value of the Lottery Enterprise to be \$12.980 billion as of the December 31, 2021 valuation date.

Using this valuation methodology, the contribution of the Lottery Enterprise is expected to generate an estimated \$37 billion for the Pension Plans over the 30-year term of the Lottery Contribution. The independent valuation service provider applied a 7.65% discount factor, which was the same as the assumed actuarial rate of return on the Pension Plans at the time of valuation, to arrive at a fair market value for the Lottery Enterprise of \$13.535 billion as of June 30, 2017. Pursuant to LECA, the Lottery Enterprise is to be re-valued at least every five years and, in the absence of a revaluation, the Lottery Enterprise will be depreciated on a straight-line basis over the remaining term of the contribution based on the most recent valuation. At the end of the 30-year term of the contribution, the value of the Lottery Enterprise will have been depreciated to zero with respect to the Pension Plans. The valuation report of the independent valuation service provider and other documents relating to the Lottery Enterprise developed in 2017 are available at the following website: <http://www.state.nj.us/treasury/njletransparency.shtml>. No information on the website is incorporated by reference into this Appendix I.

### *Special Asset for Actuarial Calculation Purposes*

During the term of the Lottery Contribution, the current methodology for amortizing the UAAL of the applicable Pension Plans and calculating the actuarially recommended contribution remains in place for all assets and liabilities of the applicable Pension Plans except for the Lottery Enterprise. In accordance with LECA, for actuarial purposes, the Lottery Enterprise is considered a “Special Asset”, the value of which is reflected in an annual adjustment (the “Special Asset Adjustment”) to the State’s contribution to the applicable Pension Plan, calculated pursuant to LECA. Under LECA, the Special Asset Adjustment was fixed for the first five Fiscal Years to minimize the impact of the Lottery Contribution on the State’s General Fund budget during that period.

Starting in Fiscal Year 2023, the Special Asset Adjustment is determined by a level-dollar amortization of the then-current Lottery Enterprise value over the remaining term of the contribution at the regular interest rate applicable to the applicable Pension Plan, multiplied by a stated Adjustment Percentage. The Special Asset Adjustment will not exceed in any year the Maximum Special Asset Adjustment stipulated in the LECA. The purpose of the Adjustment Percentage is to create a lower Special Asset Adjustment, which will increase projected amounts to be contributed to the applicable Pension Plans, and to achieve higher projected funded ratios, provided the State follows its current Pension Plan funding policy. Additionally, LECA includes a mechanism to further reduce the Adjustment Percentage if an applicable Pension Plan’s funded ratio drops below 50 percent. The Adjustment Percentage is unaffected by the performance of the Lottery Enterprise during the term of the Lottery Contribution. A future Legislature may change any or all of the provisions of the LECA for all, or some, of the term of the Lottery Contribution.

### *Impact of the Value of the Lottery Enterprise Contributed upon the Pension Plans’ Funded Ratio*

Acacia Financial Group valued the Lottery Enterprise at \$12.980 billion as of December 31, 2021. As of July 1, 2021, the Lottery Enterprise was valued at \$12.577 billion. If the value of the Lottery Enterprise was excluded, the funded ratio of the Pension Plans as of June 30, 2022 would have been 40.0% instead of 51.1%. See “—Actuarial Valuations and Actuarial Funded Status of Pension Plans—Historical Statutory Funding Status” below.

## **Actuarial Valuations and Actuarial Funded Status of Pension Plans**

### *General*

State law requires that all Pension Plans must conduct an actuarial valuation as of the end of each fiscal year. The actuarial valuations of the Pension Plans have historically served a critical role in determining appropriate State contributions to the Pension Plans by systematically calculating an actuarially recommended contribution (discussed below). During many of the years when the State did not make the full actuarially recommended contribution, it still contributed a portion of the actuarially recommended contribution. The State’s current pension funding policy provides that the combined contribution appropriated from the State budget and LECA net lottery proceeds fully fund the actuarially recommended contribution. Informational copies of these reports as well as other financial information are available on the Division of Pensions and Benefits’ website at: <https://www.nj.gov/treasury/pensions/financial-reports.shtml>. No information contained on the website of the Division of Pensions and Benefits is incorporated herein by reference.

Pension Plan actuarial valuations are completed approximately six to eight months after the end of a fiscal year. Consequently, actuarial valuations and recommended contributions for the various Pension Plans do not apply to the fiscal year immediately following the actuarial valuations. Rather, they apply to the second fiscal year following the valuation. For example, the actuarially recommended contributions and valuations as of July 1, 2022 are applicable to the Fiscal Year ended June 30, 2024. Actuarial valuations for each year are as of July 1, the first day of each fiscal year, and the valuations of assets and liabilities contained in each actuarial valuations are as of June 30 of the prior fiscal year. Thus, the actuarial valuation reports are dated as of July 1, 2022, but the valuations of assets and liabilities contained in the report are as of June 30, 2022.

### *Actuaries and Auditor*

Cheiron, Inc. serves as consulting actuary for six of the Pension Plans. Segal is the consulting actuary for PFRS. The consulting actuaries prepare the actuarial valuations and experience investigations (which are described below) for the Pension Plans. KPMG LLP serves as the auditor of the financial statements of the Pension Plans, with PFRS contracting separately for their services.

### *Content and Timing of Actuarial Valuations*

The purpose of an actuarial valuation is to calculate an actuarially recommended contribution by an independent actuary based on an assessment by such actuary, using multiple assumptions and methodologies, whether the assets of a Pension Plan, together with expected earnings and other amounts, will be sufficient to pay expected retirement benefits. Two key calculations the actuaries make in each actuarial valuation is a calculation of the actuarial accrued liability and the Actuarial Value of Assets (“AVA”). The actuarial accrued liability of a Pension Plan represents an estimate, on the basis of demographic and economic assumptions, of the present value of benefits the Pension Plan will pay to retirees over their lifetime. The AVA represents the market value of the assets of the Pension Plan as adjusted for several methods discussed below. The actuarial valuation compares the actuarial accrued liability with the actuarial value of assets, and any excess of that liability over the assets forms an Unfunded Actuarial Accrued Liability (“UAAL”) applicable to the Pension Plan. An actuarial valuation will express the percentage that a Pension Plan is funded through a “Funded Ratio” which represents the quotient obtained by dividing the actuarial value of assets of the pension plan by the actuarial accrued liability of the Pension Plan. A Funded Ratio of 100% represents an assessment by the actuary, based on the assumptions and methodologies of the actuarial valuation, that a Pension Plan has a sufficient amount of assets that, with future earnings on those assets and other amounts, will be sufficient to pay expected retirement benefits that have been earned to date.

### *Actuarially Recommended Contribution*

Actuaries of the Pension Plans will also calculate an actuarially recommended contribution in each actuarial valuation. The actuarially recommended contribution consists of two components: (1) normal cost, which represents the portion of the present value of retirement benefits that are allocable to the active members’ current year service, and (2) in cases where the Funded Ratio is less than 100%, a portion of the UAAL. The actuarially recommended contribution is determined in accordance with State statutes and uses different assumptions and methodologies than used for purposes of meeting financial disclosure requirements. See “—GASB Statements No. 67 and 68” below.

### *Assumptions used in Actuarial Valuations*

While actuarial valuations express the funding status of a Pension Plan in terms of the value on a particular date, in reality they are projections of future retirement benefits and estimates of the amount of assets that will be available to pay those retirement benefits. To make these projections and estimates, actuaries use assumptions, including, but not limited to, the expected rate of return on assets, inflation rates, future pay increases, age of retirement of members, assumed rates of disability, and retiree and beneficiary life expectancies. The Pension Plan boards establish most of these assumptions. However, the State Treasurer establishes the expected rate of return. If the experience of the Pension Plans is different from these assumptions, the UAAL of the Pension Plans may increase or decrease to the extent of any variances.

State law requires that all Pension Plans conduct an actuarial experience study at least once every three years to examine the demographic and economic assumptions used in actuarial valuations to ensure those assumptions reflect actual Pension Plan experience. The experience study uses long-term assumptions, not solely influenced by short-term fluctuations. Whenever an experience study results in a change to an assumption, it could impact the Pension Plan’s UAAL or the statutory contribution calculation in subsequent actuarial valuations. In the most recent study covering the period from 2018 to 2021, the salary growth assumption, mortality and demographic assumptions changed. The primary driver of the liability increase noted in the experience studies was salary rate increases for active members of the TPAF. Prior assumptions assumed lower increases for Fiscal Year 2022 through Fiscal Year 2026. This assumption was changed to accelerate varying rates of increase by years of service starting from June 30, 2022, instead of June 30, 2026. These changes caused the TPAF UAAL to increase 0.5% by \$381 million and were reflected in the July 1, 2022 actuarial valuation. The Fiscal Year 2024 TPAF actuarially recommended contribution then rose

1.8% by \$71.8 million. Alternatively, the JRS system experienced a decrease of 1.2% or \$10.4 million to the UAAL due to retirement, disability and mortality rate assumptions. As a result, the contribution for JRS dropped by \$1.3 million or 1.8%. The PERS, PFRS and SPRS systems also experienced similar changes to the UAAL due to assumption changes. As a consequence of the experience studies, the total system-wide net increase to the UAAL was 0.3% or \$368.2 million. Likewise, the total system-wide pension contribution rose by \$105.0 million.

The UAAL is partly impacted by the actual rate of return of Pension Plan assets as determined primarily by the performance of the investment portfolio. Actual investment returns for any given fiscal year can vary widely. Investment returns were (7.9)%, 28.63% and 1.21%, for Fiscal Years 2022, 2021 and 2020, respectively. On July 1, 2019, the State Treasurer lowered the assumed rate of return for valuation purposes from 7.5% to 7.3%. The 7.3% assumed rate of return was used by the actuary in the June 30, 2020 valuations. On June 30, 2021, the Treasurer ordered the assumed rate to be further lowered to 7%, effective with the June 30, 2021, actuarial valuation.

#### *Methodologies used in Actuarial Valuations*

The actuarial valuations of the Pension Plans use several actuarial methods to calculate the actuarial value of assets and actuarial accrued liability of the Pension Plans. These methods are generally established by State legislation. These methods include the method of amortizing the UAAL, a method of smoothing differences between market value of assets and expected value of assets, and a method of determining when pension benefits accrue for purposes of calculating actuarial liabilities. The State Legislature may change these methods which, depending on the nature of the change, can have a substantial positive or negative impact on the UAAL of the Pension Plans.

Two different methods are used to measure pension assets: market value and the actuarial value of assets (“AVA”). The market value represents the value of assets if they were liquidated on the valuation date. However, State law requires an alternative measurement method (“AVA method”) to be used. Each year, the AVA method smooths investment gains and losses for that year to reduce volatility by recognizing only 20% of the difference between the market value of assets that year and the expected AVA that year (this recognition is done on a preliminary basis and before giving effect to various adjustments). The AVA method may produce an actuarial value of assets that falls outside of what is generally considered to be a reasonable range of the market value. As of June 30, 2022, excluding the estimated value of the Lottery Contribution, the State’s portion of the aggregate market value of all of the assets of the Pension Plans, as determined by the Pension Plans’ actuaries, was approximately \$41.4 billion, as compared to the State’s portion of the aggregate actuarial value of all assets of the Pension Plans was \$44.7 billion. A portion of the difference between these two asset amounts represents the impact of this smoothing method. This smoothing not only affects asset valuations, it also effects the UAAL, funded ratios and contributions, all numbers computed using the AVA.

The main purpose of the actuarial valuation is to develop a schedule for restoring the Pension Plans to a Funded Ratio of 100%. The amortization method requires the actuary to calculate that portion of the UAAL that the State needs to contribute each year in order to accomplish that goal. Actuaries use different methods to develop such a schedule. Excluding the CP&FPF and the POPF, the Pension Plans use the level-dollar amortization method. Previously, the State used the level percent of pay UAAL calculation method. Under the level-dollar amortization method, the actuary assumes the State will pay the same dollar amount to amortize the UAAL in each year of the amortization period. Pursuant to statute, the UAAL is being amortized over an open-ended 30-year period through the July 1, 2018 actuarial valuation for PERS, TPAF, SPRS and JRS, and through the July 1, 2017 actuarial valuation for PFRS. Beginning with the July 1, 2019 actuarial valuation for PERS, TPAF, SPRS and JRS, and the July 1, 2018 actuarial valuation for PFRS, the UAAL will be amortized over a closed 30-year period until the remaining period reaches 20 years, when the amortization period will revert to an open-ended 20-year period. An open amortization period means that the period over which the UAAL is amortized may reset to 20 years with each actuarial valuation if the UAAL increases, whereas, in a closed amortization period, the period is reduced with each actuarial valuation.

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### Historical Statutory Funding Status

The following table sets forth the historical statutory funding status of the Pension Plans for the year ended as of July 1, 2010 through the year ended as of July 1, 2022.

**HISTORICAL STATUTORY FUNDING STATUS**  
**AGGREGATE PENSION FUND ACTUARIAL LIABILITIES AND ASSETS<sup>(1)</sup>**  
**Actuarial Valuations as of July 1, 2010 through July 1, 2022**  
**(In Millions)**

<b>Valuation Year Ending June 30,</b>	<b>Actuarial Value of Assets<sup>(2)</sup></b>	<b>Actuarial Accrued Liability<sup>(2)</sup></b>	<b>Unfunded Actuarial Accrued Liability (UAAL)<sup>(2)</sup></b>	<b>Funded Ratio</b>	<b>Market Value of Assets<sup>(3)</sup></b>
2010 <sup>(4)</sup>	\$47,950.5	\$72,588.5	\$24,638.0	66.1%	\$37,765.8
2011	46,736.7	75,622.0	28,885.3	61.8	40,795.3
2012	45,293.4	77,991.1	32,697.7	58.1	38,271.3
2013	44,494.5	80,051.0	35,556.5	55.6	39,486.0
2014	42,486.4	82,563.3	40,076.9	51.5	40,594.3
2015	41,397.4	85,212.0	43,814.6	48.6	38,505.9
2016 <sup>(5)</sup>	39,731.6	88,800.3	49,068.7	44.7	34,698.9
2016 Rev <sup>(6)</sup>	52,304.8	88,800.3	36,495.5	58.9	47,272.1
2017	51,416.6	92,150.6	40,734.0	55.8	48,354.5
2018	51,018.0	93,807.5	42,789.5	54.4	48,762.3
2019 <sup>(7)</sup>	51,090.4	100,789.0	49,698.6	50.7	48,743.9
2020	51,355.2	103,118.1	51,762.9	49.8	47,833.8
2021	55,105.5	108,679.7	53,574.2	50.7	56,987.0
2022	57,211.7	111,873.3	54,661.7	51.1	53,907.7

Source: New Jersey Department of the Treasury, Division of Pensions and Benefits. Information was derived from the actuarial valuation reports as of July 1, 2010 through July 1, 2022 for all the Pension Plans.

- (1) The actuarial liabilities and assets shown in this chart are based on the actuarial methods and assumptions used to determine the statutory contributions and are different from the actuarial liabilities and assets based on GASB Statement No. 67.
- (2) For a description of these terms, see “—Actuarial Valuations and Actuarial Funded Status of Pension Plans” above.
- (3) The market value of assets as shown in the actuarial valuation reports for the Pension Plan and included in the table differs from the value of the investment portfolio of the Pension Plans as reported by the Division of Investment. The market value of assets of each of the Pension Plans is as set forth in the actuarial valuation reports for the Pension Plans and represents the full market value of the assets held by the Pension Plan, including expected receivable contributions from the State, local employers and participants. It also includes the estimated value of the Lottery Contribution beginning with the July 1, 2016 valuation.
- (4) The June 30, 2010 data reflects the impact on the Pension Plans of pension reforms enacted pursuant to L. 2011, c. 78, which resulted in a decrease in the State’s aggregate UAAL from \$37.1 billion to \$24.6 billion and an increase in the State’s aggregate funded ratio from 56.4% to 66.1%.
- (5) Information was derived from the original actuarial valuation reports as of July 1, 2016 and excludes the value of the Lottery Contribution.
- (6) Information was modified to include \$12.573 billion in the Actuarial Value of Assets and Market Value of Assets representing the estimated value of the Lottery Contribution as of July 1, 2016. For the fiscal year ended as of June 30, 2016, this improved the overall funded ratio of the Pension Plans from 44.7% to 58.9% as compared to the original actuarial valuation reports as of July 1, 2016.
- (7) The reduction in the funded status between the June 30, 2018 and June 30, 2019 actuarial valuations is mainly attributable to the adoption of revised actuarial assumptions based on experience investigations conducted by the Pension Plans’ actuary in 2019, and a reduction in the assumed investment rate of return used in the actuarial valuations from 7.5% to 7.3%. The revised assumptions, which were adopted by the various Pension Boards in early 2020, caused actuarial accrued liabilities to increase by \$2.656 billion or 2.6% between the June 30, 2018 and June 30, 2019 actuarial valuations. The change in the assumed rate of return increased liabilities by \$2.098 billion or 2.1%.

### Prospective Statutory Funding Status

The following table sets forth the prospective statutory funding status of the Pension Plans for the Fiscal Year ended June 30, 2023 through the Fiscal Year ended June 30, 2051. The following information constitutes forward-looking information and does not represent a prediction of actual results. The following information represents a

projection of the future funded status of the Pension Plans that is based on the assumptions and methodologies used by the actuaries to prepare the actuarial valuations for the Pension Plans and assumes that the State continues to make its contributions to the Pension Plan in accordance with its current funding policy. Accordingly, the following information is based on numerous assumptions and methodologies and actual results will likely differ. Investors should read carefully all of the footnotes to the following table and the related cross-references to understand the assumptions and methodologies upon which the following information is based.

The following table is based on the actuarial valuations as of June 30, 2022.

**PROSPECTIVE STATUTORY FUNDING STATUS**  
**AGGREGATE PENSION FUND ACTUARIAL LIABILITIES AND ASSETS<sup>(1)</sup>**  
**For the Valuation Year Ending June 30, 2023 through June 30, 2051**  
**(In Millions)**

<b>Valuation Year Ending June 30</b>	<b>Actuarial Value of Assets (AVA)<sup>(2)(3)</sup></b>	<b>Actuarial Accrued Liability (AAL)<sup>(2)(3)</sup></b>	<b>Unfunded Actuarial Accrued Liability (UAAL)<sup>(2)</sup></b>	<b>AVA Statutory Funded Ratio<sup>(2)</sup></b>
2023	\$59,524.1	\$114,181.6	\$54,657.5	52.1%
2024	62,084.1	116,531.0	54,446.9	53.3
2025	64,833.7	118,915.9	54,082.1	54.5
2026	67,760.7	121,333.5	53,572.8	55.8
2027	70,840.9	123,766.9	52,926.0	57.2
2028	74,065.3	126,210.9	52,145.5	58.7
2029	77,439.8	128,665.3	51,235.4	60.2
2030	80,916.0	131,121.8	50,205.8	61.7
2031	84,485.2	133,563.7	49,078.4	63.3
2032	88,137.5	135,987.7	47,850.2	64.8
2033	91,874.0	138,393.2	46,519.2	66.4
2034	95,687.0	140,772.1	45,085.4	68.0
2035	99,583.0	143,123.8	43,540.8	69.6
2036	103,581.1	145,462.0	41,880.9	71.2
2037	107,701.1	147,801.8	40,100.7	72.9
2038	111,961.2	150,155.8	38,194.6	74.6
2039	116,385.1	152,540.2	36,155.1	76.3
2040	121,003.8	154,979.0	33,975.3	78.1
2041	125,858.1	157,504.3	31,646.2	79.9
2042	130,982.1	160,141.7	29,159.5	81.8
2043	136,397.6	162,902.7	26,505.1	83.7
2044	142,112.0	165,784.2	23,672.2	85.7
2045	148,140.3	168,789.7	20,649.3	87.8
2046	154,506.4	171,930.6	17,424.2	89.9
2047	162,016.0	175,209.8	13,193.9	92.5
2048	169,955.6	178,629.9	8,671.3	95.1
2049	177,509.2	182,174.0	4,664.8	97.4
2050	182,516.5	185,852.7	3,336.2	98.2
2051	186,579.8	189,680.9	3,101.1	98.4

Source: New Jersey Department of the Treasury, Division of Pensions and Benefits.

<sup>(1)</sup> The actuarial liabilities and assets shown in this chart are based on the actuarial methods and assumptions used to determine the statutory contributions and are different from the actuarial liabilities and assets based on GASB Statement No. 67. The estimates assume an estimated rate of return of 7% for Fiscal Year 2023 and all future Fiscal Years. Projections exclude estimates for the CP&FPF and the POPF.

<sup>(2)</sup> For a description of these terms, see “—Actuarial Valuations and Actuarial Funded Status of Pension Plans” above.

<sup>(3)</sup> Actuarial value of assets includes the value of the Lottery Contribution. The amounts shown in this chart are based on preliminary estimated Fiscal Year 2023 Net Lottery Proceeds of \$1.103 billion. However, more recent unaudited Lottery Net Proceeds are estimated to be \$37 million higher than the preliminary amount, an estimated \$1.140 billion in Fiscal Year 2023. Future Fiscal Years are adjusted for the receipt of projected Lottery Net Proceeds. Under LECA, the Lottery Enterprise is re-valued every five years. The first revaluation was completed on December 31, 2021. See “—Lottery Enterprise Contribution Act—Lottery Enterprise—Valuation” above.

## **GASB Statements No. 67 and 68**

The State and the Pension Plans are required to follow GASB Statements No. 67 and 68 in preparing their financial statements. These GASB Statements are intended to improve comparability between public pension plans by standardizing the way certain financial data relating to these plans are disclosed. They do not require changes to the method a plan uses to compute actual employer contributions to a plan. The State's actual contributions to the Pension Plans continue to be calculated under the requirements of the State statutes.

GASB Statements No. 67 ("GASB 67") and 68 ("GASB 68") require governmental plans use specific methods to calculate the required disclosures that differ from the methods used to calculate the UAAL and funded ratios. Included among those differences are the calculation of each individual member's pension accruals and differences in the discount rate used to calculate the present value of future benefit payments. GASB 67 and 68 additionally require a "depletion date" calculation based on the projected time frame that assets will be available to cover projected benefit payments over a 99-year projection period under certain assumptions.

To project future employer contributions, GASB 67 requires that assumed contributions will be based on a consistent contribution pattern supported by state statute or other formally adopted policy. In the most recent GASB 67 report, as of June 30, 2022, the asset depletion projection assumed the State will make future contributions based on 100% of the full statutory contribution amount. The GASB Statements require that the discount rate used to discount projected benefits payments to their present value will be based on a single rate that reflects (a) the long-term expected rate of return on plan investments as long as the plan net position is projected under specific conditions to be sufficient to pay pensions of current plan members, and the pension plan assets are expected to be invested using a strategy to achieve that return; and (b) a yield or rate index on tax-exempt 20-year, AA- or higher rated municipal bonds to the extent that conditions for use of the long-term expected rate of return are not met.

The GASB 67 reports for the State are based on information from the prior Fiscal Year's actuarial valuations of the Pension Plans, except that the information is updated to reflect market value of assets as of the date of the GASB 67 report and the information is adjusted to reflect events that the actuarial valuation assumed to occur in the Fiscal Year. Thus, the GASB 67 reports as of June 30, 2022 use information from the actuarial valuations of the Pension Plans as of June 30, 2021 subject to these adjustments.

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The results, summarized for the GASB 67 Reports as of June 30, 2022 are shown in the following chart:

**GASB STATEMENT NO. 67 DISCLOSURE**  
**Net Pension Liability Plan Fiduciary Net Position<sup>(1)</sup>**  
**Based on Actuarial Valuations as of July 1, 2022**  
**(100% of Actuarially Recommended Contribution)**  
**(In Millions)**

<b>Pension Plan</b>	<b>Plan Fiduciary Net Position</b>	<b>Total Pension Liability</b>	<b>Plan Net Pension Liability</b>	<b>Plan Fiduciary Net Position as a % of TPL</b>
PERS <sup>(2)</sup> .....	\$32,568.1	\$70,174.1	\$37,606.0	46.41%
TPAF .....	24,640.5	76,317.1	51,676.6	32.29%
PFRS <sup>(3)</sup> .....	30,708.7	48,518.7	17,810.1	63.29%
CP&FPF .....	2.2	2.2	0.1	96.61%
SPRS .....	1,947.3	4,222.4	2,275.1	46.12%
JRS .....	183.0	901.2	718.2	20.31%
POPF .....	5.0	2.8	(2.1)	175.44%
Total .....	<u>\$90,054.8</u>	<u>\$200,138.6</u>	<u>\$110,083.9</u>	<u>45.00%</u>

<sup>(1)</sup> Based on Market Value as of June 30, 2022. Does not take into consideration the contribution of the Lottery Enterprise.

<sup>(2)</sup> Of the total Net Pension Liability of \$37,606.0 million for PERS, \$22,386.8 million is the estimated State portion and \$15,219.2 million is the estimated local portion.

<sup>(3)</sup> Of the total Net Pension Liability of \$17,810.1 million for PFRS, \$4,326.6 million is the estimated State portion and \$13,483.5 million is the estimated local portion.

Informational copies of the July 1, 2022 valuation report, which are the most recent audited valuations, are posted on the Division of Pensions and Benefits' website at: <http://www.state.nj.us/treasury/pensions/financial-reports.shtml>. No information posted on the Division's website is incorporated by reference in this Appendix I.

GASB 67 contains a provision that requires a pension plan to be treated as a single trust for purposes of valuing the plan when there are no separate trust agreements in place for the component groups within the plan. Since there is no language in legislation that legally segregates the State and local components within the PERS and PFRS, the information and disclosures for these two multi-employer plans had to be developed in the aggregate per system and not separately for the State and the local participating employers. If the State and local employers were segregated for GASB 67 disclosure purposes, the State's Plan Fiduciary Net Position as a percentage of Total Pension Liability in both PERS and PFRS would have been lower than the combined State and local Plan Fiduciary Net Position as a percentage of Total Pension Liability shown in the above chart, and the local employer Plan Fiduciary Net Position as a percentage of Total Pension Liability would have been higher.

*GASB Statement No. 68 Results*

GASB Statement No. 68 ("GASB 68") requires each participating employer to recognize and record as a liability on their financial statements their proportionate share of the collective net pension liability determined under GASB 67. For the Fiscal Year ending June 30, 2023, each participating employer must recognize their share of the total net pension liability of \$110,083.9 million determined as of measurement date of June 30, 2022. The State's share of the collective net pension liability as of June 30, 2021 has been determined to be \$79,743.2 million. This amount will be recorded as a liability on the State's financial statements for the fiscal year ending June 30, 2023.

The following chart summarizes the allocation of the net pension liability of \$110,083.9 million as of July 1, 2022, as determined under GASB 68:

**GASB STATEMENT NO. 68 DISCLOSURE**  
**Allocation of Fiscal Year 2023 Net Pension Liability (NPL) per GASB 68<sup>(1)</sup>**  
**(In Millions)**

<b>Pension Plan</b>	<b>State</b>	<b>State Non-Employer<sup>(2)</sup></b>	<b>Total State</b>	<b>State Colleges &amp; Universities</b>	<b>Locals</b>	<b>Plan Net Pension Liability</b>
PERS.....	\$18,780.4	\$127.8	\$18,908.2	\$3,606.4	\$15,091.4	\$37,606.0
TPAF.....	82.2	51,594.4	51,676.6	-	-	51,676.6
PFRS.....	4,117.3	2,050.0	6,167.3	196.4	11,446.4	17,810.1
CP&FPF.....	0.0		0.0			0.0
SPRS.....	2,275.1		2,275.1			2,275.1
JRS.....	718.2		718.2			718.2
POPF.....	(2.1)		(2.1)			(2.1)
<b>Total.....</b>	<b>\$25,971.1</b>	<b>\$53,772.2</b>	<b>\$79,743.3</b>	<b>\$3,802.8</b>	<b>\$26,537.8</b>	<b>\$110,083.9</b>

<sup>(1)</sup> Audited.

<sup>(2)</sup> The TPAF and a portion of local government component of PFRS represent special funding situations because the State is legally responsible for making contributions directly to these plans that is used to provide retirement benefits to non-State employees. Pursuant to GASB 68, these special funding situations require the State to recognize its proportionate share of the collective NPL for these plans.

Since there is no statutory requirement that the State fund the pension costs for the State colleges and universities, the State is not required under GASB 68 to include the State college and university portion of the net pension liability, which is estimated to be \$3,802.8 million as of June 30, 2022, as a liability on its financial statements. However, the State's longstanding practice has been to pay the required pension contributions on behalf of the various State higher education institutions and it is expected that this practice will continue in the future.

An informational copy of the GASB 68 actuarial valuation report for the various Pension Plans is posted on the Division's website. No information posted on the Division's website is incorporated by reference in this Appendix I.

**FUNDING POST-RETIREMENT MEDICAL BENEFITS**

In addition to pension benefits, the State provides post-retirement medical benefits ("PRM") for certain State and other retired employees meeting the service credit eligibility requirements. This includes retired State employees of PERS, TPAF, PFRS, SPRS, JRS and ABP; local retired TPAF and other school board employees; and some local PFRS retirees. To become eligible for this State-paid benefit, a member of the Pension Plans must retire with 25 or more years of pension service credit or a disability pension. PRM benefits are provided through the State Health Benefits Program ("SHBP") and the School Employees' Health Benefits Program ("SEHBP"). The SHBP and the SEHBP are administered by the Division of Pensions and Benefits. The benefits provided include medical, prescription drug, and Medicare Part B and Part D reimbursement for covered retirees, spouses and dependents. In Fiscal Year 2022, the State paid PRM benefits for 161,238 State and local retirees.

The State funds post-retirement medical benefits on a "pay-as-you-go" basis, which means that the State does not pre-fund, or otherwise establish a reserve or other pool of assets against the PRM expenses that the State may pay in future years for these costs. The chart below shows a period of stability for PRM costs during Fiscal Years 2017, 2018 and 2019. The 2020 PRM cost decrease is an anomaly attributable to the pandemic-related decrease in treatments and healthcare utilization. In Fiscal Year 2021, PRM costs rose at a 13.5% rate compared to Fiscal Year 2020 as retired employees returned to utilizing their doctors and sought treatments that had been postponed due to the pandemic. The Fiscal Year 2022 expense for PRM benefits increased by 6.6%, or \$117.5 million, to \$1.907 billion. The State spent \$2,149.1 million for PRM costs in Fiscal Year 2023, which is a 12.7% increase over Fiscal Year 2022. The Fiscal Year 2024 Appropriations Act appropriated \$2,339.4 million for PRM, an 8.9% increase over Fiscal Year 2023 PRM expenditures.

**AGGREGATE STATE CONTRIBUTIONS FOR OPEB**  
**For the Fiscal Years Ending June 30, 2016 through June 30, 2024**

<b>State Fiscal Year Ending June 30,</b>	<b>OPEB Expenditure (in Millions)</b>	<b>Dollar Change Over Prior Year (in Millions)</b>	<b>Percentage Change Over Prior Year</b>
2016	\$1,826.0	n/a	n/a
2017	1,865.7	39.7	2.2%
2018	1,908.0	42.3	2.3%
2019	1,907.9	(0.1)	0.0%
2020 <sup>(1)</sup>	1,577.8	(330.1)	(17.3)%
2021 <sup>(2)</sup>	1,790.1	212.3	13.5%
2022	1,907.6	117.5	6.6%
2023	2,149.1	242.1	12.7%
2024 <sup>(3)</sup>	2,339.4	190.3	8.9%

<sup>(1)</sup> The State experienced a decrease in OPEB costs as healthcare utilization and treatments decreased during the pandemic.

<sup>(2)</sup> As the effects of the pandemic abated, health care utilization rebounded as retired employees utilized their doctors and received other medical treatments and procedures that had been postponed during the pandemic.

<sup>(3)</sup> The Fiscal Year 2024 Appropriations Act included \$2,339.4 million in appropriations for PRM costs.

*Governmental Accounting Standards*

Beginning in Fiscal Year 2018, the State is required to calculate and disclose its obligation to pay PRM to current and future retirees based on GASB 74 and 75. The term “OPEB” as used in the following discussion on GASB 74 and 75 requirements refers to the funding of post-retirement medical benefits. GASB 74 applies to OPEB plans and became effective for plan fiscal years beginning after June 15, 2016. GASB 75 applies to employers that sponsor OPEB plans and became effective for employer fiscal years beginning after June 15, 2017. For the State and local participating employers who report on a fiscal year basis, the GASB 75 reporting and disclosure requirements became effective beginning with the issuance of their financial reports for the fiscal year ending June 30, 2018.

Many of the provisions of GASB 74 and 75 for OPEB are parallel to the provisions of GASB 67 and 68 for pensions. GASB 74 and 75 require a liability for OPEB obligations, known as the net OPEB liability (“NOL”), to be recognized on the balance sheet of the employers participating in the OPEB plan. In addition, an OPEB expense is recognized in the income statement of the participating employers.

Certain actuarial methods and assumptions required under GASB 67 and 68 must also be used to develop the NOL under GASB 74 and 75. For instance, GASB 74 and 75 require that the entry age normal actuarial cost method be utilized to determine the total OPEB liability. GASB 74 and 75 also require that future OPEB benefit payments be discounted using a discount rate that reflects a 20-year tax-exempt municipal bond yield or index rate if assets are not available to cover such future benefit payments.

Like GASB 67 and 68, GASB 74 and 75 do not enforce OPEB funding or impact the State’s current funding practice which is to fund PRM benefits on a pay-as-you-go basis as benefits become due.

*GASB 75 Valuation Results*

The State’s portion of the total OPEB liability decreased from \$101.6 billion to \$88.8 billion between the June 30, 2021 and June 30, 2022 GASB 75 actuarial valuations prepared by the State’s health benefits actuarial consultant, Aon. The decrease in the State’s OPEB liabilities is mainly attributable to lower than expected premium and claim experience.

The results of the June 30, 2022 GASB actuarial valuations are summarized in the table below:

**GASB Statement No. 75 Accounting Disclosures  
Based on Measurement Date of June 30, 2021  
For the Fiscal Year Ending June 30, 2022  
(In Millions)**

	<u>State Retired Fund</u>	<u>Education Retired Fund</u>	<u>Local Govt Retired Fund</u>	<u>Total</u>
OPEB Liability				
(a) Retirees Receiving Benefits	\$10,526.0	\$19,955.8	\$8,270.2	\$38,752.0
(b) Active Participants	14,428.1	40,051.9	9,779.8	64,259.7
(c) Total	24,954.1	60,007.7	18,050.0	103,011.7
Plan Fiduciary Net Position	–	–	50.2	50.2
Net OPEB Liability	\$24,954.1	\$60,007.7	\$17,999.8	\$102,961.5

**Estimated Allocation of GASB 75 Liability**

<u>OPEB Fund</u>	<u>State</u>	<u>State Non- Employer*</u>	<u>Total State</u>	<u>Locals</u>	<u>Net OPEB Liability</u>
State	\$18,158.4	\$6,795.6	\$24,954.0	–	\$24,954.0
Education	–	60,007.7	60,007.7	–	60,007.7
Local Govt	–	3,861.4	3,861.4	\$14,138.4	17,999.8
Total	\$18,158.4	\$70,664.7	\$88,823.1	\$14,138.4	\$102,961.5

\* The State is legally responsible for funding post-retirement benefit costs for State college and university retirees, education retirees, and certain PFRS local government retirees under the provisions of L. 1997, c. 330. Since the State is funding the retiree benefits for these groups, it represents a special funding situation under GASB 75 and the State is required to recognize its proportionate share of the collective Net OPEB liability for these plans.

Aon calculated the State OPEB liability based on plan provisions, as provided by the State, along with certain demographic and economic assumptions recommended by Aon and approved by the State, which conform to the requirements of GASB 74 and 75. Aon used the entry age normal Actuarial Method to calculate the OPEB liability of the State and local participating employers. Many of the actuarial assumptions used to project the OPEB liability are the same as those used to determine the accrued actuarial liabilities of the Pension Plans. The discount rate used to determine the retiree healthcare liabilities is 2.16%, and is based on a 20-year tax-exempt municipal bond index. When projecting the growth of expected claims over the lifetimes of the qualifying retirees, (1) Aon assumed that pre-age 65 PPO/HMO medical benefits would increase at a rate of 5.65% in Fiscal Year 2021 and gradually decrease to a 4.5% long-term trend after seven (7) years. For post-65 PPO/HMO medical benefits, the trend rate assumption reflects premiums through plan year 2024 and projected increases in Fiscal Year 2025 of 13.79% and 12.93% for PPO premiums of State and education retirees, respectively; and 15.49% and 15.23% for HMO premiums, respectively. The Post-65 PPO/HMO Medical trend rate will gradually decline until it reaches a rate of 4.5% in Fiscal Year 2032 and all future years. It stabilizes at 6.75% for current and future retirees in Fiscal Year 2031 and all future years; and (2) Aon assumed that prescription drug benefits would increase at a rate of 6.75% for current and future retirees in Fiscal Year 2021 and taper off to a 4.5% long-term trend rate after seven (7) years. Copies of audited valuation reports are posted on the Division of Pensions and Benefits' website at: <http://www.state.nj.us/treasury/pensions/financial-reports.shtml>. No information on that website is incorporated by reference into this Appendix I.

An analysis of the Centers for Medicare & Medicaid Services ("CMS") 2024 Medicare Advantage and Part D Rate Announcement suggests a need for possible changes to the assumptions used to generate forward-looking estimates that could ultimately affect the level of State post-retirement medical contributions provided in future State Fiscal Years. CMS announced changes to methodologies that impacts payments to Medicare Advantage plans. The SHBP/SEHBP premiums for Medicare Advantage that have been negotiated for Plan Year 2024 will not change based

on the CMS Announcement and there will be no impact on the post-retirement medical costs paid from Fiscal Year 2024 State budget. But these changes based on the CMS Announcement may impact future Fiscal Years. The State will monitor annual changes in future CMS Announcements to assess the impact on post-retirement costs funded from the State's annual Appropriations Act. Uncertain changes in federal policy and other factors beyond the control of the State may result in future changes of the assumptions used to generate forward-looking estimates of State OPEB liabilities.

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## LITIGATION

The following are cases presently pending or threatened in which the State has the potential for either a significant loss of revenue or a significant unanticipated expenditure.

### *Abbott v. Burke (Motion in Aid of Litigants' Rights)*

On January 28, 2021, the State Defendants (consisting of the Commissioner of Education and the Schools Development Authority (“SDA”)) received a motion in aid of litigants’ rights filed by the Education Law Center (the “ELC”) seeking an order from the New Jersey Supreme Court to compel the State Defendants to seek and secure by June 30, 2021, from the Legislature, school construction funding as is needed and required to manage, undertake, and complete the school facilities projects in the SDA 2019 Statewide Strategic Plan. The motion also seeks for the State Defendants to seek and secure funds from the Legislature by June 30, 2021, for health and safety projects, including those necessary to ensure the safe reopening and operation of school buildings in SDA Districts during the ongoing pandemic. The ELC is seeking to enforce the school facilities construction funding mandate set forth in *Abbott v. Burke*, 153 N.J. 480 (1998) and *Abbott v. Burke*, 164 N.J. 84 (2000). State Defendants filed its opposition to the motion on March 22, 2021. The New Jersey Supreme Court requested additional briefing from the parties on the effect, if any, of the enactment of the Fiscal Year 2022 Appropriations Act. The State Defendants filed its brief on August 6, 2021. The New Jersey Supreme Court requested that the State provide cost estimates for: (1) the priority projects listed in the 2019 Statewide Strategic Plan; and (2) the emergent projects in the SDA Districts. The State provided this information to the New Jersey Supreme Court on November 8, 2021. On December 15, 2021, the New Jersey Supreme Court issued an order appointing a Special Master to conduct an analysis of: (1) the status of the cost estimates at issue, including any outstanding steps required to finalize the State’s cost estimates for the emergent projects needed in SDA Districts; (2) the areas in which data is available and those in which information is unavailable or yet undeveloped, and, where the information is not available or has not been developed, a recitation of the steps taken to obtain the information, the steps required to complete that task, and a realistic projection of when the data will become available, if possible, with respect to the cost estimates; and (3) any other information as is relevant to the motion in aid of litigants’ rights. The Supreme Court closed the record on January 30, 2023. The Special Master’s report was issued on March 29, 2023. On May 4, 2023, the Supreme Court denied the motion in aid of litigants’ rights.

### *NL Industries, Inc. v. State of New Jersey*

The Raritan Bay Slag Superfund Site (the “Site”) is approximately 47 acres of real property located in the Laurence Harbor section of Old Bridge Township and Sayreville. Portions of the Site are located on State riparian lands. In 2012, the United States Environmental Protection Agency (“EPA”) informed NL Industries, Inc. (“NL”) that EPA believed that slag was generated, in part or in whole, by NL’s (then National Lead Industries) lead-smelting facility in Perth Amboy. EPA selected a remediation remedy and named NL as the potentially responsible party subject to enforcement. On March 19, 2014, NL filed an initial complaint for contribution against the State in the Superior Court, Law Division for the costs to remediate the Site. On August 16, 2017, NL filed an amended complaint alleging that in the 1980s the State dredged areas that were impacted by hazardous substances, transported the contaminated sediments and discharged the hazardous substances on areas of the Site, and that the State had caused, or contributed to, the discharge by virtue of the State’s failure, as owner of a portion of the Site, to remove the slag after the enactment of the Spill Compensation and Control Act (“Spill Act”), *N.J.S.A. 58:10-23.11 et seq.*, in 1977. In the amended complaint, NL sought declaratory relief as to the State’s liability for cleanup and removal costs, including future costs or damages. The State filed its answer denying liability and asserting defenses under the New Jersey Tort Claims Act, *N.J.S.A. 59:1-1 et seq.* The State also filed a counterclaim asserting claims under the Spill Act seeking the State’s past and future remediation costs, and natural resource damages. Mediation of this matter began in 2018 and, as a result, NL withdrew its complaint and the State withdrew its counterclaim, both without prejudice. The State continues to mediate this matter with all involved parties. The State is vigorously defending this matter.

*Eric R. Perkins, Chapter 7 Trustee for Richard Bernardi, Marilyn Bernardi & Strategic Environmental Partners v. New Jersey Department of Environmental Protection*

Richard Bernardi, Marilyn Bernardi, and Strategic Environmental Partners (collectively, “Debtors”) are Chapter 7 Debtors in Federal Bankruptcy Court, Trenton. The Debtors are the owners/operators of the former “Fenimore Landfill” in Roxbury Township, Morris County. In February 2011, Debtors purchased the landfill property with the stated purpose of closing the landfill and redeveloping it as a solar farm. In conjunction with closure of the landfill, Debtors were authorized to import certain solid waste material. Between November 2012 and June 26, 2013, the DEP investigated over 2500 complaints of noxious hydrogen sulfide gas (“H<sub>2</sub>S”) odors emitting from the landfill. On June 26, 2013, following enactment of the “Legacy Landfill Law,” *N.J.S.A. 13:1E-125.1 et seq.*, DEP issued an emergency order authorizing DEP to enter the landfill property to take measures to abate the H<sub>2</sub>S odors, which the Debtors had failed to control. DEP entered the property and eventually installed a gas collection system, thermal oxidizer and scrubber to capture and destroy the H<sub>2</sub>S. DEP continues to occupy a portion of the property in order to operate the H<sub>2</sub>S treatment systems and is designing a replacement treatment system for the site.

In June 2016, the Debtors filed separate bankruptcy petitions under Chapter 11 of the Bankruptcy Code and a trustee was appointed (the “Trustee”). In July 2017 the matters were consolidated and converted to Chapter 7 bankruptcy. In December 2017, the Trustee’s counsel advised DEP that they were preparing an adversary complaint in Bankruptcy Court against the DEP seeking damages for DEP’s take-over. After brief settlement discussions, on June 14, 2018, the Trustee filed the adversary complaint for unspecified damages, alleging, *inter alia*, a taking of Debtors’ property without just compensation. DEP filed counter-claims seeking costs incurred to date by DEP abating the H<sub>2</sub>S emissions. The parties agreed to a discovery extension to August 31, 2023. Trial is currently scheduled for November 29, 2023. The State is vigorously defending this matter.

*Public Service Electric & Gas Company, Inc. v. Director, Division of Taxation*

For tax years 2006 through 2014, Public Service Electric & Gas Company, Inc. (“PSE&G”) filed CBT returns and included its transitional energy facility assessment (“TEFA”) in its CBT base, in accordance with *N.J.S.A. 54:10A-4.1*. Thereafter, PSE&G recalculated its CBT liability, removed the TEFA from the tax base and sought a CBT refund. Notably, the Appellate Division recently concluded that TEFA payments are included in the CBT base and denied a similar refund claim. *Rockland Elec. Co. v. Director, Div. of Taxation*, 30 N.J. Tax 448 (Tax 2018), *aff’d*, A-4522-17T2 (App. Div. June 24, 2019), cert. denied. *Rockland Electric Co.* is now final and binding upon the Tax Court. The Division denied PSE&G’s refund claim. On or about May 28, 2019, PSE&G filed a Complaint in the Tax Court of New Jersey, contesting the CBT refund denial. The Division filed its answer to the complaint. The State is vigorously defending this matter.

*Stanislaus Food Products Co. v. Director, Division of Taxation*

On or about July 31, 2017, Stanislaus Foods filed a complaint in the Tax Court contesting the constitutionality of the Corporation Business Tax’s Alternative Minimum Assessment (“AMA”) component. For periods after June 30, 2006, the AMA is \$0, except for foreign corporations protected from income tax by the Interstate Income Act of 1959, *P.L. 86-272*. Stanislaus Foods alleges the AMA discriminates against foreign corporations in violation of the federal constitution’s Dormant Commerce Clause and Supremacy Clause. The parties filed partial cross-motions for summary judgment. On June 28, 2019, the Tax Court concluded that the AMA, for periods after June 30, 2016, conflicts with the mandates of *P.L. 86-272*, and thus, violates the federal Supremacy Clause. The Division filed a motion for reconsideration on March 2, 2020, and the Tax Court heard oral argument on June 19, 2020. On April 22, 2021, the Tax Court denied the Division’s motion for reconsideration. On June 29, 2023, the parties entered into a stipulation of dismissal.

*Cargill Meat Solutions Corporation. v. Director, Division of Taxation*

Plaintiff, based out of Kansas, sells meat products and services throughout the United States. Plaintiff does not engage in meat processing or packaging in New Jersey. Rather, its operations in New Jersey are limited to storage and distribution, as it arranges for delivery of its products to a 180-mile radius market covering portions of Pennsylvania, New Jersey, New York and Maryland. In calculating its New Jersey Litter Control Fee liabilities, Plaintiff took a \$465 million deduction in 2014 and \$509 million deduction in 2015, claiming its sales to wholesalers

are not subject to the Litter Control Fee under *N.J.S.A. 13:1E-216(a)*, the wholesaler-to-wholesaler exception. The Division disallowed these deductions, finding that the Plaintiff was not entitled to the wholesaler-to-wholesaler exception because even though Plaintiff's sales were all to wholesalers, the Plaintiff is a manufacturer and, thus, not entitled to a wholesaler-to-wholesaler exemption. The Division imposed an additional Litter Control Fee to comport with the disallowance of the deductions. Plaintiff filed a complaint with the Tax Court contesting the denial of the deduction and, to invalidate the additional Litter Control Fee assessment by challenging the facial constitutionality of the Litter Control Fee statute. The Division filed an answer on July 16, 2018, and on June 14, 2019, filed a motion to dismiss the facial constitutional challenge to the Litter Control Fee. On March 12, 2020, the court granted the Division's motion and dismissed that count of the complaint. The parties cross-moved for summary judgment on the remaining counts of the complaint and the Tax Court heard oral argument on April 16, 2021. On December 15, 2021, the Tax Court issued a decision denying the Plaintiff's motion for summary judgment and granting the Division's motion for summary judgment, determining that the Plaintiff is a manufacturer for purposes of the Litter Control Fee and not entitled to the wholesaler-to-wholesaler exception. On January 27, 2022, Plaintiff filed an appeal of the Tax Court's March 2020 order and December 2021 decision. Plaintiff filed its brief on May 19, 2022. The Division filed its brief on September 21, 2022. On August 22, 2022, the Appellate Division granted the New Jersey Business and Industry Association's motion to appear as amicus curiae in support of Plaintiff. Oral argument is scheduled for September 13, 2023. The State is vigorously defending this matter.

*Gomez v. DCPD et al.*

On March 12, 2012, the Plaintiff child was allegedly assaulted by her biological father, suffering severe injuries. Plaintiff alleged that the New Jersey Department of Children Protection and Permanency ("DCPP") knew that the Plaintiff's parents had a history of drug and alcohol abuse, psychiatric problems and were unemployed. The biological mother had two other children removed from her care and was in a methadone program when the Plaintiff was born. The biological father also had an extensive criminal history of domestic violence. Plaintiff claims DCPP failed to comply with its own policy and procedure, failed to remove the Plaintiff from the home, negligent training, violation of the New Jersey Child Placement Bill of Rights, and Section 1983 claims. The complaint was filed in State court on February 12, 2015. On March 11, 2015, DCPP removed the case to the U.S. District Court for the District of New Jersey and filed a motion to dismiss the complaint. The State's motion to dismiss the complaint was denied without prejudice on May 8, 2015. The Plaintiff agreed to withdraw the federal claims and the matter was remanded to State court. The State Defendants filed a motion for summary judgment, which was granted on April 24, 2023. The Appellate Division granted Plaintiff's request to file a motion for leave to appeal by May 29, 2023. The State opposed that motion, and the Appellate Division denied that motion on July 13, 2023. Other defendants in the case whose motions for summary judgment were denied filed a motion for leave to appeal, which the Appellate Division denied. On June 20, 2023, those same co-defendants filed a motion for leave to appeal to the Supreme Court, and that motion is still pending decision. Trial against the defendants who are still active in the case is currently scheduled to begin on September 11, 2023. The State is vigorously defending this matter.

*In the Matter of Application by Horizon Healthcare Services, Inc., to Form a Mutual Holding Company Pursuant to N.J.S.A. 17:48E-46.1.*

On December 12, 2022, New Jersey Citizen Action and Health Professionals and Allied Employees (collectively, the "Appellants"), filed a Notice of Appeal in Superior Court, Appellate Division challenging the Department of Banking and Insurance's ("DOBI") November 1, 2022 order (the "DOBI Order") approving the reorganization application of Horizon Healthcare Services, Inc. ("Horizon") from a health services corporation to a mutual holding company. The Appellants are challenging the DOBI Order which was issued after review of the application submitted by Horizon under *N.J.S.A. 17:48E-46.1* to 46.16. The Appellants claim that DOBI rushed its review of Horizon's application and did not follow the Act's requirements in reviewing the application. Appellants further contend that the DOBI Order failed to follow the statutory mandate that Horizon's plan be found to benefit its policyholders, not treat them inequitably, and not be detrimental to the insurers' safety or soundness. On May 31, 2023, the Appellate Division affirmed the DOBI Order. On June 19, 2023, the Appellants filed a notice of petition for certification with the New Jersey Supreme Court. On July 31, 2023, DOBI filed its opposition to the petition for certification. The State is vigorously defending this matter.

On May 23, 2018, Plaintiff J.A., individually and on behalf of her minor child J.A., filed a complaint in the U.S. District Court for the District of New Jersey against the New Jersey Department of Education, New Jersey Office of Administrative Law, Commissioner of Education, and Administrative Law Judge (“ALJ”) Jeffrey R. Wilson (collectively “State Defendants”), as well as the Monroe Township Board of Education, which has since been dismissed from the case. An amended complaint was filed adding additional plaintiffs and “DOEs 1-250 similarly situated ALJs” as defendants.

Plaintiffs purport to bring class action claims against State Defendants under the Individuals with Disabilities Education Act (“IDEA”) P.L. 101-476, “Federal Preemption” and 42 U.S.C. § 1983, and alleging two separate systemic violations of the IDEA. Plaintiffs also sought to bring a class action declaratory judgment claim against State Defendants and to appeal three separate interlocutory orders of the ALJ. Among other things, Plaintiffs seek the following relief: (1) a trust fund to provide educational services to all class members for the denial of a Free and Appropriate Public Education (“FAPE”) as such term is defined in IDEA; (2) a trust fund to reimburse class members for the denial of a FAPE; (3) punitive damages; and (4) attorneys’ fees and costs.

State Defendants filed a motion to dismiss and Plaintiffs opposed that motion. On June 17, 2020, the U.S. District Court ordered the parties to show cause as to why this matter should not be consolidated with the *C.P., et al. v. NJDOE, et al.*, 1:19-cv-12807 (NLH/MJS) (“*C.P.*”). (*C.P.* is a related matter with similar claims, but only seeks injunctive and declaratory relief). The court has not issued a formal order or decision on consolidation with the *C.P.* matter. On March 25, 2021, the Plaintiffs sought to consolidate this matter (“*J.A. I*”) with three other matters, *J.A. v. MTBOE, et al.*, 1-20-cv-09498 (NLH/MJS) (“*J.A. II*”), *Joanna A., et al. v. MTBOE, et al.*, 1:21-cv-06283 (NLH/MJS) (“*J.A. III*”), and *M.D., et al. v. Vineland City Bd. of Ed., et al.*, 1:19-cv-12154 (NLH/MJS) (“*M.D.*”). The districts and the State Defendants opposed consolidation. On March 22, 2022, the U.S. District Court denied consolidation of this matter. The State is vigorously defending this matter.

*J.A., et al. v. Monroe Township Board of Education, et al. and J.A. v. New Jersey Department of Education et al.*

On July 28, 2020, Plaintiff J.A., individually and on behalf of her minor child J.A., filed a complaint in the U.S. District Court for the District of New Jersey against the New Jersey Department of Education (“NJDOE”), New Jersey Office of Administrative Law (“NJOAL”), the Interim Commissioner of Education, two named Administrative Law Judges (“ALJ”) and NJDOEs 1-250 Similarly Situated ALJs (collectively, “State Defendants”), as well as the Monroe Township Board of Education (“MTBOE”). On March 23, 2021, Plaintiff Johanna A., individually and on behalf of her minor child J.A., filed a complaint in the United States District Court for the District of New Jersey against the NJDOE, NJOAL, Interim Commissioner of Education, four named ALJs and NJDOEs 1-250 Similarly Situated ALJs (collectively, the “State Defendants”), as well as MTBOE. Both complaints seek to appeal the final decision and order of an ALJ in the underlying special education due process dispute. They also allege various systemic violations of the IDEA and 42 U.S.C. § 1983; a claim of discrimination under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; and a claim of retaliation, pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq. Plaintiffs seek declaratory and injunctive relief, as well as monetary relief in the form of damages, punitive damages, compensatory education, and attorneys’ fees and costs. The State Defendants filed motions to dismiss in both matters.

On March 25, 2021, the Plaintiffs filed a motion to consolidate the three *J.A.* matters and the *M.D.* matter. The districts and the State Defendants filed oppositions. On March 22, 2022, the court granted consolidation of the *J.A. II* and the *J.A. III* matters and denied consolidation with *J.A. I* or *M.D.* On March 31, 2022, the court granted in part and denied in part the State Defendants motion to dismiss. Plaintiffs filed a motion for summary judgment on March 31, 2023, which was subsequently denied. Discovery is currently ongoing. The State is vigorously defending this matter.

*Jersey City Board of Education and E.H., a minor, by his guardian ad litem, Shanna C. Givens v. State of New Jersey*

On April 29, 2019, the Jersey City Board of Education (“JCBOE”) and E.H., a minor, by his guardian ad litem, Shanna C. Givens (“Plaintiffs”) filed a complaint against the State and various State officials (collectively, the “State Defendants”) alleging that the recent amendments to the School Funding Reform Act, N.J.S.A. 18A:7F-43 to -

63 (the “Amendments”), as applied to JCBOE, and the State Defendants failure to fully fund JCBOE’s long range facilities plan (“LRFP”), violate the State’s constitutional requirement to “provide for the maintenance and support of a thorough and efficient system of free public schools...” *N.J. Const.* art. VIII, § 4. The Amendments at issue slowly phase out certain additional State aid previously granted to SDA Districts. The phase out of this additional State aid is to occur over a six-year period beginning in the 2019-2020 school year. Plaintiffs allege that the reduction in State aid to JCBOE will jeopardize JCBOE’s ability to provide the level of funding necessary to meet the legal standard of a “thorough and efficient” education (“T&E”).

The Plaintiffs seek, among other things, a preliminary and permanent injunction enjoining the State Defendants from reducing funding to JCBOE and an order requiring the State Defendants to fully fund JCBOE’s LRFP. On July 23, 2019, Plaintiffs filed a first amended complaint, which continues to allege that the reduction in State aid to JCBOE as a result of the Amendments will jeopardize JCBOE’s ability to provide T&E. The State Defendants filed a motion to dismiss the first amended complaint, which was denied by the trial court on January 17, 2020. Discovery is complete. Oral argument was held on March 2, 2023. On June 15, 2023, the trial court granted the State Defendants’ motion for summary judgement and denied Plaintiffs’ motion for summary judgement. The Plaintiffs filed a notice of appeal on July 28, 2023. The State is vigorously defending this matter.

*Lorillard Tobacco Co. v. Director, Division of Taxation*

This case involves constitutional challenges to the Division’s regulation, N.J.A.C. 18:7-5.18(b), the Division’s interpretation of the unreasonableness exception to the State’s corporate royalty addback statute, N.J.S.A. 54:10A-4.4(c)(1)(b), and Division’s Schedule G-2, which implements the calculation of the unreasonable exception based on Taxation’s interpretation of its regulation. In 2006, the Division assessed Corporation Business Tax (“CBT”) on a subsidiary of Lorillard Tobacco Co. (“Lorillard”) for tax years 1999-2004 based on royalty payments the subsidiary had received from Lorillard. The subsidiary was a non-filer in New Jersey and contested the assessment in the New Jersey Tax Court claiming, among other things, that it did not have physical presence in the State so it lacked substantial nexus to permit it to be subject to CBT. While the subsidiary’s case was pending in the Tax Court, Lorillard filed refund claims for 2002-2005 by filing amended CBT returns, claiming it would be improper, unreasonable, and unconstitutional to deny it a deduction for the royalty payments if, at the same time, the Division subjected its subsidiary to tax on such amounts. Taxation denied the claims as “protective” and Lorillard filed a complaint with the Tax Court in 2007. The subsidiary ultimately conceded nexus, filed CBT returns and paid taxes under the State’s 2009 Tax Amnesty program, after the U.S. Supreme Court denied certiorari regarding the New Jersey Supreme Court decision in *Lanco v. Dir., Div. of Taxation*, 188 N.J. 380 (2006). In *Lanco*, the Court held that the State could subject a taxpayer to CBT even though it lacked physical presence in the State. Thereafter, Lorillard sought an expedited payment of the CBT refund based on the Division’s Schedule G-2 calculation, which limited Lorillard’s deduction due to its subsidiary’s lower allocation factor. Lorillard reserved its challenge to the remainder of the exemption. In 2012, Lorillard filed another complaint with the Tax Court challenging the Division’s partial refund denial for tax years 2008-2010 on the same basis as the 2007 complaint.

Lorillard claims that the Division improperly and unconstitutionally granted only a partial deduction of royalty payments that Lorillard made to its subsidiary. In February 2019, the Tax Court issued a decision granting Lorillard summary judgment, and holding that the Division’s denial of a deduction for the full amount of royalties Lorillard paid was not a reasonable exercise of the Division’s discretion. The Tax Court found it unnecessary to address Lorillard’s constitutional attacks.

The Division appealed to the Appellate Division, and Lorillard filed a cross-appeal, re-asserting its constitutional challenges. The Tax Court issued a final judgment on Lorillard’s 2012 complaint based on its reasoning regarding the 2007 complaint. Both parties again appealed and the matters were consolidated by the Appellate Division. Oral argument was held on December 14, 2020. On September 21, 2021, the Appellate Division reversed the Tax Court’s decision granting Lorillard summary judgment and remanded the matter back to the Tax Court for consideration of the constitutional issues. Lorillard filed its supplemental brief with the Tax Court addressing the constitutional issues on February 24, 2022. The Division filed its brief on May 6, 2022. Oral argument was held on September 13, 2022. On October 14, 2022, the Tax Court requested additional supplemental briefing. Simultaneous briefs were submitted November 28, 2022. On June 12, 2023, the Tax Court requested additional supplemental briefing from both parties. Lorillard filed its brief on August 15, 2023, and the Division filed its brief on August 17, 2023. The State is vigorously defending this matter.

*Lisa Salvato, on behalf of herself and other persons similarly situated v. Steven Harris, in his official capacity as Administrator of the State of New Jersey*

On July 14, 2021, Plaintiff filed a corrected complaint in the United States District Court for the District of New Jersey seeking declaratory and injunctive relief against the Administrator of the New Jersey Unclaimed Property Administration (the “Administrator”). Plaintiff challenges the Administrator’s implementation of the Unclaimed Property Act, asserting that the Administrator’s actions under the Act violate the federal constitution’s Due Process Clause and Takings Clause. Plaintiff seeks relief both individually and on behalf of a class of similarly situated individuals, namely all individuals owning abandoned property transferred to the State under the Unclaimed Property Act over the past ten years without notice to the owners. The State filed a motion to dismiss the complaint, which was granted in part and denied in part, with leave to conduct limited expedited discovery and file an amended complaint. Plaintiff’s first amended complaint purported to add a new class plaintiff, Christine Kydd. On July 8, 2022, the State filed a motion to strike the first amended complaint as exceeding the court’s limited grant of authority to amend. The court granted the State’s motion removing Christine Kydd as a plaintiff, and struck certain allegations of the amended complaint. On May 12, 2023, the State filed a motion for summary judgment. The State is vigorously defending this matter.

*Sirius XM Radio Inc. v. Director, Division of Taxation*

On July 7, 2023, Sirius XM Radio Inc. (“Sirius”) filed a complaint in the New Jersey Tax Court contesting a final determination by the Division of Taxation that denied Sirius’s CBT refund claims for tax years 2015 and 2016. Sirius amended its CBT returns for tax years 2015 and 2016 claiming Research and Development (“R&D”) credit for Sirius’s activities in the field of electronic device technology during tax years 2003 through 2007. Sirius alleges that it is entitled to CBT credit as a result of R&D activities in New Jersey and that the credit can be carried forward for a period of 15 years pursuant to N.J.S.A. 54:10A-5.24b(a). The Division denied the CBT refund request because a taxpayer is not permitted to amend a return to claim credits for carryforward periods that are closed tax years due to the statute of limitations. The Division’s answer to the complaint is due on November 3, 2023. The State is vigorously defending this matter.

*Medicaid, Tort, Contract, Workers’ Compensation and Other Claims*

The Office of the Inspector General (“OIG”) of the U.S. Department of Health & Human Services (“HHS”) has conducted and continues to conduct various audits of Medicaid claims for different programs administered by the State’s Department of Human Services (“DHS”). The OIG audits, which have primarily focused on claim documentation and cost allocation methodologies, recommend that certain claims submitted by DHS be disallowed. OIG submits its recommendations on disallowances to the Centers for Medicare and Medicaid Services (“CMS”) which may, in whole or in part, accept or disagree with the OIG’s recommendations. If the OIG’s recommendations are not challenged by the State or are upheld by CMS, DHS will be required to refund the amount of any disallowances. Sixteen audits, which in the aggregate total over \$900 million, are currently in draft or final form but, due to possible revisions or appeals, the final amounts are uncertain. Approximately one-third of the amount above relates to an audit of the State’s School-based Medicaid claiming. However, DHS is disputing the OIG’s audit findings. Given that the State is currently disputing and appealing the OIG audit findings, it cannot estimate any final refund amounts or the timing of any refund payments that may be due to CMS. These current audits and any future audits of Medicaid claims submitted by DHS may result in claim disallowances which may be significant. The State is unable to estimate its exposure for these claim disallowances.

The federal Disaster Relief Appropriations Act of 2013 (the “Disaster Relief Act”) appropriated approximately \$50.38 billion (later reduced by sequestration to \$47.9 billion) to various federal agencies to assist states and local communities with the impacts of Superstorm Sandy, including funding provided directly to private homeowners and businesses. The Disaster Relief Act allocated funding to OIG to conduct audits and investigations related to the expenditure of disaster relief aid. Audits are ongoing or have already been undertaken by the OIG from the U.S. Department of Homeland Security, the U.S. Department of Housing and Urban Development, the U.S. Department of Transportation, and the HHS. The State anticipates that there will be continued audit activity throughout the duration of the federally-funded Sandy programs. As with any federal OIG audit or investigation, there is the potential for an OIG recommendation that the federal agency de-obligate funding in the event of non-compliance with federal statutes or regulations.

At any given time, there are various numbers of claims and cases pending against the State, State agencies and employees, seeking recovery of monetary damages that are primarily paid out of the fund created pursuant to the New Jersey Tort Claims Act (*N.J.S.A. 59:1-1 et seq.*). The State does not formally estimate its reserve representing potential exposure for these claims and cases. The State is unable to estimate its exposure for these claims and cases.

The State routinely receives notices of claim seeking substantial sums of money. The majority of those claims have historically proven to be of substantially less value than the amount originally claimed. Under the New Jersey Tort Claims Act, any tort litigation against the State must be preceded by a notice of claim, which affords the State the opportunity for a six-month investigation prior to the filing of any suit against it.

In addition, at any given time, there are various numbers of contract and other claims against the State and State agencies, including environmental claims asserted against the State, among other parties, arising from the alleged disposal of hazardous waste. Claimants in such matters are seeking recovery of monetary damages or other relief which, if granted, would require the expenditure of funds. The State is unable to estimate its exposure for these claims.

At any given time, there are various numbers of claims by employees against the State and State agencies seeking recovery for workers' compensation claims that are primarily paid out of the fund created pursuant to the New Jersey Workers' Compensation Law (*N.J.S.A. 35:15-1 et seq.*). Claimants in such matters are seeking recovery for personal injuries suffered by a claimant by accident arising out of and in the course of the claimant's employment due to the employer's negligence. The State is unable to estimate its exposure for these claims.

Prior to July 1, 2013, there were various numbers of claims and cases pending against the University of Medicine and Dentistry of New Jersey ("UMDNJ") and its employees, seeking recovery of monetary damages that were primarily paid out of the UMDNJ Self Insurance Reserve Fund created pursuant to the New Jersey Tort Claims Act (*N.J.S.A. 59:1-1 et seq.*). As a result of the enactment of the New Jersey Medical and Health Sciences Education Restructuring Act, *L. 2012, c. 45* (the "Restructuring Act"), all of UMDNJ was transferred to Rutgers, The State University ("Rutgers"), with the exception of the School of Osteopathic Medicine which was transferred to Rowan University ("Rowan"), and University Hospital in Newark, New Jersey, which now exists as a separate instrumentality of the State. All claims and liabilities of UMDNJ associated with the transferred facilities have been transferred to Rutgers, Rowan and University Hospital, as applicable. Pursuant to the Restructuring Act, Rutgers and Rowan each entered into a memorandum of understanding with the State Treasurer pursuant to which the State shall pay from a self-insurance reserve fund established for each entity medical malpractice claims occurring prior to and post the effective date of the transfers, which was July 1, 2013. The Restructuring Act also provides for University Hospital's medical malpractice claims to be covered by a self-insurance reserve fund established by the State Treasurer. University Hospital entered into a memorandum of understanding with the State Treasurer for such claims. All claims, other than medical malpractice claims, incurred by UMDNJ with respect to the UMDNJ facilities transferred to Rutgers will be paid for by Rutgers out of its own funds. All claims, other than medical malpractice claims, incurred by Rowan will be paid from the Tort Claims Fund. The State is unable to estimate its exposure for these claims.

Approximately two dozen hospitals have challenged in the Office of Administrative Law and the Appellate Division the Medicaid reimbursement rates paid to these hospitals alleging that there were calculation errors or that the methodology used to calculate the rates is incorrect. Additionally, a group of hospitals have challenged the constitutionality of the charity care statute and the inpatient Medicaid rate reimbursement framework. This group of hospitals allege the losses incurred in treatment of the charity care and Medicaid patients is an unconstitutional taking of the hospitals' property. These challenges date back to 2002. The State is vigorously defending this matter. To date, there have been no findings against the State. In the event the hospitals are successful, State's Department of Health ("DOH") and DHS have advised that they may possibly need to refund millions of dollars to the hospitals over the various relevant years. The State is unable to estimate its exposure for these claims.

#### *Affirmative Litigation*

From time to time, the State initiates litigation against various entities to enforce State laws, contractual and other rights, pursue cost recoveries and natural resource damages in the environmental arena and prosecute entities who have engaged in alleged fraudulent, negligent or other wrongful conduct. The State is unable to estimate the amount of any monetary recoveries from such affirmative litigation. In addition, depending on which State

department, division or agency is the plaintiff, any monetary recoveries may already be included in such State department, division or agency's revenue estimates for the current fiscal year.

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**APPENDIX I-A**  
**SUMMARY OF CERTAIN STATE TAXES**

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**APPENDIX I-A  
SUMMARY OF CERTAIN STATE TAXES**

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## Summary of Certain State Taxes

The following is a summary of certain state taxes in New Jersey:

### Alcoholic Beverage Tax

The Alcoholic Beverage Tax applies to the first sale or delivery of beer, liquor, wine and sparkling wine to retailers in New Jersey. This tax is collected from licensed manufacturers, wholesalers and State beverage distributors, based on the number of gallons, or fractions thereof, sold. License fees for manufacturing, distributing, transporting and warehousing alcoholic beverages are also imposed pursuant to this law. Materials used by distilleries to produce hand sanitizer during a public health emergency are exempt. *L. 2020, c. 33.*

*Current Rates:* Beer — \$0.12 per gallon; Beginning August 1, 2009: Liquor — \$5.50 per gallon; Wines — \$0.875 per gallon; certain apple ciders — \$0.15 per gallon. *L. 2009, c. 71.*

Beginning Fiscal Year 2010, \$22 million collected from the Alcohol Beverage Tax will be annually deposited in the Health Care Subsidy Fund. *L. 2009, c. 71.*

### Casino Taxes, Fees, and Surcharges

The Casino Control Act imposes a tax on the “gross revenues” of gambling casinos, as defined by the Act, as well as a gross revenue tax on companies that administer and service multi-casino progressive slot machine systems.

*Current Rate:* 8% (both taxes).

The Tourism Promotion Fee is applied to each room occupied or possessed by guests, with a rate of \$2 per day for each occupied room in hotels that provide casino gambling. A \$1-per-day rate applies to each occupied room in all other facilities. *L. 1991, c. 376.*

There is also a \$3 per day occupancy fee imposed on occupied rooms in a casino hotel facility. *L. 2003, c. 116.* There is also a minimum daily charge of \$3 per car for the use of casino hotel parking facilities in Atlantic City. *L. 1993, c. 159; L. 2003, c. 116.* The casino has the discretion to either pay the parking fee on behalf of the patron, or to charge the patron the parking fee. *L. 1993, c. 159.* No patron shall be required, upon proof of payment of the \$3 charge, to pay the charge again for the same motor vehicle on the same calendar day, in the same parking facility or any other casino hotel parking facility. *L. 1993, c. 159.*

A Casino Room Occupancy Surcharge is imposed on the casino hotel facility at \$2 per day on occupied rooms in Atlantic City. *L. 2021, c. 497.* The casino has the discretion to pass on the surcharge to the guest.

*L. 2013, c. 27* amends and supplements the Casino Control Act and authorizes Internet gaming at Atlantic City casinos under certain circumstances. The law imposes an annual 15% tax on Internet gaming gross revenues, which shall be paid into the Casino Revenue Fund. The 8% tax on casino gross revenues excludes Internet gaming, but the investment alternative tax does apply to those Internet gaming gross revenues at a rate of 5% with the State requiring a partial payment of 2.5% of the estimated taxes. *L. 1984, c. 218; L. 2013, c. 27.*

Revenue received by casinos from sports wagering is subject to an 8.5% tax, while revenue received from Internet sports wagering is subject to a 13% tax. *L. 2019, c. 36.*

*L. 2021, c. 314* temporarily modifies the taxes and credits of casino licensees and permanently redefines promotional gaming credits to include certain coupons and table game wagers.

### Cigarette Tax and Tobacco and Vapor Products Tax

The Cigarette Tax is imposed on the sale, use or possession of all cigarettes within New Jersey. This tax is collected from licensed distributors who receive cigarettes directly from out-of-state manufacturers and also on

consumers who possess untaxed cigarettes. Receipts from the sale or use of tobacco products other than cigarettes, by a distributor or wholesaler to a retail dealer or consumer, are subject to the Tobacco Products Wholesale Tax. *L. 1990, c. 39.* As of March 1, 2002, the Tobacco Products Wholesale Tax is imposed on the price that a distributor pays to buy products from the manufacturer. *L. 2001, c. 448.* The Tobacco Products Wholesale Tax is imposed on liquid nicotine used in electronic cigarettes and similar devices. *L. 2018, c. 50.* The Act was renamed the Tobacco and Vapor Products Tax Act and container e-liquid is now subject to the tax. *L. 2019, c. 147.*

*Current Rates:* Cigarette Tax — \$0.135 per cigarette and \$2.70 per pack of twenty cigarettes; Moist snuff — \$0.75 per ounce with a proportionate tax rate for fractional amounts; Tobacco and Vapor Products Tax — 30%; \$0.10 per milliliter of liquid nicotine with a proportionate tax rate on fractional amounts and 10% of the retail price of container e-liquid.

Annually, the sum of \$1 million from Cigarette Tax revenues is deposited into the Cancer Research Fund. *L. 1982, c. 40.* After this deposit, the first \$150 million collected annually from the Cigarette Tax and the first \$5 million collected annually from the renamed Tobacco and Vapor Products Tax Act is deposited into the Health Care Subsidy Fund. For fiscal years beginning on or after July 1, 2009, \$241.5 million of revenue collected from the Cigarette Tax shall be deposited annually into the Dedicated Cigarette Tax Revenue Fund. *L. 2009, c. 70.*

### **Corporation Business Tax (CBT)**

Corporations are subject to mandatory unitary business combined reporting and market sourcing for tax years beginning on and after January 1, 2019. *L. 2018, c. 48.* Combined reporting treats the unitary business members of a combined group as one single economic enterprise. *L. 2020, c. 118* amended the combined reporting rules further by adding provisions concerning tax treatment of income of public utilities and New Jersey Subchapter S corporations, and tax treatment for certain allowable net operating loss carryovers, transfers, and deductions. *L. 2018, c. 48.* The definition of “unitary business” has been expanded to mean “a single economic enterprise that is made up either of separate parts of a single business entity or of a group of business entities under common ownership” and is “construed to the broadest extent permitted under the Constitution of the United States.” *L. 2018, c. 48.* Provisions regarding the entire net income tax base and operative dates for combined reporting were amended, a CBT deduction in the amount of a federal deduction claimed on certain foreign related income under 26 U.S.C. § 250 was added, and the tax treatment of certain tax credits awarded by the New Jersey Economic Development Authority (“NJEDA”) was clarified.

In addition, a surtax was imposed with a phase down over four tax years: a 2.5% surtax in Tax Years 2018 and 2019; a 1.5% surtax in Tax Years 2020 and 2021; and no surtax beginning in Tax Year 2022. *L. 2018, c. 131.* The 2.5% surtax is now retroactively imposed from January 1, 2020 through December 31, 2023. *L. 2020, c. 95.* The Fiscal Year 2024 Appropriations Act contemplates that this 2.5% surtax will no longer be in effect after December 31, 2023.

*L. 2023, c. 96* made various changes to combined reporting, particularly with respect to: certain statutory provisions concerning unitary businesses; the method for calculating the allocation factor of a taxable member of a combined group; the managerial member duration period; the definition of world-wide basis and world-wide group; water’s-edge groups and affiliated groups, including the calculation of entire net income for non-U.S. corporations that are members of a water’s-edge group or affiliated group; the “captive” versions of investment companies, real estate investment trusts, and regulated investment companies.

*L. 2023, c. 96* also modifies the treatment of global intangible low-taxed income (“GILTI”) and foreign-derived intangible income (“FDII”) under the Corporate Business Tax Act (“CBT” or the “Act”), by repealing the deduction currently allowed for GILTI and FDII, and by treating GILTI as a dividend, subject to the dividend exclusion rules for privilege periods ending on and after July 31, 2023. *L. 2023, c. 96* adds language clarifying the treatment of the income of non-U.S. corporations that are not members of a world-wide group or a water’s-edge group for purposes of the Act.

*L. 2023, c. 96* modifies certain statutory requirements concerning installment payments and changes certain provisions concerning the underpayment of an installment payment. It also changes the due date for filing a return under the Act to: (1) the fifteenth day of the month immediately following the month of the original due date for filing

the taxpayer's federal corporate income tax return for the privilege period; or (2) in the case of a taxpayer that received a filing extension for federal tax purposes, the fifteenth day of the month immediately following the month of the extended due date for filing the federal return. *L. 2023, c. 96* also provides certain criteria for determining whether a corporation has "substantial nexus" with the State and will therefore be subject to taxation.

*L. 2023, c. 96* provides that with respect to its fiscal or calendar accounting years ending on or after July 31, 2023, any taxpayer with a tax liability of less than \$1,500 shall not be required to make any installment payments other than an installment payment of 50 percent, which shall be paid at the time of filing the annual return. For a combined group, this provision shall apply by taxable member in aggregate for the combined group.

*L. 2023, c. 96* provides that for privilege periods ending on and after July 31, 2022, adjustments may be made, by the director or the taxpayer, to net operating losses ("NOL") in privilege periods closed for purposes of the statute of limitations on assessments in order to determine the correct tax liability in privilege periods that remain open to assessment; provided, however, no such NOL adjustments for those closed privilege periods shall be made after ten years.

*L. 2017, c. 254* authorizes the establishment of a drug donation program that encourages the donation of over-the-counter drugs, prescription drugs, and administrative supplies by donors, for use by people who are indigent, uninsured, or underinsured. Donors are persons or entities properly licensed and authorized to possess prescription drugs, and which elect to donate over-the-counter drugs, prescription drugs or administration supplies pursuant to the Act. Donors may claim a CBT or Gross Income Tax credit equal to the sum of: the cost of the over-the-counter drugs, prescription drugs and administration supplies; and the verifiable cost incurred to make the donation of the drugs and supplies.

On November 4, 2014, Article VIII, Section II of the State Constitution was amended to provide that from July 1, 2015, until June 30, 2019, an amount equivalent to 4% of the revenue annually derived from the CBT (or any other law of similar effect) be credited to a special account in the General Fund to be appropriated for the preservation, development, and stewardship, of lands for recreation and conservation purposes. Commencing on July 1, 2019, an amount equivalent to 6% of the revenue annually derived from the CBT (or any other law of similar effect) shall be credited to this special account to be appropriated for these purposes.

NJEDA provides tax credits which can be used to offset CBT as well as the Insurance Premiums Tax ("IPT") through the Urban Transit Hub Tax Credit Act ("UTHTCA"), the Grow New Jersey Assistance Act ("GNJAA"), the New Jersey Economic Stimulus Act of 2009 ("NJESA 2009"), the Public Infrastructure Program ("PIP"), and through Business Employment Incentive Program ("BEIP") grants. Awards for any of these programs are based on actual performance and achievement of job and capital investment requirements. The NJEDA is authorized to implement certain accommodations to businesses due to the COVID-19 public health emergency. *L. 2022, c. 134*. Businesses participating in the GNJAA and UTHTCA programs are permitted by NJEDA to terminate their program agreements any time before December 31, 2023, commencing with the 2020 tax period or any subsequent tax period ending on or before December 31, 2023. *L. 2022, c. 134*. Businesses may also extend the time allowed under current law to suspend its obligations under GNJAA and UTHTCA, for the same period of time. *L. 2022, c. 134*. *L. 2012, c. 35*, amends the UTHTCA to increase the cap on the total amount of tax credits authorized under such Act, for eligible businesses making capital investments in the State. The cap was increased from \$1.5 billion to \$1.75 billion, to be utilized over a ten-year period. The overall cap on PIP credits is \$22 million. There is no overall cap on GNJAA credits. The UTHTCA program is now closed to new applications.

*L. 2013, c. 14*, known as the "New Jersey Angel Investor Tax Credit Act," provides tax credits against CBT and GIT for qualified investments in New Jersey emerging technology businesses. Subject to certain limitations, tax credits equal 10% of a taxpayer's qualifying investment in an emerging technology company, up to a maximum allowed credit of \$500,000 per year for each qualifying investment. The total cap on the credit is increased to \$35 million per year. *L. 2020, c. 156*. *L. 2017, c. 40*, permits holding companies of eligible New Jersey emerging technology companies to receive investments under the Act. The amount of the CBT and GIT credits that are available for qualified investments increased from 10% to 20% of the qualified investment, and a taxpayer may be allowed a tax credit in an amount equal to 25% of the qualified investment when the emerging technology business is located in a qualified opportunity zone or low-income community, as defined by federal law, or is certified by the State as a minority- or woman-owned business. *L. 2019, c. 145*.

Credits against the CBT and IPT are also available to residential developers, through the Economic Redevelopment and Growth (“ERG”) program, authorized by NJEDA in 2009. The total cap on credits is \$823 million, to be utilized over a ten-year period. *L. 2015, c. 69* provides that mixed use parking project developers are eligible for credits, but did not increase the overall cap. The total tax credits available under the ERG Program were increased by \$25 million and the deadlines by which certain developers may submit a letter of support from the host municipality were extended until December 31, 2022. *L. 2022, c. 75*. Additionally, the requirements for certain mixed-use parking projects undertaken by municipal redevelopers prior to March 9, 2020 under the ERG program were amended so that project costs may include the cost or value of land, demolition, and equity contributions, as well as any particular costs for which the project has received State or local funding. *L. 2022, c. 75*. The redevelopment incentive grants awarded for these projects would equal 100 percent of the total project costs for the parking component, and 40 percent of the total project costs for the non-parking component; the redevelopment incentive grants awarded for these projects would equal 100 percent of the total project costs for the parking component, and 80 percent of the total project costs for the non-parking component if the mixed-use parking project is: (1) constructed upon all or a portion of a project site that was previously awarded tax credits pursuant to the UHTCA or the NJESA 2009, but those tax credits were not issued; (2) built for an entertainment venue with a seating capacity in excess of 5,000; or (3) constructed to be utilized by a visitor center or youth center within or adjacent to a national historic park. *L. 2022, c. 75*.

NJEDA awarded BEIP grants to certain businesses which met employment goals in New Jersey. *L. 2015, c. 194*. Most recipients of BEIP grants accrued but not paid between 2008 and 2025 elected to receive the grant in the form of a tax credit against the recipient’s CBT (as well as IPT) obligations. Credits can be sold in certain circumstances by certain entities. The amount of the grant or credit is based on the recipient company’s employee GIT withholdings. There was no overall cap on BEIP grants, although the grant was limited to a maximum of \$50,000 per employee. The BEIP program is now closed to new applications.

NJEDA awarded tax credits against CBT and IPT through the Business Retention and Relocation Assistance Act (“BRRAA”). The overall cap was \$20 million per year. The program was eliminated by *L. 2013, c. 161*. The BRRAA program is now closed to new applications. NJEDA approved \$124 million of BRRAA tax credits for companies, which may use the credits over six years.

In response to the impact of the pandemic on the State’s economy and finances, the Economic Recovery Act of 2020 allowed certain deferrals, adjustments, and the termination of incentive agreements for businesses affected by COVID-19. *L. 2020, c. 156*. The Act authorized the NJEDA that it may request a tax certificate holder, at the holder’s discretion, to defer the application of a currently allowable tax credit pursuant to Grow New Jersey Assistance Act (*L. 2011, c. 149*), to a later tax period. *L. 2020, c. 156*.

Most tax credit programs administered by the NJEDA are nonrefundable, meaning that a taxpayer may not claim a tax credit greater than its tax liability. The nonrefundable status of the tax credits negates the potential for a tax refund based upon the applicable NJEDA tax credit in any tax year for taxpayers without sufficient tax liability. However, many of the tax credits can be sold.

*L. 2018, c. 56*, known as the “Garden State Film and Digital Media Jobs Act,” provides a tax credit for qualified film production expenses and digital media content production expenses, against the CBT and the Gross Income Tax (“GIT”). The application for the credits must be submitted to the NJEDA and approved, in order to receive the credits. For qualified film production expenses, the credit is 40% of the expenses for a New Jersey studio partner or New Jersey film-lease production company and 35% of the expenses for a taxpayer that is not a New Jersey studio partner or New Jersey film-lease production company, during a tax year beginning on or after July 1, 2018, but before July 1, 2039. *L. 2023, c. 97*. The same credit is 35% of the expenses in the case of a taxpayer designated as a New Jersey studio partner or New Jersey film-lease production company and 30% of the expenses in the case of a taxpayer other than a New Jersey studio partner or New Jersey film-lease production company, when the expenses are incurred for use at a sound stage or other location that is located in the State within a 30-mile radius of certain locations within Manhattan, New York City. *L. 2023, c. 97*.

In addition, a 30% credit against the CBT and the GIT is available for qualified digital media content production expenses, incurred by a taxpayer for services performed or tangible personal property purchased from New Jersey qualified vendors, subject to certain limitations. *L. 2023, c. 97*. The credit applies to privilege periods beginning



on or after July 1, 2018 but before July 1, 2039. The credit against the CBT and the GIT is 35% for qualified digital media content production expenses, incurred by a taxpayer through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County, and may be utilized during the same privilege periods. *L. 2023, c. 97.*

*L. 2023, c. 97* permits the NJEDA to make available the uncommitted balance of the total value of tax credits authorized for award by the NJEDA pursuant to the “Aspire Program Act” and “Emerge Program Act” and increases the amount of additional tax credits that the NJEDA may decide to make available to New Jersey film-lease production companies annually from \$100 million to \$250 million and also increases the amount of additional tax credits that the NJEDA may decide to make available for New Jersey studio partners from \$350 million to \$400 million each year. *L. 2023, c. 97* also permits the NJEDA to make capital investments in New Jersey film-lease partner facilities in amounts not to exceed \$10 million per project, and appropriates \$30 million to the NJEDA for the purpose of making and administering these capital investments. *L. 2023, c. 97* also removes the 20 percent penalty currently imposed on a New Jersey film-lease partner’s qualified film production expenses that fall below a \$50 million annual average and includes a requirement for a New Jersey studio partner to occupy its production facility for the duration of the studio partner’s commitment period or else risk recapture of awarded tax credits and loss of New Jersey studio partner designation. *L. 2023, c. 97* revises the definitions of “incurred in New Jersey” and “qualified film production expenses,” to include certain payments made to homeowners for the use of their personal residence located in New Jersey. The definition of “qualified film production expenses” is expanded to include, for New Jersey studio partners, certain deferred compensation payments in the calculation of wages and salaries, modifies the limitation on the amount of wages, salaries, and other compensation that New Jersey studio partners and New Jersey film-lease production companies may include as “qualified film production expenses,” and revises the definition of “film” to include a competition or variety show filmed in front of a live audience. *L. 2023, c. 97* revises certain requirements for the diversity plan credit to allow for a four-percent tax credit on qualified expenses if a taxpayer submits a diversity plan that includes the hiring of performers who are: (1) women or members of a minority group; (2) residents of New Jersey for a least 12 months preceding the beginning of filming or recording; and (3) members of a bona fide labor union representing film and television performers.

A tax credit is available for employers of impaired employees to help to offset the cost to the employer of any wage increases for those employees caused by enacting an increased minimum wage. The minimum wage is scheduled to increase in stages from \$8.80 per hour to \$15 per hour by January 1, 2024. *L. 2019, c. 32.*

*L. 2019, c. 320* creates the “Pass-Through Business Alternative Income Tax Act.” The alternative tax is elected by the entity’s members and calculated by a progressive percentage, 5.675% to 10.9%, depending on the amount of pass-through proceeds. If paid, the members are entitled to a corresponding GIT credit.

Employers are provided a CBT and GIT tax credit for workers who missed time due to donating organs or bone marrow, capped at 25% of the worker’s salary for up to thirty days of missed time. *L. 2019, c. 444.*

Starting July 1, 2019, a taxpayer can claim credits against CBT and GIT of up to \$10,000 for start-up costs immediately following a qualifying one-year apprenticeship in an apprenticeable trade. *L. 2019, c. 417.* The Division of Taxation’s Director can approve up to \$1,000,000 in credits annually.

The Economic Recovery Act of 2020 authorized the award of various tax credits, including under the jurisdiction of the NJEDA, through various constituent programs, not to exceed an overall cap of \$11.5 billion. The Act originally awarded the tax credits over six years, with an additional seventh year to award uncommitted tax credits under the constituent programs. *L. 2020, c. 156. L. 2023, c. 98* extends this period by another two years, to March 1, 2029. The Historic Property Reinvestment program provides CBT and IPT tax credits for part of the cost of rehabilitating historic properties in this State. The credit is based on 40 percent of the rehabilitation cost of a qualified property or transformative project, and tax credits under this program are capped at \$50 million annually for the first six years of the nine-year period. *L. 2020, c. 156; L. 2023, c. 98.* The Brownfields Redevelopment Incentive program provides CBT tax credits to compensate developers of redevelopment projects located on brownfield sites for remediation costs, based on 40 percent of the actual remediation costs, or 40 percent of projected remediation costs as set forth in a redevelopment agreement, or \$4,000,000, whichever is least. Tax credits under this program are capped at \$50 million annually for the first six years of the nine-year period. *L. 2020, c. 156; L. 2023, c. 98.* The New Jersey Innovation Evergreen Act, under the jurisdiction of the NJEDA, allows the NJEDA to approve investors to make

special purpose qualified investments and to administer programs that create an innovation ecosystem that supports high growth businesses in the State. *L. 2020, c. 156*. The total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed \$60 million, and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed \$300,000,000. *L. 2023, c. 98*. The Food Desert Relief program provides CBT and IPT credits in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities. *L. 2020, c. 156*, amended by *L. 2021, c. 160* and *L. 2022, c. 47*. The taxpayer may claim 25 percent of the total credit in the taxable year during which the taxpayer establishes and opens the supermarket or grocery store for business and may carryforward any unused credits for 10 years. Tax credits awarded under this program are capped at \$40 million annually for each of the first six years of the nine-year period. *L. 2020, c. 156*. The New Jersey Community-Anchored Development program provides CBT and IPT credits to anchor institutions, which include universities, medical systems, and other non-profits, to incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State. Tax credits under this program are capped at \$200 million annually for the first six years of the nine-year program. *L. 2020, c. 156; L. 2023, c. 98*. Certain restrictions apply to the geographical distribution of these awards. *L. 2023, c. 98*.

The Economic Recovery Act of 2020 also established The New Jersey Aspire Program (“Aspire”) and the Emerge Program (“Emerge”), both under NJEDA authority. *L. 2020, c. 156*. Aspire provides CBT and IPT tax credits to encourage redevelopment projects, including special needs, moderate-income, and low-income redevelopment projects, by covering certain project financing gap costs. *L. 2020, c. 156*. Emerge provides CBT and IPT tax credits to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State. Developers may submit an application for an Aspire tax credit for an eligible redevelopment project during the grant period, through March 1, 2029. The tax credits are awarded in the order the applications are received for eligible redevelopment projects submitted during the grant period. *L. 2020, c. 156; L. 2023, c. 98*. *L. 2022, c. 46* amended Aspire to provide that the recipients of tax credits under its program may carry forward unused tax credits during the seven privilege periods following the year in which the credits are awarded. The recipient may also carry forward unused tax credits, including when tax credits exceed the value of eligible tax liabilities against which the tax credits may be claimed. Under Aspire, the holder of a tax credit certificate may apply to the Director to transfer all or part of the tax credit amount for use by the transferee in the tax period for which it was issued, and the transferee may carry forward all or part of the tax credit amount in any of the next five successive tax periods. The amount of tax credits that may be claimed by the transferee in any tax period shall not exceed the total tax credit amount divided by the duration of the eligibility period in years. *L. 2023, c. 98*. Additionally, the NJEDA is no longer required to approve the carry forward of tax credits. *L. 2022, c. 46*. Tax credits under Aspire combined with tax credits under Emerge are capped at \$1.1 billion annually for the first six years of the nine-year period. *L. 2020, c. 156*. The combined \$1.1 billion annual cap for Aspire and Emerge does not apply to annual expenditures for transformative projects under Aspire. Transformative projects under Aspire do not have an annual cap. However, the \$11.5 billion overall cap for all of the constituent programs for the nine-year period includes a \$2.5 billion overall cap for transformative projects. *L. 2020, c. 156; L. 2023, c. 98*.

For privilege periods ending in 2020, 2021, and 2022, a taxpayer, upon approval of an application, shall be allowed a \$10,000 credit for each qualifying new hire (new hires for which the taxpayer is already receiving an incentive under the Emerge Program are not eligible) involved in the manufacture of personal protective equipment in a qualified facility, against Franchise Tax and/or GIT imposed upon the taxpayer, along with other tax credits awarded based upon employment practices at a qualified facility engaged in various economic activity, not to exceed \$500,000 (\$10,000,000 for both Franchise Tax and GIT). *L. 2020, c. 156*. A business entity classified as a partnership or New Jersey S Corporation will not be allowed a tax credit based upon the production of personal protective equipment against GIT, along with other tax credits awarded based upon employment practices at a qualified facility. *L. 2020, c. 156*.

For CBT and GIT purposes, a taxpayer shall not be denied a deduction for ordinary and necessary business expenses paid for with the proceeds of a federal Paycheck Protection Program loan, by reason of the exclusion of the loan from entire net income or because the loan was forgiven pursuant to section 1106 of the federal CARES Act, *Pub. L. 116-136*, or any subsequent expansion of the federal Paycheck Protection Program. *L. 2021, c. 90*.

A taxpayer may apply a credit of up to \$30,000 for a commercial property and \$3,000 for a residential property in a single privilege period toward an imposed CBT or GIT, for the purchase and use of unit concrete products that utilize carbon footprint-reducing technology. *L. 2021, c. 278*. The law establishes a credit value of \$2 per square

foot of qualified unit concrete products when the taxpayer makes a minimum purchase of 100 square feet of qualified unit concrete products. *L. 2021, c. 278.*

*L. 2023, c. 4* provides CBT and GIT credits to concrete producers that deliver concrete associated with reduced greenhouse gas emissions, for use in certain State funded projects. The Act also provides CBT and GIT credits to these same producers, for the costs of conducting environmental production declaration analyses of their products. The amount of the tax credits would be capped at 5 percent of the cost of the reduced emission concrete, for "low embodied carbon concrete," and 3 percent of the costs of the reduced emission concrete, for concrete that incorporates "carbon capture, utilization, and storage technology." Concrete that meets both criteria could receive a tax credit of up to 8 percent of the cost of the reduced emission concrete. *L. 2023, c. 4.*

*L. 2023, c. 50* decouples the New Jersey CBT Act from 26 U.S.C. 280E, which prohibits deductions and credits for cannabis businesses, and also decouples S Corporation income under the New Jersey GIT Act from 26 U.S.C. 280E, to allow a New Jersey taxpayer to deduct from income all ordinary and necessary business expenses incurred in carrying on a licensed cannabis business. N.J.S.A. 54:10A-1 to -41; N.J.S.A. 54A:5-1 to -18.

*L. 2023, c. 96* made various changes to combined reporting, particularly with respect to: certain statutory provisions concerning unitary businesses; the method for calculating the allocation factor of a taxable member of a combined group; the managerial member duration period; the definition of world-wide basis and world-wide group; water's-edge groups and affiliated groups, including the calculation of entire net income for non-U.S. corporations that are members of a water's-edge group or affiliated group; the "captive" versions of investment companies, real estate investment trusts, and regulated investment companies.

*L. 2023, c. 96* also modifies the treatment of global intangible low-taxed income (GILTI) and foreign-derived intangible income (FDII) under the CBT by repealing the deduction currently allowed for GILTI and FDII and by treating GILTI as a dividend subject to the dividend exclusion rules for privilege periods ending on and after July 31, 2023 and also adds language clarifying the treatment of the income of non-U.S. corporations that are not members of a world-wide group or a water's-edge group.

*L. 2023, c. 96* modifies certain statutory requirements concerning installment payments, changes certain provisions concerning the underpayment of an installment payment and changes the due date for filing a return under the Act to: (1) the fifteenth day of the month immediately following the month of the original due date for filing the taxpayer's federal corporate income tax return for the privilege period; or (2) in the case of a taxpayer that received a filing extension for federal tax purposes, the fifteenth day of the month immediately following the month of the extended due date for filing the federal return. *L. 2023, c. 96* also provides certain criteria for determining whether a corporation has substantial nexus with the State and, therefore, subject to taxation.

*L. 2023, c. 96* provides that with respect to its fiscal or calendar accounting years ending on or after July 31, 2023, any taxpayer with a tax liability of less than \$1,500 shall not be required to make any installment payments other than an installment payment of 50 percent, which shall be paid at the time of the annual return and for a combined group, this provision shall apply by taxable member in aggregate for the combined group.

*L. 2023, c. 96* provides that for privilege periods ending on and after July 31, 2022, adjustments may be made, by the director or the taxpayer, to net operating losses in privilege periods closed for purposes of the statute of limitations on assessments in order to determine the correct tax liability in privilege periods that remain open to assessment; provided, however, no such adjustments for those privilege periods closed shall be made after ten years.

## **Energy Tax Receipts**

To preserve certain revenues while transitioning to more competitive markets in energy and telecommunications, the law concerning taxation of gas and electric public utilities, and certain telecommunication companies was amended, as were tax laws concerning sales of electricity, natural gas, and energy transportation service. Effective January 1, 1998, the Gross Receipts and Franchise Tax previously collected by electric, gas and telecommunications utilities was eliminated. *L. 1997, c. 162.* In its place, electric, gas, and telecommunications utilities became subject to the CBT, and the retail sale of electricity and natural gas, with certain exceptions, became subject to the State's Sales and Use Tax. *L. 1997, c. 167.*

*Current Rate for sewerage and water corporations:* 5% (2% if gross receipts do not exceed \$50,000) plus 7% on gross receipts plus 0.625% surtax (0.25% if gross receipts do not exceed \$50,000) plus 0.9375%.

Utilities are generally subject to the CBT, with certain exceptions. The retail sale of energy and utility service is subject to the State's Sales and Use Tax, with certain exceptions. A portion of the revenues derived from the taxation of energy and utility service is credited to a special dedicated fund known as the "Energy Tax Receipts Property Tax Relief Fund" ("Fund"). *L. 1997, c. 167.* Sewerage and water corporations are exempt from the CBT, but are subject to a specific excise tax which applies only to them. Utilities are also assessed by the Board of Public Utilities. Certain utilities may also be subject to the Uniform Transitional Utility Assessment.

*L. 2007, c. 94* grants a seven (7) year period of exemption from the State's Sales and Use Tax to qualified manufacturing facilities producing products meeting certain recycled content standards. However, qualified manufacturing facilities will continue to pay the Sales and Use Tax but shall file for quarterly refunds within 30 days of the close of the calendar quarter.

### **Gross Income Tax (GIT)**

The New Jersey Gross Income Tax ("GIT") is imposed on enumerated categories of gross income of New Jersey resident individuals, estates and trusts. New Jersey source income, except pension and annuity income or other retirement income, such as income from Internal Revenue Code § 401(k), 403, 414, and 457 Plans (*L. 1989, c. 219*), of non-resident individuals, estates and trusts, is also subject to GIT. Gambling winnings of non-residents are subject to the GIT as well. *L. 1993, c. 143.* Non-residents pay GIT based on a statutory calculation which requires non-residents to compute liability as though they are residents and then prorate liability by the proportion of New Jersey source income to total income. *L. 1993, c. 178.* However, the requirement that non-residents must compute their tax liability on a prorated basis may be suspended provided New York State eliminates a similar requirement for its non-resident personal income taxpayers. *L. 1993, c. 320.* *Current Rates:* Beginning in 1996 and thereafter, further rate reductions enacted pursuant to *L. 1995, c. 165* will result in cumulative decreases from the 1993 taxable year levels of 30%, 15% and 9% for certain taxable income levels.

The graduated rate effective for tax years commencing January 1, 1996 for married couples filing jointly and certain qualified individual filers is: 1.400% on taxable income not exceeding \$20,000; \$280.00 plus 1.750% on taxable income in excess of \$20,000 but not over \$50,000; \$805.00 plus 2.450% on taxable income in excess of \$50,000 but not over \$70,000; \$1,295.50 plus 3.500% on taxable income in excess of \$70,000 but not over \$80,000; \$1,645.00 plus 5.525% on taxable income in excess of \$80,000 but not over \$150,000; and \$5,512.50 plus 6.370% on taxable income exceeding \$150,000.

The graduated rate effective for tax years commencing January 1, 1996 for qualified individual filers is: 1.400% on taxable income not exceeding \$20,000; \$280.00 plus 1.750% on taxable income in excess of \$20,000 but not over \$35,000; \$542.50 plus 3.500% on taxable income in excess of \$35,000 but not over \$40,000; \$717.50 plus 5.525% on taxable income in excess of \$40,000 but not over \$75,000; and \$2,651.25 plus 6.370% on taxable income exceeding \$75,000.

Beginning in 2004 and thereafter, a GIT rate of 8.97% is imposed on taxpayers with income over \$500,000. *L. 2004, c. 40.*

Effective January 1, 2018 and thereafter, a new graduated GIT rate of 10.75% is imposed on taxpayers with income over \$5,000,000. *L. 2018, c. 45.*

Effective January 1, 2020 and thereafter, the tax rate for income between \$1,000,000 and \$5,000,000 increases from 8.97% to 10.75%. *L. 2020, c. 94.*

The GIT includes many of the same taxable additions as the federal income tax, but allows only certain deductions such as for personal exemptions, medical expenses, alimony payments, property taxes on principal residences and qualified contributions of certain real property interests. Gross income does not include employer-provided commuter transportation benefits for employees who participate in ride-sharing programs beginning

January 1, 1997, \$1,200 is deductible, with this amount annually adjusted based on relevant C.P.I.'s. *L. 1996, c. 121; L. 2002, c. 162.* Additionally, under the "New Jersey Limited Liability Company Act," for State tax purposes, members or assignees of members of the newly created limited liability companies are treated as partners in a partnership and single member limited liability companies are treated as sole proprietorships, unless treated otherwise for federal income tax purposes. *L. 1993, c. 210; L. 1998, c. 79.* Discharge of student loan indebtedness is excluded from gross income when it is from the Total and Permanent Disability discharge process of the United States Department of Education, for a taxpayer who is a totally and permanently disabled veteran. *L. 2022, c. 125.*

Military pension and survivor benefits respecting service in the United States Armed Forces are not included in gross income. *L. 2001, c. 84.* However, for taxable years beginning on or after January 1, 2004, *L. 2005, c. 63* excludes from taxable income housing and subsistence allowances received by New Jersey National Guard members on State Active duty, and by members of the U.S. Armed Forces' active and reserve components (effective April 7, 2005). For taxable years beginning on or after January 1, 2021, military combat zone pay excluded under IRC §112 is also excluded from New Jersey gross income. *L. 2020, c. 93.*

Gross income also does not include earnings on or distributions from an individual trust account or savings account established pursuant to the New Jersey Better Educational Savings Trust Program ("NJBEST") (*L. 1997, c. 237*) or the New Jersey Achieving a Better Life Experience ("ABLE") Program (*L. 2015, c. 185*); or contributions to or distributions from a medical savings account excluded from federal gross income under 26 U.S.C. 220 (*L. 1997, c. 414*). Distributions from Roth IRAs also receive favorable tax treatment. *L. 1998, c. 57.* For taxable years beginning on or after January 1, 2022, a NJBEST account, when it is initially opened by a taxpayer with gross income of \$75,000 or less, shall be eligible for a one-time grant of up to \$750 in a dollar-for-dollar match of the initial deposit to the account. *L. 2021, c. 128.* A taxpayer with gross income of \$200,000 or less shall be allowed a deduction not to exceed \$10,000, from the taxpayer's gross income for the taxable year, in the amount of the taxpayer's contribution for the taxable year to an account established pursuant to the NJBEST Program. *L. 2021, c. 128.* A taxpayer with gross income of \$200,000 or less shall be allowed a deduction, not to exceed \$2,500, from the taxpayer's gross income for the taxable year, in the amount of principal and interest payments paid on a student loan under the New Jersey College Loans to Assist State Students Loan ("NJCLASS") Program. *L. 1999, c. 46; L. 2021, c. 128.* A taxpayer with gross income of \$200,000 or less shall be allowed a deduction, not to exceed \$10,000, from the taxpayer's gross income for the taxable year, in the amount the taxpayer paid to an in-State institution of higher education during the taxable year, for tuition costs related to the taxpayer's enrollment or attendance at the institution of higher education or related to the enrollment or attendance of a spouse or dependent of the taxpayer at the institution. *L. 2021, c. 128.*

Pursuant to *N.J.S.A. 54A:3A-17*, New Jersey resident taxpayers are permitted a deduction of up to \$10,000 from gross income for property taxes. Effective January 1, 2018 and thereafter, the deduction from gross income for property taxes increases to \$15,000. *L. 2018, c. 45.* Married residents filing separately are allowed one-half of the deduction permitted by law on the qualifying homestead. Allowable deductions are subject to certain limitations. The deductions are available in some instances for renters as well. For sales or exchanges of principal residences occurring after May 7, 1997, gains of up to \$500,000 on joint returns and \$250,000 on single returns may be excluded, subject to certain limitations and qualifications. *L. 1998, c. 3.*

The law also provides a State-administered property tax relief program to eligible homeowner and tenant residents pursuant to the Homestead Property Tax Credit Act (the "Act"). *L. 1990, c. 61.* The Act provides minimum statutory benefits and is subject to annual appropriation. *L. 2023, c. 84* clarifies base year income eligibility criteria for the Homestead property tax benefit. *L. 2023, c. 74,* authorizes property tax benefits to eligible residents for Fiscal Year 2024, under the Affordable New Jersey Communities for Homeowners and Renters ("ANCHOR") property tax rebate program. This program includes those who reside in housing that operates under a Payment In Lieu of Taxes ("PILOT") agreement with their municipality. Homeowner residents with gross income in excess of \$150,000 but not in excess of \$250,000 for tax year 2020 are eligible for a benefit in the amount of \$1,000 of property taxes paid; homeowner residents with income of \$150,000 or less are eligible for \$1,500. *L. 2023, c. 75* provides an additional \$250 to eligible homeowner residents age 65 years or older; Tenant residents with gross income in excess of \$150,000 for tax year 2020 are excluded from the program, and tenant residents with gross income not in excess of \$150,000

for tax year 2020 are eligible for a benefit of \$450. *L. 2023, c. 75* provides an additional \$250 to eligible tenant residents age 65 years or older.

*L. 2023, c. 75* establishes a new program to provide property tax benefits to senior citizens called the “Stay NJ” property tax credit program. The program is expected to be implemented January 1, 2026. *L. 2023, c. 75*. The Stay NJ property tax credit would provide eligible claimants an annual property tax credit of up to 50 percent of the property taxes they paid on their principal residence in the prior tax year, up to a maximum of \$6,500 per year. An “eligible claimant” is a person who is 65 or more years of age, is the owner of a homestead that is the person’s primary residence, and has a gross annual income that is less than \$500,000. *L. 2023, c. 75*. An applicant seeking property tax relief will be entitled to the greater of: (1) the amount of the Stay NJ property tax credit; or (2) the combined amount of the ANCHOR property tax rebate and the homestead property tax reimbursement. *L. 2023, c. 75*.

The minimum taxable income for gross income tax purposes are amounts in excess of \$10,000 for unmarried individuals, married persons filing separately, estates, and trusts, for tax years commencing January 1, 1999. *L. 1994, c. 8*. With respect to married persons filing joint returns, and individuals filing as head of household or as a surviving spouse for federal income tax purposes pursuant to *N.J.S.A. 54A:2-1*, the minimum taxable income subject to tax are amounts in excess of \$20,000.

*L. 2023, c. 96* establishes uniform sourcing rules for the GIT and the CBT, for taxable years beginning on and after January 1, 2023. The sourcing rules provide that a taxpayer’s gross income from a trade, business, partnership, or S Corporation will be sourced in a manner consistent with the CBT, and that any income from salary, wages, tips, fees, commissions, bonuses, and other similar forms of remuneration are to be sourced in a manner consistent with the GIT.

*L. 2023, c. 125* establishes that if an employee’s state of residence determines the source of income of nonresidents by a “convenience of the employer test,” and the employee works for a New Jersey employer from a location in the employee’s state of residence for the employee’s own convenience, then the New Jersey employer would be required to include those days as days worked in New Jersey and withhold income tax accordingly. *L. 2023, c. 125*.

*L. 2023, c. 125* also provides a refundable GIT credit available to New Jersey resident taxpayers who obtain a favorable final judgment from the tax court or tribunal of another state or jurisdiction, resulting in the resident taxpayer being refunded taxes paid to that state or jurisdiction on income derived from services rendered while the resident taxpayer was within New Jersey. The tax credit would be equal to 50 percent of the amount of the taxes that are owed to New Jersey as a result of the readjustment of New Jersey’s credit for taxes paid to another state or jurisdiction. *L. 2023, c. 125* also establishes a nonrefundable GIT credit of \$2,000 for individuals who seek from their employer and accept a reassignment from an out-of-State location to an in-State location and the amount of tax credits that may be awarded to qualified taxpayers are limited to \$10 million per State fiscal year. *L. 2023, c. 125* provides that NJEDA will provide grants to eligible businesses to assign their New Jersey resident employees to New Jersey locations, and a business is eligible for a grant if the business has 25 or more full-time employees, is principally located in another State, and the sum of all grants awarded in any fiscal year is capped at \$35 million. *L. 2023, c. 125* clarifies that its provisions would not affect any agreements entered into by the Division of Taxation with another state concerning the payment of income taxes by residents and out-of-state workers. *L. 2023, c. 125* limits the time period for which a taxpayer may claim a credit for taxes to other jurisdictions, when another state changes or corrects reportable income, to within one year after the date the taxpayer received notification that the other state’s income tax was due.

*L. 2000, c. 80* created an Earned Income Tax Credit (EITC) program in New Jersey. Effective January 1, 2007, an eligible New Jersey resident can claim a credit based upon a percentage of the individual’s federal EITC, which is allowed and applied for, under section 32 of the federal Internal Revenue Code of 1986 (26 *U.S.C.* 32). *L. 2008, c. 109*. The credit percentages for eligible claimants are as follows: 20% from 2003 through 2007, 22.5% in 2008, 25% for 2009, 20% for 2010 through 2014, 30% for 2015 (*L. 2015, c. 73*), 35% for 2016 through 2017 (*L. 2016, c. 57*), 37% for 2018 (*L. 2018, c. 45*), 39% for 2019 (*L. 2018, c. 45*) and 40% for 2020 and thereafter. *L. 2018, c. 45*. For tax years beginning on and after January 1, 2021, eligibility under the EITC program includes taxpayers that are at least 18 years of age and removes the maximum age restriction of 65 years old. *L. 2021, c. 130*.

*L. 2004, c. 55* amends the Gross Income Tax Act by imposing a GIT obligation on nonresident individuals, estates, or trusts to report and pay estimated GIT on any gain derived from the sale or transfer of real property in the State. Chapter 55 specifies that county recording officers will act as agents of the Director, Division of Taxation, in collecting the estimated Gross Income Tax due at an amount no less than 2% of the consideration stated in the deed for the sale or transfer of property and transmitting those funds, net of the administrative fee, to the Division of Taxation in such form and manner as the Director will determine.

Chapter 55 further requires that no deed for the sale or transfer of real property by a nonresident will be accepted or recorded by the county recording officer without the simultaneous filing of the appropriate forms and the payment of the tax due or proof of payment. The Act became effective on August 1, 2004. *L. 2004, c. 55*. See also summary of *L. 2004, c. 66*, amending the Realty Transfer Tax, below.

For tax years 2005 and thereafter, Chapter 139 creates a deduction from the GIT for certain health care providers who practice in or near a Health Enterprise Zone. *L. 2004, c. 139*.

For the same taxable periods, *L. 2005, c. 127* disallows (*i.e.*, “uncouples”) the deduction for certain qualified production activities income, which deduction is allowed for federal income tax purposes under the American Jobs Creation Act of 2004 (*Pub. L. 108-377*). Specifically, Section 2 of *c. 127* specifies that the deduction of any amounts pursuant to § 199 of the federal Internal Revenue Code of 1986, 26 *U.S.C.* 199, shall be disallowed. However, this disallowance shall not apply to amounts deducted pursuant to section 199 of the federal Internal Revenue Code of 1986 that are exclusively based upon domestic production gross receipts of the taxpayer, or allocable to the taxpayer under that section, which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property. The uncoupling required by Chapter 127 will not apply to gross receipts from qualifying production property manufactured or produced by the taxpayer.

Uncoupled deductions will apply to the other activities described above and that are set forth under the American Jobs Creation Act of 2004, and will apply to qualified production property that was grown or extracted by the taxpayer. *L. 2005, c. 127*.

For taxable years beginning after December 31, 2017, the entire IRC §199 deduction has been repealed for federal and New Jersey purposes by the federal Tax Cuts and Jobs Act. *Pub. L. 115-97; L. 2018, c. 48*.

For taxable years beginning after December 31, 2017, the GIT is uncoupled from any deduction provided under section 199A of the federal Internal Revenue Code. Section 199A allows taxpayers other than corporations a deduction of 20% of qualified business income earned in a qualified trade or business, subject to certain limitations. *L. 2018, c. 48*.

Effective in the tax year beginning on or after January 1, 2023, resident taxpayers with New Jersey taxable income of \$80,000 or less are allowed to claim a refundable child tax credit for each child who has not attained the age of six years as of the close of the taxable year, and for which the taxpayer is allowed a personal exemption deduction. *L. 2023, c. 72*. The taxpayer must use a Social Security number or an Individual Taxpayer Identification Number (ITIN) on their tax forms to be eligible. Income of \$30,000 or under receives a \$1000 credit; income over \$30,000 but not over \$40,000 receives a \$800 credit; income over \$40,000 but not over \$50,000 receives a \$600 credit; income over \$50,000 but not over \$60,000 receives a \$400 credit; and income over \$60,000 but not over \$80,000 receives a \$200 credit.

The GIT pension exclusion and other retirement income exclusion are available to certain taxpayers in amounts up to a total of \$100,000 for joint filers, \$75,000 for individuals, and \$50,000 for married but filing separately. *L. 2016, c. 57. L. 2005, c. 130* previously eliminated the GIT pension exclusion and other retirement income exclusions for taxpayers with gross income over \$100,000. For tax years beginning on and after January 1, 2021, Taxpayers with income greater than \$100,000 but less than \$125,000 are newly eligible for partial exclusions of retirement and pension income of up to 50% (married filing jointly), 25% (married filing separately) or 37.5% (single). *L. 2021, c. 129*. For taxpayers with income greater than \$125,000 but less than \$150,000, the exclusion is 25% (married filing jointly), 12.5% (married filing separately), or 18.75% (single filer). *L. 2021, c. 129*.

Effective January 1, 2012, a taxpayer is permitted an alternative business calculation deduction offsetting gains from one type of business with losses from another. *L. 2011, c. 60*. Net business-related losses can be carried forward for up to 20 years. The alternative business deduction is limited to four categories of business income as follows: (1) net profits from business; (2) net gains or net income derived from, or in the form of rents, royalties, patents, and copyrights; (3) distributive share of partnership income; and (4) net pro rata share of S corporation income.

NJEDA awarded BEIP grants to certain businesses which meet employment goals in New Jersey. Recipients of BEIP grants accrued but not paid between 2008 and 2025 can choose to receive the grant in the form of a credit against the recipient's GIT withholding obligations. *L. 2015, c. 194*. A recipient which is a partnership can receive a credit against its GIT withholding obligations or the GIT obligations of certain partners. Credits can be sold in certain circumstances by certain entities. The BEIP program is now closed to new applications.

*L. 2009, c. 69* suspends the property tax deduction for tax year 2009 for taxpayers who have gross income for that taxable year of more than \$250,000 and are not: (1) 65 years of age or older; or (2) allowed a personal exemption as a blind or disabled individual, and caps the maximum property tax deduction to \$5,000 for taxpayers who have gross income for that taxable year of more than \$150,000, but not exceeding \$250,000, and are not: 65 years of age or older; or allowed a personal exemption as a blind or disabled individual. Chapter 69 also provides that New Jersey State Lottery winnings from prizes exceeding \$10,000 are taxable under the GIT and authorizes the New Jersey State Lottery to withhold a percentage of such winnings for GIT. *L. 2009, c. 69*.

The additional annual personal exemption for veterans was increased from \$3,000 to \$6,000. *L. 2019, c. 146*. The additional annual personal exemption is allowed for any individual New Jersey gross income taxpayer who is a veteran honorably discharged or released under honorable circumstances from active duty in the Armed Forces of the United States, a reserve component thereof, or the National Guard of New Jersey in a federal active duty status. *L. 2016, c. 57*.

The Wounded Warrior Caregivers Relief Act, provides tax credits for qualified family caregivers of qualified armed service members. *L. 2017, c. 67*.

*L. 2017, c. 174*, established the "Gold Star Family Counseling Program" in the Department of Military and Veterans Affairs and provides an annual tax credit that shall be determined by the Department as the sum of the hours of donated counseling provided to the Gold Star family member, multiplied by the documented compensation rate applied to those hours.

Individuals can elect to designate part or all of their GIT refund to the Meals on Wheels program, directly on their GIT return. *L. 2019, c. 295*.

The deadline to file GIT returns for tax year 2019 was extended to July 15, 2020. *L. 2020, c. 19*. The statute of limitations for assessments was also extended until ninety days after the conclusion of the state of emergency declared by the Governor. *L. 2020, c. 19*.

*L. 2019, c. 320* creates the "Pass-Through Business Alternative Income Tax Act." A GIT credit is available in the amount of the individual member's pro rata share of the entity's elected alternative minimum tax.

Unreimbursed costs related to donating organs or bone marrow can be deducted from gross income, up to \$10,000. *L. 2019, c. 444*.

Effective in the tax year beginning on or after January 1, 2023, resident taxpayers with New Jersey taxable income of \$80,000 or less are allowed to claim a refundable child tax credit for each child who has not attained the age of six years as of the close of the taxable year, and for which the taxpayer is allowed a personal exemption deduction. *L. 2023, c. 72*. The taxpayer must use a Social Security number or an Individual Taxpayer Identification Number (ITIN) on their tax forms to be eligible. Income of \$30,000 or under receives a \$1000 credit; income over \$30,000 but not over \$40,000 receives a \$800 credit; income over \$40,000 but not over \$50,000 receives a \$600 credit;



income over \$50,000 but not over \$60,000 receives a \$400 credit; and income over \$60,000 but not over \$80,000 receives a \$200 credit.

Election worker compensation paid for work performed on Primary or General Election Days, or during early voting periods is exempt from the GIT. *L. 2022, c. 71.*

The federal partnership audit regime is adopted and taxpayers are required to pay any additional New Jersey GIT due with respect to final federal adjustments resulting from an audit or other action by the Internal Revenue Service no later than 180 days after the final determination date. *L. 2022, c. 133.* The requirement to affirmatively elect New Jersey S Corporation status was also eliminated. *L. 2022, c. 133.*

*L. 2023, c. 96* provides for uniform sourcing rules for the GIT and CBT for taxable years beginning on and after January 1, 2023 and a GIT taxpayer's income from a trade, business, partnership, or S corporation will be sourced in a manner consistent with the CBT and requires that any income from salary, wages, tips, fees, commissions, bonuses, and other similar forms of remuneration are to be sourced pursuant to the provisions of the GIT.

### **Insurance Premiums Tax (IPT)**

The Insurance Premiums Tax is imposed on net premiums collected by every stock, mutual and assessment insurance company transacting business in New Jersey, for insurance contracts covering property and risks in the State. Effective January 1, 1992, health service corporations became subject to tax on their experience-rated health insurance. *L. 1989, c. 295.* A surtax on all automobile insurance premiums, except as exempted by statute, was imposed from June 1, 1990 through May 31, 1992. *L. 1990, c. 8.* There is also a retaliatory tax imposed against foreign insurance companies doing business in New Jersey where the foreign company's state, country, or province (in the event that the foreign country is Canada) imposes an overall tax (including but not limited to fines and penalties) on New Jersey insurance companies doing business in that jurisdiction that is higher than the tax New Jersey imposes on the foreign company doing business in New Jersey. The tax rate is equal to the difference between the two rates.

*Current Rates:* 1.05% on group accident and health or legal insurance policies; 2.1% on life and non-life insurance companies; 5% on surplus lines coverage; 5.25% on marine insurance companies; 2% on foreign fire insurance companies.

*L. 2005, c. 128* modifies the insurance premiums tax treatment of health service corporations. Specifically, Chapter 128 amends the "maximum tax rule," which caps taxable premiums at 12.5% of total New Jersey premiums. The amendment excludes from the maximum tax rule all health service corporations established pursuant to the provisions of *L. 1985, c. 236 (N.J.S.A. 17:48A-1 et seq.)*. Additionally, the Act imposes the Insurance Premiums Tax on all premiums of health services corporations and on any life, accident or health insurance corporation in which a health services corporation owns stock in, controls, or with which it otherwise becomes affiliated *L. 2005, c. 128.* Effective January 1, 2009, accident and health insurance premiums are also excluded from the maximum tax rule. *L. 2009, c. 75.*

*L. 2009, c. 75.* excludes accident and health insurance premiums from the 12.5% maximum tax rule on a company's total premiums when the ratio of the company's New Jersey business to total business is greater than 12.5%.

*L. 2011, c. 25* imposes a new tax rate on captive insurance companies. The annual minimum aggregate tax calculated for both direct premiums and assumed reinsurance premiums to be paid is \$7,500 and the annual maximum aggregate tax is \$200,000. With respect to direct premiums, captive insurers must pay a tax of .38 of 1% on the first \$20 million; .285 of 1% on the next \$20 million; .19 of 1% on the next \$20 million; and .072 of 1% on each dollar thereafter, on the direct premiums collected or contracted for on policies or contracts of insurance written by the company during the year ending December 31. Captive insurers may deduct return premiums including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders. No tax is due or payable on considerations received for annuity contracts. With respect to assumed reinsurance premiums, the tax is imposed at the rate of .214 of 1% on the first \$20 million of assumed reinsurance premiums; .143 of 1% on the next \$20 million; .048 of 1% on the next \$20 million and .024 of 1% on each dollar thereafter. The reinsurance premium tax does not apply to premiums for risks or portions of risks, which are subject to taxation on a direct basis. In addition, the

reinsurance premium tax does not apply in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control, when (1) the transaction is part of a plan to discontinue the operations of the other insurer and (2) the intent of the parties to the transaction is to renew or maintain the business with the captive insurance company.

*L. 2011, c. 119* modifies the tax treatment of surplus lines policies so that the tax payable pursuant to this section shall be based on the total United States premium for the applicable policy when New Jersey is the home state.

### **Motor Fuels Tax**

The Motor Fuels Tax is a tax imposed upon the sale of motor fuel, liquefied petroleum, and aviation gasoline, for use or consumption in the State. While fuel taxes are imposed upon the ultimate consumer, *L. 2010, c. 22* requires that the tax be pre-collected by the fuel supplier, permissive supplier, importer, exporter, blender, distributor, aviation fuel dealer, and liquefied petroleum gas dealer. *L. 2010, c. 22* changes the point of motor fuel taxation from the retail and distribution system of refineries, pipelines, ships and barges, at a terminal. A reduction in the administrative costs for both taxpayers and tax administrators is expected from changing the point of taxation. *L. 2010, c. 22*.

*Current Rates:* Motor Fuel — 10.5 cents per gallon for gasoline and blended fuel that contains gasoline or is intended for use as gasoline; 13.5 cents per gallon for diesel fuel and blended fuel that contains diesel fuel or is intended for use as diesel fuel and kerosene (but does not include aviation grade kerosene). Liquefied Petroleum Gas — 5.25 cents per gallon; Aviation Gasoline — 10.5 cents per gallon. In addition to the forgoing, aviation fuel distributed to a general aviation airport is taxed at 2 cents per gallon. *L. 2010, c. 22*.

Article VIII, Section 2, Paragraph 4 of the State Constitution provides for a dedication of revenue from the Motor Fuels Tax to the Transportation Trust Fund Account for improvements to the State Transportation infrastructure. Effective after the fiscal year beginning July 1, 2015, the dedicated funds shall be an amount equivalent to all revenue derived from collection of the Motor Fuels Tax.

### **Petroleum Products Gross Receipts Tax**

The Petroleum Products Gross Receipts Tax applies to gross receipts from the first sale or use of petroleum products in New Jersey. Exempt sales include home heating oil and propane gas used exclusively for residential heating, certain sales to non-profit or governmental entities, sales to the federal government (*L. 1991, c. 19*) and asphalt. This tax does not apply to the sale of fuel oil used by any utility, co-generation facility or wholesale operation facility to generate electricity.

*Current Rate:* 7% for petroleum products, \$.124 per gallon for fuel oil effective November 1, 2016. *L. 2016, c.57*. Aviation fuel remains subject to tax at \$0.04 per gallon. Effective October 1, 2021, the tax on gasoline and liquefied petroleum will decrease from \$.402 cents to \$.319 cents for gasoline and from \$.442 cents to \$.359 cents for diesel fuel.

In November 2000, the State Constitution was amended to dedicate to the Transportation Trust Fund Account in the General Fund, amounts derived from State revenues collected from the Petroleum Products Gross Receipts Tax. NJ Const. Art. VIII, § 2, Para. 4(b). Amounts so dedicated fund transportation infrastructure improvements, and are not less than \$100 million for Fiscal Year 2001; and not less than \$200 million for Fiscal Year 2002 through Fiscal Year 2016. NJ Const. Art. VIII, § 2, Para. 4(b). For each State fiscal year thereafter, an amount equivalent to all revenue derived from the collection of the Petroleum Products Gross Receipts Tax shall be dedicated to the Transportation Trust Fund Account. NJ Const. Art. VIII, § 2, Para. 4(b).

### **Realty Transfer Tax**

The Realty Transfer Tax (“RTT”) is imposed on grantors recording deeds or other writings which transfer title to real property located in New Jersey for consideration greater than \$100. Certain transfers of title are exempt from this tax. The Neighborhood Preservation Nonlapsing Revolving Fund is funded by the increase in taxes (\$0.75 per \$500) collected on transfers greater than \$150,000. *L. 1985, c. 222*.

*Current Rates:* Counties collect the tax at a rate of \$1.75 for each \$500 of consideration up to \$150,000 (\$0.50 is retained by the county, \$1.25 is sent to the State Treasurer) plus \$0.75 per \$500 of consideration over \$150,000. Pursuant to *N.J.S.A. 46:15-10.1(b)*, new construction is exempt from 80% of the State portion of the tax imposed by *N.J.S.A. 46:15-7* (i.e., \$1.00), for each \$500 of consideration under \$150,000. Sales of one- and two-family, owner-occupied residences that are owned by senior citizens, blind persons and disabled persons, and sales of low- and moderate-income housing are exempt from the State portion of the tax for each \$500 of consideration or fraction thereof (i.e., \$1.25). *L. 2004, c. 66*.

Pursuant to *N.J.S.A. 46:15-7.1*, a supplemental fee is imposed in addition to the above-recited RTT, upon presentation for filing of deeds evidencing transfers of real property. The supplemental fee is also collected by the Counties. The supplemental fee is \$.25 for each \$500 of consideration not in excess of \$150,000; \$.85 for each \$500 of consideration in excess of \$150,000 but not in excess of \$200,000; and \$1.40 for each \$500 of consideration in excess of \$200,000. The law also imposes an additional fee of \$1.00 for each \$500 of consideration, not in excess of \$150,000, for transfers of title to property on which there is new construction. The new supplemental fee does not apply to the transfers that are now completely exempt from the current fee and does not apply to the transfers of one- and two-family, owner-occupied residences by senior citizens, blind persons, or disabled persons and the transfers of low- and moderate-income housing. *L. 2003, c. 113*.

A new general purpose fee is imposed under *N.J.S.A. 46:15-7* in addition to the above-recited RTT on grantors, upon presentation for filing deeds evidencing transfers of real property whose value is more than \$350,000. *L. 2004, c. 66*. The general purpose fee is also being collected by the Counties. The general purpose fee is \$0.90 for each \$500 on the first \$550,000 of the value recited in the deed of transfer; \$1.40 on each \$500 of the value between \$550,000 and \$850,000; \$1.90 on each \$500 of value between \$850,000 and \$1,000,000; and \$2.15 for each \$500 of the value over \$1,000,000. *L. 2004, c. 66*.

In addition, the grantee (buyer) of residentially-zoned real property, whether improved or not, is required to pay a separate fee equal to 1% of the full amount of the consideration, for consideration in excess of \$1,000,000. The fee imposed by subsection a. of *L. 2004, c. 66, § 8 (N.J.S.A. 46:15-7.2)* shall not apply to a deed if the transfer of real property is incidental to a corporate merger or acquisition if the equalized assessed value of the real property transferred is less than 20% of the total value of all assets exchanged in the merger or acquisition. *L. 2006, c. 33*. Pursuant to Section 9 of *L. 2004, c. 66*, the 2004 RTT amendments apply to deeds presented for recording that evidence real property transfers occurring on or after August 1, 2004. Effective February 1, 2005, *L. 2005, c. 19* amended the 1% fee so that it only applies to the purchase of certain types of residentially-zoned property for consideration in excess of \$1,000,000, including real property that: (1) is classified for assessment purposes as Class 2 (residential); (2) includes certain property classified for assessment purposes as Class 3A (farm property (regular)) and other real property sold in conjunction with such property; or (3) that is a cooperative unit; or (4) that is classified pursuant to the requirements of *N.J.A.C. 18:12-2.2* as Class 4A (commercial properties). *L. 2006, c. 33*. If a transfer includes property classified pursuant to the requirements of *N.J.A.C. 18:12-2.2* as Class 4 property of any type, the parties to the transaction shall file affidavits of consideration indicating the consideration, the county and municipality in which the property is situated, and the block and lot description of the real property conveyed.

*L. 2006, c. 33* did not alter *L. 2005, c. 19*, which exempts from the fee any transfer to a 26 *U.S.C. 501(c)(3)* charitable organization, and permits a full refund to be provided to a buyer who paid the fee but would not have been required to do so under the amended law.

## **Sales and Use Tax**

The Sales and Use Tax ("SUT") is imposed on the receipts from: (a) the retail sale, rental or use of tangible personal property not specifically exempted by statute; (b) the retail sale of services, except for resale, including producing, fabricating, processing, installing, maintaining, repairing, storing and servicing tangible personal property and certain advertising services, subject to certain exceptions; (c) sales of food and drink by restaurants and other similar establishments; and (d) the sale, except for resale, of telecommunications. Effective October 1, 2022, sign installation services and signs sold to the end user are subject to SUT. *L. 2022, c. 97*. This tax is also imposed on the rental of hotel and motel rooms, and certain admission charges including those for professional wrestling. Effective July 1, 1992, retail sales of alcoholic beverages are also subject to this tax. *L. 1990, c. 40*. Beginning on October 1, 2018, the rental of a transient accommodation is subject to this tax and to the State Occupancy Tax unless

the keys to the transient accommodation are obtained off-site from a New Jersey real estate broker. *L. 2018, c. 49*. Rentals of hotels, motels, and transient accommodations located in one of the 14 municipalities that participate in the Meadowlands revenue sharing program are subject to an additional 3% Meadowlands regional hotel use assessment. *L. 2018, c. 49; L. 2018, c. 52*. On and after August 9, 2019, transient accommodation taxes and fees are only applicable when the renter obtains the rental unit through a transient space marketplace or when the unit is professionally managed. *L. 2019, c. 235*. In addition, travel agencies and online travel agencies are now considered to be transient space marketplaces and are required to collect the transient accommodation taxes and fees.

*Current Rate: 7% (L. 2006, c. 44)*. The rate is reduced from 7% to 6.875% on and after January 1, 2017 and the tax rate decreased to 6.625% on and after January 1, 2018. *L. 2016, c. 57*.

As of October 1, 2006, the scope of the SUT Act is broadened to include “digital property” and some services. Digital property includes delivered music, ringtones, movies, books, audio and video works and similar products where the customer is granted a right or license to use, retain, or make a copy of such an item. *L. 2006, c. 44. L. 2011, c. 49* deleted the term “digital property” and replaced the term with “specified digital product.”

The Sales Tax is also extended as of October 1, 2006, to services, subject to some exemptions, including, but not limited to, furnishing of space for storage; parking, storing or garaging a motor vehicle; tanning services, massage services, tattooing, investigation and security services, information services, limousine services originating within New Jersey; and initiation fees, membership fees or dues for access to the use of property or facilities of a health and fitness, athletic, sporting or shopping club or organization. *L. 2006, c. 44*. The imposition of sales and use tax on limousine transportation services is repealed. *L. 2017, c. 27*.

Qualified businesses engaged in retail sales in a designated Urban Enterprise Zone (“UEZ”) are exempt from sales tax equal to 50% of the tax rate in effect, except on sales of alcoholic beverages, cigarettes, motor vehicles, manufacturing products and energy. *L. 1983, c. 303; L. 1990, c. 40*. Retail sales of tangible personal property (except motor vehicles and energy) and sales of services (except telecommunications services and utility services) to a qualified business for the exclusive use or consumption by such business within the UEZ were fully exempt from sales tax. *L. 2007, c. 328*. Effective January 1, 2022, *L. 2021, c. 197* limits the sales tax exemption of tangible personal property for qualified businesses to the first \$100,000 of annual purchases. However, retail sales by supermarkets or grocery stores located in a food desert community, or that are located in an Urban Enterprise Zone and have received an annual certificate of eligibility from the Department of Community Affairs have an unlimited sales tax exemption. *L. 2021, c. 197; L. 2022, c. 42*. Receipts from sales of materials, supplies, or services, to a qualified business, for exclusive use in erecting structures or building on, or otherwise improving, altering, or repairing real property of the qualified business within the UEZ, were also fully exempt from sales tax. However, *L. 2021, c. 197* limits this exemption to the first \$100,000 of these purchases, effective January 1, 2022. The sales tax exemption is not limited when the purchase is for the exclusive use of erecting new structures or buildings on, or substantially improving, altering or repairing, the real property of the qualified business within the UEZ. *L. 2021, c. 197*.

Under the Brownfields Reimbursement Program, the State provides cash payments to developers in an amount equivalent to 75% of the estimated costs of remediation of a contaminated site, and derived from tax revenues generated by new incremental sales and other taxes paid to the State, from the project site. The grant payments are made after completion of the project and subject to receipt of taxes over a maximum period stated in the agreement. There is no cap on the Brownfields Reimbursement program. There is also a program for the remediation of municipal landfills in which eligible developers, under redevelopment agreements negotiated with the State, may receive reimbursement of 75% of the costs of closure and remediation of municipal solid waste landfills after the sites are redeveloped, from one half of the sales tax collected on non-exempt sales generated from businesses located on the sites. *L. 1996, c. 124*.

Article VIII, Section II of the State Constitution provides for the dedication of up to \$98 million annually from sales tax revenues for open space, farmland and historic preservation commencing on July 1, 1999 and the dedication of and not less than \$200 million annually for credit to the Transportation Trust Fund Account in the General Fund to be used to fund improvements to the State’s transportation infrastructure.

L. 2003, c. 136, effective August 1, 2003, provides a sales tax exemption for rentals of tangible personal property between related business entities. To qualify for this exemption, the entities must be 80% or more owned by each other or 80% owned by the same third parties. This exemption became operative November 1, 2003.

Effective October 1, 2005, L. 2005, c. 126 conforms New Jersey's SUT Act to the Streamlined Sales and Use Tax Agreement. These amendments to the SUT Act enable the State to join with 42 other states and the District of Columbia to continue the task of seeking common definitions and uniformly understood tax principles. Key features of the Agreement incorporated in the SUT Act by Chapter 126 include certain uniform definitions and determinations of transactions subject to sales and use taxation, uniform exemptions from tax, rate simplification, various administrative provisions, and an amnesty program for uncollected or unpaid sales and use tax for certain sellers under specified circumstances.

As of July 1, 2014, the State's sales tax collection and remittance requirements extend to remote sellers who solicit New Jersey customers through an agreement with an independent contractor, or other representative, who has a physical presence in the State. The law creates a rebuttable presumption that remote sellers have nexus with the State from those referrals obtained through an Internet website link, or otherwise, and from which the seller derives over \$10,000 in annual taxable sales. L. 2014, c. 13.

Effective November 1, 2018, following the U.S. Supreme Court decision in *South Dakota v. Wayfair*, in which the Court determined that physical presence within a state was not a prerequisite for the collection of sales tax, L. 2018, c. 132 established sales tax nexus in New Jersey for remote sellers, which requires the seller to collect State sales tax. Nexus is established when a remote seller makes \$100,000 in taxable sales or 200 or more separate transactions into the State in a calendar year or in a prior year. A "marketplace facilitator" now has sales tax collection and reporting requirements. A "marketplace facilitator" means any person or business that provides a forum to a retailer to advertise, promote, and list the retailer's products and who also collects receipts from the customer and remits payment to the seller.

Commercial redevelopment projects qualifying under the ERG program are eligible for funding of up to 20% of the total cost of the project. L. 2009, c. 90. The funds are paid to the developer out of incremental tax revenue from the project, which is primarily SUT, but also includes various other taxes. The payments are made from up to 75% of incremental tax revenue (85% in a Garden State Growth Zone) over a period of up to twenty years. The ERG program expired on July 1, 2019, and no new applications are being accepted, except applications in certain circumstances will be accepted from a developer of a qualified residential project or a mixed used parking project until December 31, 2021.

Exemptions from the SUT include, but are not limited to: prescription medicines and drugs; enumerated medical equipment and supplies; clothing (except fur clothing) and footwear; household paper products; recycling equipment; certain sales of direct mail advertising materials for distribution to out-of-State recipients and related printing and production costs; certain sales of materials and supplies for contractors' use in constructing, improving or rehabilitating housing projects financed by the New Jersey Housing and Mortgage Financing Agency and other government subsidiaries; sales of telephones, telephone lines, cables, central office equipment or station apparatus or other similar equipment, provided that the sale is made to a service provider subject to the jurisdiction of the Board of Public Utilities or the Federal Communications Commission; coin-paid charges for coin-operated telecommunications devices; and property used directly and primarily on farms. The SUT on receipts from certain retail sales in counties in which there is an entrance to an interstate bridge or tunnel connecting New Jersey with a state which does not impose a sales and use tax or imposes such a tax at a rate at least five percentage points lower than the New Jersey rate, is reduced by 50%. L. 1993, c. 373. Sales and leases of new and used boats and other vessels are exempt to the extent of 50% of the tax imposed under the SUT Act, with a cap of \$20,000 on the total tax. L. 2015, c. 170. In addition, out-of-state boats operated and registered lawfully can be used in New Jersey in a non-commercial manner for up to 30 days per year without incurring use tax. Sales of materials integral to sand casting processes and operations are exempt from SUT. L. 2019, c. 98. Receipts from the sale or use of energy and utility service to or by a recovered materials manufacturing facility or by a recycled materials manufacturing facility for use or consumption directly and primarily in the production of tangible personal property is exempt from SUT for a period of seven years. L. 2019, c. 437, L. 2021, c. 213. Receipts from the sales of unit concrete products that utilize carbon footprint-reducing technology are exempt from SUT. L. 2021, c. 278. An annual sales tax holiday is established for certain retail sales of

computers, school computer supplies, school supplies, school art supplies, school instructional materials and sport or recreational equipment near the start of each new school year. *L. 2022, c. 21.*

### **Social Equity Excise Fee**

A Social Equity Excise Fee is imposed on the cultivation of cannabis by any cannabis cultivator, based on the receipts from the sale or equivalent value of the transfer of usable cannabis by a cannabis cultivator, to any other cannabis establishment other than another cannabis cultivator. Any sale by a cannabis cultivator for which the excise fee is imposed pursuant to this section shall be exempt from the Sales Tax. *L. 2021, c. 16.* The fee is calculated at 1/3 of 1% of the Statewide average retail price of an ounce of cannabis and any fractional portion of an ounce of cannabis sold or transferred shall be subject to the fee on a proportional basis. *L. 2021, c. 16.* Beginning nine months following the first sale or transfer of usable cannabis subject to the excise fee, the excise fee may be adjusted annually based upon the Statewide average retail price of usable cannabis for consumer purchase as follows: (1) up to \$10 per ounce, as established by the commission, if the average retail price of an ounce of usable cannabis was \$350 or more; (2) up to \$30 per ounce, as established by the commission, if the average retail price of an ounce of usable cannabis was less than \$350 but at least \$250; (3) up to \$40 per ounce, as established by the commission, if the average retail price of an ounce of usable cannabis was less than \$250 but at least \$200; and (4) up to \$60 per ounce, as established by the commission, if the average retail price of an ounce of usable cannabis is less than \$200. *L. 2021, c. 16.* Sales or transfers of usable cannabis by a cannabis cultivator to a licensed medical cannabis alternative treatment center for use in medical cannabis dispensing is not subject to the excise fee. *L. 2021, c. 16.* If a sale is subject to a municipal transfer tax or user tax it is exempt from the Sales Tax. *L. 2021, c. 16.*

### **Transfer Inheritance and Estate Tax**

The Transfer Inheritance Tax applies to the transfer of all personal property, New Jersey real property and intangible personal property wherever situated, having a market value of \$500 or more in estates of resident decedents and of real and tangible personal property located within New Jersey of nonresident decedents. No tax is imposed on transfers made to a husband, wife or child of a decedent. *L. 1985, c. 57.*

*Current Rates:* 11% to 16%, depending on the relationship of the beneficiaries to the decedent and the amount received by each beneficiary.

For decedents dying after December 31, 2001, but before January 1, 2018, the estate tax is computed in accordance with the federal estate tax as of December 31, 2001 or under a simplified method prescribed by the Director of the Division of Taxation, as the estate representative may elect. *L. 2002, c. 31.* The estate tax is due nine months after the death of the decedent.

The New Jersey Estate Tax exemption will increase from \$675,000 to \$2 million for the estates of resident decedents dying on or after January 1, 2017, but before January 1, 2018. For these estates, the New Jersey Estate Tax no longer conforms to the provisions of the federal Internal Revenue Code of 1986 in effect on December 31, 2001, and instead follows the current federal Internal Revenue Code for determining the value of the estate which will be subject to New Jersey Estate Tax. *L. 2016, c. 57.*

New Jersey Estate Tax was reduced to zero percent and is not imposed on transfers of estates of resident decedents dying on or after January 1, 2018. *L. 2016, c. 57.*

**APPENDIX II**  
**BOND RESOLUTION**

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**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

**HIGHER EDUCATION CAPITAL IMPROVEMENT  
GENERAL BOND RESOLUTION**

**ADOPTED JUNE 21, 2000  
AND AMENDED FEBRUARY 19, 2004, FEBRUARY 23, 2005, MARCH 24, 2004,  
SEPTEMBER 27, 2006, MARCH 19, 2014, AND JUNE 28, 2016**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT IN EXCESS OF  
\$550,000,000 REVENUE BONDS  
HIGHER EDUCATION CAPITAL IMPROVEMENT FUND  
ISSUE OF THE NEW JERSEY  
EDUCATIONAL FACILITIES AUTHORITY; PROVIDING FOR THE PAYMENT  
OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS AND PROVIDING  
FOR THE RIGHTS OF THE HOLDERS THEREOF**

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**HIGHER EDUCATION CAPITAL IMPROVEMENT  
GENERAL BOND RESOLUTION**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT IN EXCESS OF  
\$550,000,000 REVENUE BONDS  
HIGHER EDUCATION CAPITAL IMPROVEMENT FUND  
ISSUE OF THE NEW JERSEY  
EDUCATIONAL FACILITIES AUTHORITY; PROVIDING FOR THE PAYMENT  
OF THE PRINCIPAL OF AND INTEREST ON SUCH BONDS AND PROVIDING  
FOR THE RIGHTS OF THE HOLDERS THEREOF**

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BE IT RESOLVED by the New Jersey Educational Facilities Authority as follows:

**ARTICLE I**

**DEFINITIONS AND STATUTORY AUTHORITY**

**Section 101. Definitions.**

The following terms shall, for all purposes of the Resolution, have the following meanings:

“Account or Accounts” shall mean, as the case may be, each or all of the Accounts to be established pursuant to Section 502.

“Accountant’s Certificate” shall mean a certificate signed by an independent certified public accountant of recognized standing or a firm of independent certified public accountants of recognized standing, selected by the Authority, which may be the accountant or firm of accountants which regularly audits the books of the Authority.

“Accreted Value” shall mean, as of any date of computation with respect to any Compound Interest Bond, an amount equal to the principal amount of such Compound Interest Bond at original issuance, plus the interest accrued on such Compound Interest Bond from the date of its original issuance to the Compounding Date next preceding the date of computation or the date of computation if a Compounding Date, such interest to accrue at the interest rate per annum of the Compound Interest Bonds set forth in the Supplemental Resolution authorizing such Compound Interest Bonds or Series Certificate relating thereto, compounded on each Compounding Date in each year, plus, with respect to matters related to the payment upon redemption or acceleration of the Compound Interest Bonds, if such date of computation shall not be a Compounding Date, a portion of the difference between the Accreted Value as of the immediately preceding Compounding Date (or the date of original issuance if the date of computation is prior to the first Compounding Date succeeding the date of original issuance) and the Accreted Value as of the immediately succeeding Compounding Date, calculated based upon an assumption that Accreted Value accrues during any semi-annual period in equal daily amounts on such basis as shall be set forth in the Supplemental Resolution authorizing the Series of which such Compound Interest Bond is a part or Series Certificate relating thereto.

“Act” shall mean the New Jersey Educational Facilities Authority Law, being Chapter 72A of Title 18A of the New Jersey statutes, as enacted by Chapter 271 of the Laws of 1967, as amended and supplemented, including the Higher Education Capital Improvement Fund Act (P.L. 1999, c. 217) as amended and supplemented.

“Aggregate Debt Service” for any period shall mean, as of any date of calculation, the sum of the amounts of Debt Service for such period with respect to all Series.

“Appreciated Value” shall mean, (i) as of any date of computation with respect to any Compound Interest and Income Bond prior to the Interest Commencement Date set forth in the Supplemental Resolution authorizing such Compound Interest and Income Bond or Series Certificate relating thereto, an amount equal to the principal amount of such Compound Interest and Income Bond at original issuance plus the interest accrued on such Compound Interest and Income Bond from the date of original issuance of such Bond to the Compounding Date next preceding the date of computation or the date of computation if a Compounding Date, such interest to accrue at the rate per annum of the Compound Interest and Income Bonds set forth in the Supplemental Resolution authorizing such Compound Interest and Income Bond or Series Certificate relating thereto, compounded semi-annually on each Compounding Date, plus, if such date of computation shall not be a Compounding Date, a portion of the difference between the Appreciated Value as of the immediately preceding Compounding Date (or the date of original issuance if the date of computation is prior to the first Compounding Date succeeding the date of original issuance) and the Appreciated Value as of the immediately succeeding Compounding Date calculated based upon an assumption that Appreciated Value accrues during any period in equal daily amounts on such basis as shall be set forth in the Supplemental Resolution authorizing the Series of which such Compound Interest and Income Bond is part or Series Certificate relating thereto, and (ii) as of any date of computation on and after the Interest Commencement Date, the Appreciated Value on the Interest Commencement Date.

“Authority” shall mean the New Jersey Educational Facilities Authority, a public body corporate and politic created and existing under and by virtue of the Act.

“Authorized Newspaper” shall mean a financial newspaper customarily published at least once a day for at least five days (other than legal holidays) in each calendar week, printed in the English language and of general circulation in the Borough of Manhattan, City and State of New York.

**The definition of “Authorized Officer of the Authority” in this Section 101 was amended in the Authority’s Fourth Supplemental Bond Resolution adopted February 19, 2004. Prior to such amendment, the definition read as follows:**

“Authorized Officer of the Authority” shall mean the Chairperson, Treasurer, Secretary or Executive Director of the Authority or any other person or persons designated by the Authority by resolution to act on behalf of the Authority under the Resolution. The designation of such person or persons shall be evidenced by a written certificate containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chairperson.

**From February 19, 2004 to February 22, 2005, the definition of “Authorized Officer of the Authority” in this Section 101 read as follows:**



“Authorized Officer of the Authority” shall mean the Chair, Vice Chair, Treasurer, Secretary, Executive Director, Deputy Executive Director or Director of Project Management of the Authority or any other person or persons, as designated by the Authority by resolution, to act on behalf of the Authority under the Resolution; the designation of such person or persons shall be evidenced by a written certificate containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chair.

**The definition of “Authorized Officer of the Authority” in this Section 101 was amended again in the Authority’s Sixth Supplemental Bond Resolution adopted February 23, 2005. From February 23, 2005 to September 26, 2006, the definition of “Authorized Officer of the Authority” in this Section 101 read as follows:**

“Authorized Officer of the Authority” shall mean the Chair, Vice Chair, Treasurer, Secretary, any Assistant Secretary, Executive Director, Deputy Executive Director or Director of Project Management of the Authority or any other person or persons, as designated by the Authority by resolution, to act on behalf of the Authority under the Resolution; the designation of such person or persons shall be evidenced by a written certificate containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chair or Executive Director.

**The definition of “Authorized Officer of the Authority” in this Section 101 was amended again in the Authority’s Seventh Supplemental Bond Resolution adopted September 27, 2006. From September 27, 2006 to March 18, 2014, the definition of “Authorized Officer of the Authority” in this Section 101 read as follows:**

“Authorized Officer of the Authority” shall mean the Chair, Vice Chair, Treasurer, Secretary, any Assistant Secretary, Executive Director, Deputy Executive Director or Director of Project Management of the Authority or any other person or persons, as designated by the Authority under the Resolution; the designation of such person or persons shall be evidenced by a written certificate containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chair or Executive Director.

**The definition of “Authorized Officer of the Authority” in this Section 101 was amended again in the Authority’s Eighth Supplemental Bond Resolution adopted March 19, 2014. From March 19, 2014 to June 27, 2016, the definition of “Authorized Officer of the Authority” in this Section 101 read as follows:**

“Authorized Officer of the Authority” shall mean the Chair, Vice Chair, Assistant Treasurer, Secretary, any Assistant Secretary, Executive Director, Deputy Executive Director, Director of Project Management or Director of Risk Management, and any other person authorized by resolution to act on behalf of the Authority under the Resolution, and any such officers designated as “acting” or “interim”.

**The definition of “Authorized Officer of the Authority” in this Section 101 was amended again in the Authority’s Ninth Supplemental Bond Resolution adopted June 28, 2016, and, from and after such date, the definition reads as follows:**

“Authorized Officer of the Authority” shall mean the Chair, Vice-Chair, Executive Director, Deputy Executive Director, Director of Project Management, Director of Compliance Management, Treasurer, Assistant Treasurer, Secretary and any Assistant Secretary or any other person or persons designated by the Authority by resolution to act on behalf of the Authority under

the Resolution. The designation of such person or persons shall be evidenced by a written certificate containing the specimen signature of such person or persons and signed on behalf of the Authority by its Chair, Vice-Chair, Executive Director or Deputy Executive Director.

“Bond” or “Bonds” shall mean any bonds, including Refunding Bonds, notes or Other Obligations (other than Subordinated Debt), authenticated and delivered under and pursuant to the Resolution; provided, however, that as used in Articles III and IV hereof, the term “Bonds” shall not include Other Obligations.

“Bondholder” or “Holder of Bonds” or “Holder” shall mean any person who shall be the registered owner of any Bond or Bonds.

“Bond Counsel” shall mean any lawyer or firm of lawyers nationally recognized in the field of municipal finance and satisfactory to the Authority.

“Bond Payment Obligations” shall mean the Authority’s obligation to pay the principal or Redemption Price of and interest on the Bonds.

“Bond Registrar” shall mean the Trustee and any other bank or trust company organized under the laws of any state of the United States of America or national banking association appointed by the Authority to perform the duties of Bond Registrar enumerated in Section 703 and Section 304.

**The definition of “Business Day” in this Section 101 was amended in the Authority’s Eighth Supplemental Bond Resolution adopted March 19, 2014. Prior to such amendment, the definition read as follows:**

“Business Day” shall mean any day that is not a Saturday, Sunday or legal holiday in the State or a day on which banking institutions chartered by the State or the United States are legally authorized or required to close.

**From and after March 19, 2014, the definition of “Business Day” in this Section 101 reads as follows:**

“Business Day” shall mean any day that is not a Saturday, a Sunday or a legal holiday or State of Emergency Closure in the State or the State of New York, a day when the New York Stock Exchange is closed or a day on which the Trustee, the Bond Registrar, or any Paying Agent is legally authorized to close.

“Capital Improvement Fund” shall mean the Higher Education Capital Improvement Fund established in Section 502.

“Code” shall mean the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder.

“Compound Interest and Income Bonds” shall mean any Bonds as to which accruing interest is not paid prior to the Interest Commencement Date specified in the Supplemental Resolution authorizing such Bonds and the Appreciated Value for such Bonds is compounded on each of the applicable Compounding Dates designated for compounding prior to the Interest Commencement Date for such Compound Interest and Income Bonds, all as so designated by the Supplemental Resolution or Series Certificate relating to the issuance thereof.

“Compound Interest Bonds” shall mean those Bonds as to which interest is compounded on each of the applicable Compounding Dates designated for compounding and payable in an amount equal to the then current Accreted Value only at the maturity, earlier redemption or other payment date therefor, all as so designated by the Supplemental Resolution or Series Certificate relating to the issuance thereof.

“Compounding Date” shall mean, with respect to any Series of Compound Interest and Income Bonds or Compound Interest Bonds, the dates set forth in the Supplemental Resolution authorizing such Series of Bonds or Series Certificate relating thereto as of which interest accrued on the Bonds of such Series shall be added to the Appreciated Value or Accreted Value, as the case may be, of the Bonds of such Series, which dates shall be Interest Payment Dates for the Bonds of such Series.

“Debt Service” shall mean, with respect to any Series and with respect to each Payment Date for such Series, the principal and Redemption Price of and accrued interest coming due and payable on such Series on such Payment Date.

“Debt Service Fund” shall mean the Debt Service Fund established in Section 502.

**The following definition of “Eighth Supplemental Resolution” was added to this Section 101 in the Authority’s Eighth Supplemental Bond Resolution adopted March 19, 2014:**

“Eighth Supplemental Resolution” shall mean the Eighth Supplemental Higher Education Capital Improvement Fund Resolution adopted by the Authority on March 19, 2014, amending and supplementing the Resolution.

“Event of Default” shall have the meaning given to such term in Section 801.

“Event of Non-Appropriation” shall mean an event described in Section 801(4) hereof.

**The following definition of “Excess Amounts” was added to this Section 101 in the Authority’s Fifth Supplemental Bond Resolution adopted March 24, 2004:**

“Excess Amounts” shall mean the amount determined in accordance with subsection (b) of Section 503 as set forth in a Certificate of an Authorized Officer of the Authority delivered pursuant to subsection (b) of Section 503.

“Federal Securities” shall mean (i) any direct and general obligations of, or any obligations guaranteed by, the United States of America, including but not limited to interest obligations of the Resolution Funding Corporation or any successor thereof, (ii) any obligations of any state or political subdivision of a state which are fully secured as to principal and interest by an irrevocable pledge of moneys or direct and general obligations of, or obligations guaranteed by, the United States of America, which moneys or obligations are segregated in trust and pledged for the benefit of the holders of such bonds, and (iii) certificates of ownership of the principal or interest of direct and general obligations of, or obligations guaranteed by, the United States of America, which obligations are held in trust by a commercial bank which is a member of the Federal Reserve System.

“Fiduciary” or “Fiduciaries” shall mean the Trustee, the Paying Agents, the Bond Registrar or any or all of them, as may be appropriate.

“Financing Facility” shall mean any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements as approved by the Authority and by each Rating Agency which has issued a rating on the Bonds to which such Financing Facility relates, in connection with the issuance of Bonds or Subordinated Debt. The term “Financing Facility” shall include, without limitation, any Swap Agreement.

“Financing Facility Payment Obligations” shall mean all payment and reimbursement obligations of the Authority in connection with any Financing Facility.

“Financing Facility Provider” shall mean the issuer or provider of a Financing Facility.

“Financing Facility Revenues” shall mean all amounts received by the Authority or the Trustee pursuant to any Financing Facility.

“Fiscal Year” shall mean the fiscal year of the State which presently includes the twelve (12) month period commencing July 1 of each year and ending on the succeeding June 30.

“Fitch” shall mean Fitch IBCA, Inc.

“Fund or Funds” shall mean, as the case may be, each or all of the Funds established in Section 502.

“Grant” shall mean a grant made to Private Institutions of Higher Learning and Public Institutions of Higher Learning pursuant to the Higher Education Capital Improvement Fund Act.

“Interest Commencement Date” shall mean, with respect to any particular Compound Interest and Income Bond, the date which must be an Interest Payment Date, specified in the Supplemental Resolution or Series Certificate (which date must be prior to the maturity date for such Bond) after which interest accruing on such Bond shall be payable semiannually, with the first such payment date being the applicable Interest Payment Date immediately succeeding such Interest Commencement Date.

“Interest Payment Date” shall mean, with respect to a Series of Bonds, each date set forth in the Supplemental Resolution authorizing such Series of Bonds or the Series Certificate relating thereto on which accrued interest on the Bonds of such Series shall be payable.

“Investment Agreement” shall mean an investment agreement with (i) a commercial bank or trust company or a national banking association in any case having a capital stock and surplus of more than \$100,000,000, or (ii) an insurance company with the highest rating provided by A.M. Best Company, or (iii) a corporation; provided that the credit of such commercial bank or trust company or national banking association, insurance company or corporation, as the case may be, is rated (or, in the case of a corporation, whose obligations thereunder are guaranteed by a corporation whose credit is rated) not lower than the rating category of Moody’s and S&P required to maintain the rating then in effect or to obtain the rating to be obtained on the Bonds in respect of which such Investment Agreement is entered into, which agreement provides for the investment of funds held in the Funds and Accounts, which funds shall be collateralized by at least one hundred two (102%) percent in principal amount of Investment Securities, as the same may be amended from time to time.

“Investment Securities” shall mean and include any of the following securities, if and to the extent the same are at the time legal for investment of the Authority’s funds:

(i) Federal Securities;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any agency or instrumentality of the United States to the extent such obligations are guaranteed by the United States or by another such agency the obligations (including guarantees) of which are guaranteed by the United States;

(iii) Bonds, debentures, notes or other evidences of indebtedness issued by any corporation chartered by the United States, including, but not limited to, Governmental National Mortgage Association, Federal Land Banks, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Federal Home Loan Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Tennessee Valley Authority, United States Postal Service, Farmers Home Administration, Resolution Funding Corporation, Export-Import Bank, Federal Financing Bank and Student Loan Marketing Association;

(iv) Negotiable or non-negotiable certificates of deposit (or other time deposit arrangements) issued by any bank, trust company or national banking association, including a Fiduciary, which certificates of deposit shall be continuously secured or collateralized by obligations described in subparagraphs (i) or (ii) of this definition, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association issuing such certificates of deposit;

(v) Uncollateralized negotiable or non-negotiable certificates of deposit (or other time deposit arrangements) issued by any bank, trust company or national banking association, the unsecured obligations of which are rated in one of the two highest rating categories, without rating sub-categories, by Moody’s and S&P;

(vi) Repurchase agreements collateralized by obligations described in subparagraphs (i), (ii) or (iii) of this definition with any registered broker/dealer subject to the Securities Investors’ Protection Corporation jurisdiction, which has an uninsured, unsecured and unguaranteed obligation rated “Prime-1” or “A3” or better by Moody’s and “A-1” or “A” or better by S&P, or any commercial bank with the above ratings, provided;

(a) a master repurchase agreement or specific written repurchase agreement governs the transaction, which characterizes the transaction as a purchase and sale of securities,

(b) the securities are held, free and clear of any lien, by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (i) a Federal Reserve Bank, (ii) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$75,000,000 or (iii) a bank approved in writing for such purpose by each Financing Facility Provider, if any, and the Trustee shall have received written confirmation from such third

party that it holds such securities, free and clear of any lien, as agent for the Trustee,

(c) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 CFR 306.1 et seq. or 31 CFR 350.0 et seq. or a successor provision in such securities is created for the benefit of the Trustee,

(d) the repurchase agreement has a term of six months or less, or the Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two Business Days of such valuation,

(e) the repurchase agreement matures on or before a Payment Date (or, if held in a Fund other than the Debt Service Fund, other appropriate liquidation period), and

(f) the fair market value of the securities in relation to the amount of the repurchase obligation is equal to the collateral levels established by a Rating Agency for the rating assigned by the Rating Agency to the seller.

(vii) Banker's acceptances, eurodollar deposits and certificates of deposit (in addition to the certificates of deposit provided for by subparagraphs (iv) and (v) above) of the domestic branches of foreign banks having a capital and surplus of \$1,000,000,000 or more, or any bank or trust company organized under the laws of the United States of America or Canada, or any state or province thereof, having capital and surplus, in the amount of \$1,000,000,000; provided that the aggregate maturity value of all such banker's acceptances and certificates of deposit held at any time as investments of Funds under this Resolution with respect to any particular bank, trust company, or national association shall not exceed 5% of its capital and surplus; and provided further that any such bank, trust company, or national association shall be rated in one of the two highest rating categories, without regard to rating sub-categories, by Moody's and S&P;

(viii) Other obligations of the United States of America or any agency thereof which may then be purchased with funds belonging to the State of New Jersey or which are legal investments for savings banks in the State of New Jersey;

(ix) Deposits in the New Jersey Cash Management Fund;

(x) Obligations of any state, commonwealth or possession of the United States or a political subdivision thereof or any agency or instrumentality of such a state, commonwealth, possession or political subdivision, provided that at the time of their purchase such obligations are rated in either of the two highest rating categories by Moody's and S&P;

(xi) Commercial paper with a maturity date not in excess of 270 days rated by the Rating Agencies at least equal to the rating assigned by the Rating Agencies to the applicable Series of Bonds and in no event lower than the "A" category established by a Rating Agency (which may include subcategories

indicated by plus or minus or by numbers) at the time of such investment, issued by an entity incorporated under the laws of the United States or any state thereof;

(xii) Shares of a diversified open-end management investment company as defined in the Investment Company Act of 1940, which is a money market fund, which is then rated in any of the three highest rating categories by each Rating Agency which is then rating the Bonds or money market accounts of the Trustee or any bank or trust company organized under the laws of the United States or any state thereof which has a combined capital and surplus of not less than \$50,000,000;

(xiii) Investment contracts (a) providing for the future purchase of securities of the type described in (i), (ii), (iii) and (viii) above, which contracts have been approved for sale by a national securities exchange and all regulatory authorities having jurisdiction or (b) the obligor under which or the guarantor thereof shall have a credit rating such that its long term debt is rated at least "A+" by S&P if the Bonds are then rated by such Rating Agency and at least "A1" by Moody's if the Bonds are then rated by such Rating Agency; and

(xiv) Investment Agreements.

"Maximum Interest Rate" shall mean, with respect to any particular Variable Interest Rate Bond, a numerical rate of interest, which shall be set forth in the Supplemental Resolution or Series Certificate authorizing such Variable Interest Rate Bond, that shall be the maximum rate of interest such Variable Interest Rate Bond may at any time bear.

"Month" shall mean a calendar month.

"Moody's" shall mean Moody's Investors Service.

"Opinion of Counsel" or "Opinion" shall mean an opinion signed by an attorney or firm of attorneys of recognized standing in the field of law relating to municipal bonds (who may be general, special or bond counsel to the Authority).

"Option Bonds" shall mean Bonds which by their terms may be tendered by and at the option of the Holders thereof for payment by the Authority prior to the stated maturity thereof, or the maturities of which may be extended by and at the option of the Holder thereof.

"Other Obligations" shall mean bank loan agreements, lines of credit and other security agreements, and any other form of indebtedness which the Authority is authorized to enter into or obtain to provide direct payment of any costs which the Authority is authorized to pay pursuant to the Act.

"Outstanding" when used with reference to Bonds, shall mean, as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Resolution except:

(i) Bonds cancelled by the Trustee at or prior to such date;

(ii) Bonds (or portions of Bonds) for the payment or redemption of which moneys, equal to the principal amount or Redemption Price thereof, as the case may be, with interest to the date of maturity or redemption date, shall be held in trust under the Resolution and set aside for such payment or redemption (whether at or prior to the maturity or redemption date), provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been

given or provisions satisfactory to the Trustee shall have been made for the giving of such notice as provided in Article IV;

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authenticated and delivered pursuant to Article III or Section 406 or Section 1106;

(iv) Bonds deemed to have been paid as provided in subsections 2 or 3 of Section 1201; and

(v) Option Bonds deemed tendered in accordance with the provisions of the Supplemental Resolution authorizing such Option Bonds on the applicable adjustment or conversion date, if interest thereon shall have been paid through such applicable date and the purchase price thereof shall have been paid or amounts are available for such payment as provided in the Resolution.

“Paying Agent” shall mean any bank or trust company organized under the laws of any state of the United States of America or any national banking association designated as paying agent for the Bonds of any Series, and its successors hereafter appointed in the manner provided in the Resolution.

“Payment Date” shall mean each Interest Payment Date and each date upon which any principal or Redemption Price of any Bonds Outstanding shall become due and payable.

“Pledged Property” shall mean (a) with respect to the Bond Payment Obligations and, to the extent provided in any Supplemental Resolution authorizing a Series which is to be secured, in whole or in part, by, or payable, in whole or in part, from, a Financing Facility, the applicable Financing Facility Payment Obligations, the State Contract, the Revenues and the amounts and Investment Securities on deposit in the Funds (other than the Rebate Fund), (b) with respect to any Series of Bonds in connection with which the Authority has obtained a Financing Facility, and to the extent provided in a Supplemental Resolution, the applicable Financing Facility and Financing Facility Revenues and all moneys from time to time held in any applicable subaccount within the Debt Service Fund and (c) with respect to any Subordinated Debt, the amounts, if any, on deposit from time to time in the Subordinated Debt Fund and available for such payment.

“Private Institution of Higher Education” shall mean independent colleges or universities incorporated and located in New Jersey, which by virtue of law or character or license, are nonprofit educational institutions authorized to grant academic degrees and which provide a level of education which is equivalent to the education provided by the State’s public institutions of higher education, and which are eligible to receive State aid.

**The definition of “Public Institution of Higher Education” in this Section 101 was amended in the Authority’s Eighth Supplemental Bond Resolution adopted March 19, 2014. Prior to such amendment, the definition read as follows:**

“Public Institution of Higher Education” shall mean Rutgers, The State University of New Jersey, the State colleges, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the county colleges and any other public university or college now or hereinafter established or authorized by law.



**From and after March 19, 2014, the definition of “Public Institution of Higher Education” in this Section 101 reads as follows:**

“Public Institution of Higher Education” shall mean Rutgers, The State University of New Jersey, Rowan University of New Jersey, the New Jersey Institute of Technology, University Hospital (as a successor to the University of Medicine and Dentistry of New Jersey), the State colleges, the county colleges and any other public university or college now or hereafter established or authorized by law.

“Rating Agency” shall mean, to the extent applicable, S&P and any successor thereto, if it has assigned a rating to any Bonds, Moody’s and any successor thereto, if it has assigned a rating to any Bonds, Fitch and any successor thereto, if it has assigned a rating to any Bonds or any other nationally recognized bond rating agency and any successor thereto if it has assigned a rating to any Bonds.

“Rebate Fund” shall mean the Rebate Fund established in Section 502.

“Record Date” shall mean with respect to an Interest Payment Date for a particular Series of Bonds, unless otherwise provided by the Supplemental Resolution authorizing such Series, the fifteenth day next preceding such Interest Payment Date.

“Redemption Price” shall mean, with respect to any Bond, the principal amount thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Resolution.

“Refunding Bonds” shall mean all Bonds, whether issued in one or more Series, authenticated and delivered on original issuance pursuant to Section 203, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 406 or Section 1106.

“Related Swap Bonds” shall mean, with respect to and during the term of any Swap Agreement, the Bonds to which such Swap Agreement relates, as specified in the applicable Supplemental Resolution.

“Related Swap Bond Payment Obligations” shall mean, with respect to any Related Swap Bonds, (i) that portion of the interest on such Bonds payable from Swap Revenues as set forth in the applicable Supplemental Resolution and (ii) any Swap Termination Payments payable to the Holders of such Related Swap Bonds or to be used to purchase a substitute Swap Agreement.

“Resolution” shall mean this Higher Education Capital Improvement General Bond Resolution as from time to time amended or supplemented by Supplemental Resolutions (including Series Certificates) in accordance with the terms hereof.

“Revenues” shall mean (i) all amounts appropriated and paid to the Authority pursuant to the State Contract, (ii) any other amounts appropriated and paid by the State to the Authority or received from any other source by the Authority and pledged by the Authority as security for the payment of Bonds, and (iii) interest received or to be received on any moneys or securities held pursuant to the Resolution and paid or required to be paid into the Revenue Fund; provided, however, that the term “Revenues” shall not include Financing Facility Revenues or interest received or to be received on any moneys or security held in the Higher Education Capital Improvement Fund or the Rebate Fund.

“S&P” shall mean Standard & Poor’s Corporation.

“Series” shall mean all of the Bonds authenticated and delivered on original issuance and identified pursuant to the Supplemental Resolution authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article III or Section 406 or Section 1106, regardless of variations in maturity, interest rate, redemption provisions or other provisions.

“Series Certificate” shall mean a certificate executed by an Authorized Officer of the Authority making certain determinations in connection with the issuance of a Series of Bonds or Subordinated Debt pursuant to the Supplemental Resolution providing for, among other items, the issuance of such Series of Bonds or Subordinated Debt. Each Series Certificate, upon execution and delivery, shall be deemed to be a part of the applicable Supplemental Resolution.

“State” shall mean the State of New Jersey.

“State Contract” shall mean the contract to be entered into between the Treasurer and the Authority prior to the issuance of the first Series of Bonds under this Resolution, together with any and all amendments and supplements thereto, and any other contract or contracts entered into by the Authority and the State or officers of the State pursuant to the Act which contract or contracts provide, among other things, for the credit of amounts to the Debt Service Fund and for payment, subject to appropriation, to the Authority of the amounts so credited pursuant to the Act.

“Subordinated Debt” shall mean indebtedness issued pursuant to and complying with the provisions of Section 204.

“Subordinated Debt Fund” shall mean the Subordinated Debt Fund established in Section 502.

“Supplemental Resolution” shall mean any resolution supplemental to or amendatory of the Resolution adopted by the Authority in accordance with Article X hereof.

“Swap Agreement” shall mean any interest rate swap, cap or collar or other arrangement between the Authority and one or more financial institutions providing for the transfer or mitigation of interest rate risks either generally or under specific contingencies.

“Swap Payment Obligations” shall mean, for any period of time and with respect to any Related Swap Bonds, all net amounts payable by the Authority (including Swap Termination Payments payable by the Authority) under any Swap Agreement in respect of such Related Swap Bonds

“Swap Provider” shall mean the provider of any Swap Agreement.

“Swap Revenues” shall mean all amounts received by the Authority or the Trustee pursuant to any Swap Agreement, including without limitation any Swap Termination Payment.

“Swap Revenues Subaccount” shall mean the Swap Revenues Subaccount within the Debt Service Fund established in Section 506.

“Swap Termination Payment” shall mean, with respect to any Swap Agreement, any settlement amount payable by the applicable Swap Provider or the Authority by reason or on account of the early termination of such Swap Agreement. The term “Swap Termination Payment” shall not include net unpaid amounts which would have been payable by the Swap Provider or the Authority pursuant to the terms of the applicable Swap Agreement irrespective of the early termination of such Swap Agreement.

“Treasurer” shall mean the Treasurer of the State of New Jersey.

“Trustee” shall mean the Trustee to be appointed under the Resolution, and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Resolution.

“Variable Interest Rate” shall mean a variable interest rate to be borne by a Series of Bonds or any one or more maturities within a Series of Bonds. The method of computing such variable interest rate shall be as specified in the Supplemental Resolution authorizing such Series of Bonds or Series Certificate relating thereto.

“Variable Interest Rate Bonds” for any period of time, shall mean Bonds which during such period bear a Variable Interest Rate, provided that Bonds the interest rate on which shall have been fixed for the remainder of the term thereof shall no longer be Variable Interest Rate Bonds.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies.

#### **Section 102. Authority for the Resolution.**

This Resolution is adopted pursuant to the provisions of the Act.

#### **Section 103. Resolution to Constitute Contract.**

(a) In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, the Resolution shall be deemed to be and shall constitute a contract between the Authority and the Holders from time to time of the Bonds; and the security interest granted and the pledge and assignment made in the Resolution and the covenants and agreements therein set forth to be performed on behalf of the Authority shall be for the equal benefit, protection and security of the Holders of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, all except as expressly provided in or permitted by the Resolution.

(b) Notwithstanding the provisions of subsection (a) above, to the extent provided in the Supplemental Resolution authorizing a Series of Bonds, (i) any and all Bonds of such Series may be secured by and payable from, in whole or in part, a Financing Facility, (ii) the security interest granted and the pledge and assignment made in the Resolution may also secure, on a parity with or subject and subordinate to, all other Bonds issued under the Resolution, the Authority’s Financing Facility Payment Obligations with respect thereto, provided, however that the aggregate amount of indebtedness which may be secured by this Resolution with respect to any Series of Bonds on a parity with all other Bonds issued or to be issued under the Resolution may not exceed the aggregate principal amount of, premium, if any, and interest on the Bonds of such Series, and

(iii) Related Swap Bond Payment Obligations may be payable solely from the applicable Swap Revenues, and such Swap Revenues may be pledged solely to and shall be applied solely for the payment of such Related Swap Bond Payment Obligations.

(c) To the extent provided in any Supplemental Resolution or any other resolution of the Authority, authorizing the issuance of Subordinated Debt meeting the requirements set forth in Section 204, the security interest granted and the pledge and assignment made in the Resolution may also secure such Subordinated Debt, but only to the extent of amounts, if any, from time to time on deposit in the Subordinated Debt Fund and available for payment of Subordinated Debt, and subject and subordinate to the security interest granted and the pledge and assignment of such amounts made in the Resolution for the benefit of the Bonds and the Financing Facility Payment Obligations.

## **ARTICLE II**

### **AUTHORIZATION AND ISSUANCE OF BONDS AND SUBORDINATED DEBT**

#### **Section 201. Authorization of Bonds.**

1. The Authority is hereby authorized to issue from time to time, as hereinafter provided, Bonds of the Authority to be designated as “Revenue Bonds, Higher Education Capital Improvement Fund Issue”. The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under the Resolution is not limited except as the aggregate principal amount of Bonds which may be executed, authenticated and delivered may be limited by the Act or any other applicable law.

2. The Bonds may be issued in one or more Series, and the designation thereof, in addition to the name “Revenue Bonds, Higher Education Capital Improvement Fund Issue”, shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the Authority may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

3. Nothing in the Resolution shall be deemed to preclude or prevent the consolidation into a single Series for purposes of issuance and sale of Bonds otherwise permitted by the Resolution to be issued at the same time in two or more separate Series, provided that solely for the purpose of satisfying the requirements of Section 202 or Section 203, as the case may be, the Bonds otherwise permitted by the Resolution to be issued as a separate Series shall be considered separately as if such Bonds were to be issued as a separate Series. In the event that separate Series are combined for purposes of issuance and sale, they may be issued under a single Supplemental Resolution notwithstanding any other provision of the Resolution.

#### **Section 202. General Provisions for Issuance of Bonds.**

1. All (but not less than all) the Bonds of each Series shall be executed by the Authority for issuance under the Resolution and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the Authority or upon its order, but only upon the receipt by the Trustee of:

(1) A copy of the Supplemental Resolution authorizing such Bonds, and a copy of the Series Certificate, if any, relating to such Bonds, each certified by an Authorized Officer of the Authority, which shall, among other provisions, specify: (a) the authorized maximum principal amount, designation and Series of such Bonds; (b) the purposes for which such Series of Bonds is being issued, which shall be (i) the payment of the Grants, (ii) the refunding of Bonds as provided in Section 203 or (iii) any other lawful purpose permitted under the Act; (c) the date, and the maturity date or dates, of the Bonds of such Series; (d) if any Bonds of such Series are current interest Bonds, the interest rate or rates or the method of calculation of the interest rate or rates of the Bonds of such Series and the Interest Payment Dates therefor, and if any Bonds of such Series are Compound Interest Bonds or Compound Interest and Income Bonds, the Accreted Value or Appreciated Value, as the case may be, on each

Compounding Date, and if any Bonds of such Series are Variable Interest Rate Bonds, the Maximum Interest Rate for such Bonds, and the provisions, if any, as to the calculation or change of such Variable Interest Rates; (e) the denominations of, and the manner of dating, numbering and lettering, the Bonds of such Series; (f) the Redemption Price or Prices or prepayment price or prices, if any, and, subject to Article IV, the redemption or prepayment terms for the Bonds of such Series; (g) provisions for the sale of the Bonds of such Series; (h) the amount (or the method of determining the amount), if any, to be deposited from the proceeds of such Series of Bonds or other sources in the Funds and provisions for the application thereof; (i) the form of the Bonds of such Series, and the form of the Trustee's certificate of authentication (if applicable), which forms shall be, respectively, substantially in the forms set forth in Section 1301, with such variations, omissions or insertions as are required or permitted by the Resolution; (j) with regard to Option Bonds, provisions regarding tender and payment thereof; (m) provisions, if any, for furnishing a Financing Facility with respect to such Series; and (k) such other provisions as the Authority may deem necessary or desirable in connection with the issuance of such Series of Bonds. Notwithstanding the foregoing, the Authority may delegate to an Authorized Officer of the Authority the authority to determine by Series Certificate any of the matters that are required to be set forth in a Supplemental Resolution other than the authorization of the issuance of Bonds, the maximum principal amount of the Bonds of such Series, the final maturity date of the Bonds of such Series and the maximum interest rate (whether or not the Bonds of such Series are Variable Interest Rate Bonds) or true interest cost with respect to such Bonds or any other provisions required by the Act to be authorized by a resolution;

(2) An Opinion of Bond Counsel to the effect that (i) the Authority has the right and power to adopt the Resolution, and the Resolution has been duly and lawfully adopted by the Authority, is in full force and effect and is valid and binding upon the Authority in accordance with its terms, and no other authorization for the Resolution is required; (ii) the Resolution creates the valid pledge which it purports to create of the Revenues, moneys, securities and funds and other Pledged Property, subject to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution; and (iii) the Bonds of such Series are valid and binding obligations of the Authority as provided in the Resolution and entitled to the benefits of the Resolution and of the Act as amended to the date of such Opinion, and such Bonds have been duly and validly authorized and issued in accordance with law, including the Act as amended to the date of such Opinion, and in accordance with the Resolution; provided, that such Opinion may take exception as to the effect of, or for restrictions or limitations imposed by or resulting from, bankruptcy, insolvency, debt adjustment, moratorium, reorganization or other similar laws, judicial decisions and principles of equity affecting creditors' rights generally and judicial discretion;

(3) A written order as to the delivery of such Bonds, signed by an Authorized Officer of the Authority;

(4) A certificate of an Authorized Officer of the Authority stating that the Authority is not, or upon the issuance of such Series of Bonds will not be, in default in the performance of any of the covenants, conditions, agreements or provisions contained in the Resolution;

(5) Such further documents, moneys, securities and evidences of deposit of funds with the Trustee as are required by the provisions of Section 203 or Article X or the Supplemental Resolution authorizing such Series of Bonds.

2. After the original issuance of Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III or Section 406 or Section 1106.

### **Section 203. Refunding Bonds.**

1. One or more Series of Refunding Bonds may be issued at any time to refund Outstanding Bonds of one or more Series or one or more maturities within a Series or any Bonds of one or more maturities within one or more Series. Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding (including, without limitation, the payment of the costs of issuance of such Refunding Bonds) and to make the deposits in the Funds and Accounts under the Resolution required by the provisions of the Supplemental Resolution authorizing such Refunding Bonds.

2. Refunding Bonds of each Series shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 202) of:

(1) Instructions to the Trustee, satisfactory to it, to give due notice of redemption, if applicable, of all the Bonds to be refunded on a redemption date or dates specified in such instructions, subject to the provisions of Section 1201 hereof;

(2) If the Bonds to be refunded are not by their terms subject to redemption or will not be redeemed within the next succeeding sixty (60) days, instructions to the Trustee, satisfactory to it, to mail the notice provided for in Section 1201 to the Holders of the Bonds being refunded; and

(3) The deposit of amounts as shall be necessary to comply with the provisions of subsection 2 of Section 1201; and

(4) Such further documents and moneys as are required by the provisions of Article X or any Supplemental Resolution authorizing such Refunding Bonds.

3. The proceeds, including accrued interest, of the Refunding Bonds of each Series shall be applied simultaneously with the delivery of such Refunding Bonds for the purposes of making deposits in such Funds and Accounts under the Resolution as shall be provided by the

Supplemental Resolution authorizing such Series of Refunding Bonds and shall be applied to the refunding purposes thereof in the manner provided in said Supplemental Resolution or Series Certificate.

#### **Section 204. Subordinated Debt.**

1. The Authority may, at any time, or from time to time, issue Subordinated Debt pursuant to a Supplemental Resolution or any other resolution of the Authority for any of its purposes under the Higher Education Capital Improvement Fund Act payable out of, and which may be secured by a pledge of, the Revenues as may from time to time be available for deposit to and deposited in the Subordinated Debt Fund for the purpose of payment thereof; provided, however, that such pledge shall be, and shall be expressed to be, subordinate in all respects to the pledge created by the Resolution as security for the Bonds and any Financing Facility Payment Obligations which are secured on a parity with the Bonds (which parity obligations are deemed to be included within the definition of the term “Bonds” for purposes of this Section 204 only).

2. The Authority may also, at any time or from time to time, issue Subordinated Debt to refund any Subordinated Debt issued as provided in this Section or to refund Outstanding Bonds of one or more Series or one or more maturities within a Series. Such Subordinated Debt issued for refunding purposes may be payable out of, and may be secured by a pledge of, the Revenues as may from time to time be available therefor, provided that any such payment or pledge shall be, and shall be expressed to be, subordinate and junior in all respects to the pledge and lien created under the Resolution as security for the Bonds.

3. The resolution, indenture or other instrument securing or evidencing each issue of Subordinated Debt shall contain provisions (which shall be binding on all holders of such Subordinated Debt) not more favorable to the holders of such Subordinated Debt than the following:

(a) In the event of any insolvency or bankruptcy proceedings, and any receivership, liquidation, reorganization or other similar proceedings in connection therewith, relative to the Authority or to its creditors, as such, or to its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of the Authority, whether or not involving insolvency or bankruptcy, the Holders of all Bonds then Outstanding shall be entitled to receive payment in full of all principal, premium, if any, and interest on all such Bonds before the holders of the Subordinated Debt are entitled to receive any payment from the trust estate under the Resolution consisting of the Revenues and Funds held under the Resolution (hereinafter in this subsection referred to as the “Trust Estate”) on account of principal (and premium, if any) and interest upon the Subordinated Debt.

(b) In the event that any issue of Subordinated Debt is declared due and payable before its expressed maturity because of the occurrence of an event of default (under circumstances when the provisions of (a) above shall not be applicable), the Holders of all Bonds Outstanding at the time such Subordinated Debt so becomes due and payable because of such occurrence of such an event of default shall be entitled to receive payment in full of all principal and interest on all such Bonds before the holders of the Subordinated Debt are entitled to receive any accelerated payment from the Trust Estate of principal (and premium, if any) or interest upon the Subordinated Debt.



(c) If any Event of Default with respect to the Bonds shall have occurred and be continuing (under circumstances when the provisions of (a) above shall not be applicable), the Holders of all Bonds then Outstanding shall be entitled to receive payment in full of all principal and interest on all such Bonds before the holders of the Subordinated Debt are entitled to receive any accelerated payment from the Trust Estate of principal (and premium, if any) or interest upon the Subordinated Debt.

(d) No Bondholder shall be prejudiced in his, her or its right to enforce subordination of the Subordinated Debt by any act or failure to act on the part of the Authority.

(e) The Subordinated Debt may provide that the provisions of (a), (b), (c) and (d) above are solely for the purpose of defining the relative rights of the Holders of the Bonds on the one hand, and the holders of Subordinated Debt on the other hand, and that nothing therein shall impair, as between the Authority and the holders of the Subordinated Debt, the obligation of the Authority, which is unconditional and absolute, to pay to the holders thereof the principal thereof and premium, if any, and interest thereon in accordance with its terms, nor shall anything therein prevent the holders of the Subordinated Debt from exercising all remedies otherwise permitted by applicable law or thereunder upon default thereunder, subject to the rights under (a), (b), (c) and (d) above of the Holders of Bonds to receive cash, property or securities otherwise payable or deliverable to the holders of the Subordinated Debt; and the Subordinated Debt may provide that, insofar as a trustee or paying agent for such Subordinated Debt is concerned, the foregoing provisions shall not prevent the application by such trustee or paying agent of any moneys deposited with such trustee or paying agent for the purpose of the payment of or on account of the principal (and premium, if any) and interest on such Subordinated Debt if such trustee or paying agent did not have knowledge at the time of such application that such payment was prohibited by the foregoing provisions.

4. Any issue of Subordinated Debt may have such rank or priority with respect to any other issue as may be provided in the Supplemental Resolution, resolution, indenture or other instrument securing such issue of Subordinated Debt and may contain such other provisions as are not in conflict with the provisions of the Resolution.

## **ARTICLE III**

### **GENERAL TERMS AND PROVISIONS OF BONDS AND OTHER OBLIGATIONS**

#### **Section 301. Medium of Payment; Form and Date; Letters and Numbers.**

1. The Bonds shall be payable, with respect to interest, principal and Redemption Price, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

2. The Bonds of each Series may be issued only in the form of fully registered Bonds without coupons, and unless otherwise authorized by a Supplemental Resolution, the Bonds of each Series shall be in substantially the form set forth in Section 1301 or substantially in the form set forth in the Supplemental Resolution authorizing such Series or Series Certificate relating thereto.

3. Each Bond shall be lettered and numbered as provided in the Resolution or the Supplemental Resolution authorizing the Series or Series Certificate relating thereto of which such Bond is a part and so as to be distinguished from every other Bond.

4. Except as may be otherwise provided for any Series of Bonds in the Supplemental Resolution authorizing such Series of Bonds or Series Certificate relating thereto, the Bonds of each Series shall be dated as of the Interest Payment Date next preceding the date of authentication thereof by the Trustee, unless such date of authentication shall be an Interest Payment Date, in which case they shall be dated as of such date of authentication; provided, however, that if, as shown by the records of the Trustee, interest on the Bonds of any Series shall be in default, the Bonds of such Series issued in lieu of Bonds surrendered for transfer or exchange may be dated as of the date to which interest has been paid in full on the Bonds surrendered; provided, further, that if the date of authentication shall be prior to the first Interest Payment Date for the Bonds of such Series, Bonds shall be dated as provided in the applicable Supplemental Resolution or Series Certificate. Bonds of each Series shall bear interest from their date.

#### **Section 302. Legends.**

The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Resolution as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the Authority prior to the authentication and delivery thereof.

**The first sentence of Section 303(1) was amended in the Authority's Eighth Supplemental Bond Resolution adopted March 19, 2014. Prior to such amendment, Section 303 read as follows:**

#### **Section 303. Execution and Authentication.**

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of its Chairperson or Vice Chairperson and its seal (or a facsimile thereof), if any, shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of its Secretary or an Assistant-Secretary, or in such other manner

as may be required or permitted by law. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Authority by such persons as at the time of the execution and authentication of such Bonds shall be duly authorized or hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in Section 1301, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under the Resolution and that the Holder thereof is entitled to the benefits of the Resolution.

**From and after March 19, 2014, Section 303 reads as follows:**

1. The Bonds shall be executed in the name of the Authority by the manual or facsimile signature of its Chair, Vice Chair or Executive Director and its seal (or a facsimile thereof), if any, shall be impressed, imprinted, engraved or otherwise reproduced thereon and attested by the manual or facsimile signature of its Secretary or an Assistant-Secretary, or in such other manner as may be required or permitted by law. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officers before the Bonds so signed and sealed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as herein provided, and may be issued as if the persons who signed or sealed such Bonds had not ceased to hold such offices. Any Bond may be signed and sealed on behalf of the Authority by such persons as at the time of the execution and authentication of such Bonds shall be duly authorized or hold the proper office in the Authority, although at the date borne by the Bonds of such Series such persons may not have been so authorized or have held such office.

2. The Bonds of each Series shall bear thereon a certificate of authentication, in the form set forth in Section 1301, executed manually by the Trustee. Only such Bonds as shall bear thereon such certificate of authentication shall be entitled to any right or benefit under the Resolution, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee. Such certificate of the Trustee upon any Bond executed on behalf of the Authority shall be conclusive evidence that the Bond so authenticated has been duly authenticated and delivered under the Resolution and that the Holder thereof is entitled to the benefits of the Resolution.

**Section 304. Exchange, Transfer and Registry.**

1. The Bonds shall be transferable only upon the books of the Authority, which shall be kept for such purposes at the principal corporate trust office of the Bond Registrar, by the registered owner thereof in person or by such registered owner's attorney duly authorized in

writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or such registered owner's duly authorized attorney. Upon the transfer of any Bond the Authority shall issue in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, Series and maturity as the surrendered Bond. For purposes of the Resolution, Option Bonds which are required to be tendered pursuant to the provisions of the Resolution shall be deemed surrendered for transfer even though such Bonds have not been actually delivered.

2. The registered owner of any Bond or Bonds of one or more denominations shall have the right to exchange such Bond or Bonds for a new Bond or Bonds of any denomination as the same aggregate principal amount and Series and maturity of the surrendered Bond or Bonds. Such Bond or Bonds shall be exchanged by the Authority for a new Bond or Bonds upon the request of the registered owner thereof in person or by such registered owner's attorney duly authorized in writing, upon surrender of such Bond or Bonds together with a written instrument requesting such exchange satisfactory to the Bond Registrar duly executed by the registered owner or such registered owner's duly authorized attorney.

3. The Authority and each Fiduciary may deem and treat the person in whose name any Bond shall be registered upon the books of the Authority as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of and interest on such Bond and for the payment of the purchase price of any Option Bond tendered to the Authority and for all other purposes, and all such payments so made to any such registered owner or upon such registered owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Authority nor any Fiduciary shall be affected by any notice to the contrary.

### **Section 305. Regulations with Respect to Exchanges and Transfers.**

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the Authority shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of the Resolution. All Bonds surrendered in any such exchange or transfer shall forthwith be delivered to the Trustee and cancelled by the Trustee. For every such exchange or transfer of Bonds, whether temporary or definitive, the Authority or the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer. Neither the Authority nor the Bond Registrar shall be required (a) to exchange or transfer Bonds of any Series for a period beginning on the Record Date next preceding an Interest Payment Date for Bonds of a particular Series and ending on such interest payment date, or for a period of fifteen days next preceding the date (as determined by the Trustee) of any selection of Bonds to be redeemed and thereafter until after the mailing of the notice of redemption, (b) to transfer or exchange any Bonds called for redemption or (c) to transfer or exchange any Option Bonds called for mandatory purchase.

### **Section 306. Bonds Mutilated, Destroyed, Stolen or Lost.**

If any Bond becomes mutilated or is lost, stolen or destroyed, the Authority may execute and the Trustee shall authenticate and deliver a new Bond of like date of issue, maturity date, principal amount and interest rate per annum as the Bond so mutilated, lost, stolen or destroyed, provided that (i) in the case of such mutilated Bond, such Bond is first surrendered to

the Authority, (ii) in the case of any such lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Authority together with indemnity satisfactory to the Authority and the Trustee, (iii) all other reasonable requirements of the Authority are complied with, and (iv) expenses in connection with such transaction are paid by the Holder. Any Bond surrendered for transfer shall be cancelled. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Authority, whether or not the Bonds so alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits with all other Bonds issued under the Resolution, in any moneys or securities held by the Authority or any Fiduciary for the benefit of the Bondholders.

### **Section 307. Temporary Bonds.**

1. Until the definitive Bonds of any Series are prepared, the Authority may execute, in the same manner as is provided in Section 303, and upon the request of the Authority, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Authority at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds for exchange and the cancellation of such surrendered temporary Bonds, the Trustee shall authenticate and, without charge to the Holder thereof, deliver in exchange therefor, definitive Bonds of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to the Resolution.

2. All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith cancelled by the Trustee.

### **Section 308. Cancellation and Destruction of Bonds.**

Except as may be otherwise provided with respect to Option Bonds in the Supplemental Resolution or Series Certificate, all Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds, together with all Bonds redeemed or purchased pursuant to Section 506 which have been delivered to the Trustee, shall thereupon be promptly cancelled. Bonds so cancelled shall be destroyed by the Trustee, which shall execute a certificate of destruction in duplicate by the signature of one of its authorized officers describing the bonds so destroyed, and one executed certificate shall be filed with the Authority and the other executed certificate shall be retained by the Trustee.

### **Section 309. Other Obligations.**

The general terms and provisions of any Other Obligations issued under this Resolution, including, but not limited to, any or all of the items set forth in this Article III with

respect to the issuance of Bonds, shall be as set forth in the Supplemental Resolution or Series Certificate authorizing the issuance of such Other Obligations.

## **ARTICLE IV**

### **REDEMPTION OF BONDS**

#### **Section 401. Privilege of Redemption and Redemption Price.**

Bonds subject to redemption prior to maturity pursuant to a Supplemental Resolution or a Series Certificate shall be redeemable, upon notice as provided in this Article IV, at such times, at such Redemption Prices and upon such terms in addition to the terms contained in this Article IV as may be specified in the Supplemental Resolution or Series Certificate authorizing such Series.

#### **Section 402. Redemption at the Election or Direction of the Authority.**

In the case of any redemption of Bonds at the election or direction of the Authority, the Authority shall give written notice to the Trustee of its election or direction so to redeem, of the redemption date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series to be redeemed (which Series, maturities and principal amounts thereof to be redeemed shall be determined by the Authority in its sole discretion, subject to any limitations with respect thereto contained in the Resolution). Such notice shall be given at least forty (40) days prior to the redemption date or such shorter period as shall be acceptable to the Trustee. In the event notice of redemption shall have been given as in Section 405 provided, there shall be paid on or prior to the redemption date to the appropriate Paying Agents an amount which, in addition to other moneys, if any, available therefor held by such Paying Agents, will be sufficient to redeem on the redemption date at the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, all of the Bonds to be redeemed. The Authority shall promptly notify the Trustee in writing of all such payments by it to such Paying Agents.

#### **Section 403. Redemption Otherwise Than at the Authority's Election or Direction.**

Whenever by the terms of the Resolution the Trustee is required or authorized to redeem Bonds otherwise than at the election or direction of the Authority, the Trustee shall (i) select the Bonds or portions of Bonds to be redeemed, (ii) give the notice of redemption and (iii) pay out of moneys available therefor the Redemption Price thereof, plus interest accrued and unpaid to the redemption date, to the appropriate Paying Agents in accordance with the terms of this Article IV and, to the extent applicable, Section 506.

#### **Section 404. Selection of Bonds to be Redeemed.**

Unless otherwise provided in the Resolution, if less than all of the Bonds of like maturity of any Series shall be called for prior redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Bond (other than a Compound Interest Bond or Compound Interest and Income Bond prior to its Interest Commencement Date) of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing by \$5,000 the principal amount of such Bond to be

redeemed in part. For purposes of this Section 404, if less than all of the Compound Interest Bonds or Compound Interest and Income Bonds prior to their respective Interest Commencement Dates shall be called for prior redemption, the portion of any Compound Interest Bond or Compound Interest and Income Bond of a denomination of more than \$5,000 due at maturity to be redeemed shall be in the amount due at maturity of \$5,000 or a multiple thereof, and, in selecting portions of such Compound Interest Bond or Compound Interest and Income Bond for redemption, the Trustee shall treat such Compound Interest Bond or Compound Interest and Income Bond as representing that number of Compound Interest Bonds or Compound Interest and Income Bonds of \$5,000 amount due at maturity which is obtained by dividing the amount due at maturity of such Compound Interest Bond or Compound Interest and Income Bond to be redeemed in part by \$5,000.

**Section 405 was amended in the Authority's Eighth Supplemental Bond Resolution adopted March 19, 2014. Prior to such amendment, Section 405 read as follows:**

**Section 405. Notice of Redemption.**

When the Trustee shall receive notice from the Authority of its election or direction to redeem Bonds pursuant to Section 402, and when redemption of Bonds is authorized or required pursuant to Section 403, the Trustee shall give notice, in the name of the Authority, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions of the principal amount thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice shall be mailed by the Trustee, postage prepaid, not less than twenty-five (25) days prior to the redemption date, to the registered owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure of the registered owner of any Bonds which are to be redeemed to receive any notice, or failure of the Authority to publish notices of redemption as provided in the immediately preceding sentence, shall not affect the validity of the proceedings for the redemption of the Bonds.

**From and after March 19, 2014, Section 405 reads as follows:**

When the Trustee shall receive notice from the Authority of its election or direction to redeem Bonds pursuant to Section 402, and when redemption of Bonds is authorized or required pursuant to Section 403, the Trustee shall give notice, in the name of the Authority, of the redemption of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the redemption date and the place or places where amounts due upon such redemption will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notice shall also specify the respective portions



of the principal amount thereof to be redeemed. In the case of any Bonds issued after the adoption of the Eighth Supplemental Resolution, any notice of redemption (other than mandatory sinking fund redemption) may specify that the redemption is contingent upon the deposit of moneys with the Trustee in an amount sufficient to pay the Redemption Price of all Bonds or portions thereof which are to be redeemed on such date. Such notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of a specified portion of the principal amount thereof in the case of Bonds to be redeemed in part only, together with interest accrued to the redemption date, and that from and after such date (unless the notice stated that the redemption is contingent upon the deposit of funds and such deposit has not been made) interest thereon shall cease to accrue and be payable. Such notice shall be mailed by the Trustee, postage prepaid, not less than twenty-five (25) days prior to the redemption date, to the registered owners of any Bonds or portions of Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registry books. Failure of the registered owner of any Bonds which are to be redeemed to receive any notice, or failure of the Authority to publish notices of redemption as provided in the immediately preceding sentence, shall not affect the validity of the proceedings for the redemption of the Bonds.

#### **Section 406. Payment of Redeemed Bonds.**

Notice having been given in the manner provided in Section 405, the Bonds or portions thereof so called for redemption shall become due and payable on the redemption date so designated at the Redemption Price, plus interest accrued and unpaid to the redemption date, and, upon presentation and surrender thereof at the office specified in such notice, such Bonds, or portions thereof, shall be paid at the Redemption Price, plus interest accrued and unpaid to the redemption date. If there shall be called for redemption less than all of a Bond, the Authority shall execute and the Trustee shall authenticate and the Paying Agent shall deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any authorized denominations. If, on the redemption date, moneys for the redemption of all of the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the redemption date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the redemption date interest on the Bonds or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable. If said moneys shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

#### **Section 407. Adjustment of Sinking Fund Installments Upon Redemption of Bonds.**

Upon any purchase or redemption (other than mandatory sinking fund redemption) of less than all of the Bonds of any Series and maturity for which sinking fund redemption provisions shall have been established, there shall be credited toward each such sinking fund installment thereafter to become due an amount, unless otherwise designated by the Authority, bearing the same ratio to such sinking fund installment as the total principal amount of Bonds of such Series and maturity being purchased or redeemed bears to the then Outstanding principal amount of Bonds of such Series and maturity.

**Section 408. Redemption or Prepayment of Other Obligations.**

Other Obligations shall be subject to redemption or prepayment at such times, if any, and subject to such terms and conditions as shall be set forth in the Supplemental Resolution or Series Certificate authorizing such Other Obligations.

## **ARTICLE V**

### **ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF**

#### **Section 501. The Pledge Effected by the Resolution.**

1. The Bonds are special obligations of the Authority payable solely from the Pledged Property. There is hereby pledged and assigned as security for the payment of the Authority's Bond Payment Obligations and, to the extent provided in Section 103 and in the Supplemental Resolution authorizing any Series of Bonds, the Authority's Financing Facility Payment Obligations in accordance with the priorities set forth in Section 103 and the Supplemental Resolution authorizing such Series of Bonds, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution, all of the Pledged Property and, with respect to each Series of Bonds with respect to which the Authority has obtained a Financing Facility, the applicable Financing Facility and Financing Facility Revenues.

2. All Pledged Property and Financing Facility Revenues shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all persons having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such persons have notice thereof.

3. Nothing contained in this Section 501 shall be construed as limiting any authority granted to the Authority elsewhere in the Resolution to issue Subordinated Debt under the Resolution or any other resolution of the Authority or shall be deemed a limitation upon the authority of the Authority to issue bonds, notes or other obligations under the Act secured by other income and funds other than the Pledged Property, including, without limitation, bonds, notes or other obligations secured by federal or State grants.

4. Notwithstanding the pledge effected by the Resolution or any provision of the Resolution, all amounts payable under the State Contract by the State or Treasurer shall be subject to and dependent upon appropriations made from time to time for such purposes by the New Jersey State Legislature.

#### **Section 502. Establishment of Funds and Accounts.**

The following Funds and Accounts are hereby established:

- (1) Higher Education Capital Improvement Fund, to be held by the Trustee, in which there will be established a Cost of Issuance Account and there may be established other separate subaccounts;
- (2) Revenue Fund, to be held by the Trustee;
- (3) Debt Service Fund, to be held by the Trustee;
- (4) Subordinated Debt Fund, to be held by the Trustee; and
- (5) Rebate Fund, to be held by the Trustee.

**Section 503 was amended in its entirety in the Authority's Fifth Supplemental Bond Resolution adopted March 24, 2004. Prior to such amendment, Section 503 read as follows:**

**Section 503. Higher Education Capital Improvement Fund.**

There shall be paid into the Higher Education Capital Improvement Fund the amounts required to be so paid by the provisions of the Resolution or any Supplemental Resolution or Series Certificate, and there may be paid into the Higher Education Capital Improvement Fund, at the option of the Authority, any moneys received by the Authority from any source, unless required to be otherwise applied as provided by the Resolution or any Supplemental Resolution or Series Certificate. All amounts deposited in the Higher Education Capital Improvement Fund shall be applied to pay Grants at the direction of the Authority in accordance with the Act.

**From March 24, 2004 to March 18, 2014, Section 503 read as follows:**

**Section 503. Higher Education Capital Improvement Fund.** (a) There shall be paid into the Higher Education Capital Improvement Fund the amounts required to be so paid by the provisions of the Resolution or any Supplemental Resolution or Series Certificate, and there may be paid into the Higher Education Capital Improvement Fund, at the option of the Authority, any moneys received by the Authority from any source, unless required to be otherwise applied as provided by the Resolution or any Supplemental Resolution or Series Certificate. All amounts deposited in the Higher Education Capital Improvement Fund shall be applied to pay Grants at the direction of the Authority in accordance with the Act.

(b) Once monies in the Higher Education Capital Improvement Fund have been used for or allocated to the purposes set forth herein, as evidenced by a Certificate of an Authorized Officer of the Authority, any balance remaining in the Higher Education Capital Improvement Fund may, without further authorization, be transferred in accordance with subsection (c) of this Section 503.

(c) Pursuant to written directions from an Authorized Officer of the Authority, the Trustee shall transfer any Excess Amounts in the Higher Education Capital Improvement Fund to any of the following: (i) the Rebate Fund, (ii) any subaccount within the Higher Education Capital Improvement Fund or (iii) the Debt Service Fund; provided, that, the Trustee, with respect to a transfer pursuant to (ii) above, shall have received an Opinion of Bond Counsel that such transfer shall not adversely affect the exemption of interest from federal income taxes on any Bonds for which an opinion of tax-exemption was delivered upon original issuance of such Bonds.

**Section 503 was amended again in the Authority's Eighth Supplemental Bond Resolution adopted March 19, 2014. From and after March 19, 2014, Section 503 reads as follows:**

**Section 503. Higher Education Capital Improvement Fund.** (a) There shall be paid into the Higher Education Capital Improvement Fund the amounts required to be so paid by the provisions of the Resolution or any Supplemental Resolution or Series Certificate, and there may be paid into the Higher Education Capital Improvement Fund, at the option of the Authority, any moneys received by the Authority from any source, unless required to be otherwise applied as provided by the Resolution or any Supplemental Resolution or Series Certificate. All amounts

deposited in the Higher Education Capital Improvement Fund shall be applied to pay Grants at the direction of the Authority in accordance with the Act.

(b) Once monies in the Higher Education Capital Improvement Fund have been used for or allocated to the purposes set forth herein, as evidenced by a Certificate of an Authorized Officer of the Authority, any balance remaining in the Higher Education Capital Improvement Fund may, without further authorization, be transferred in accordance with subsection (c) of this Section 503.

(c) Pursuant to written directions from an Authorized Officer of the Authority, the Trustee shall transfer any Excess Amounts in the Higher Education Capital Improvement Fund to any of the following: (i) the Rebate Fund, (ii) any subaccount within the Higher Education Capital Improvement Fund or (iii) the Debt Service Fund; provided, that, the Trustee, with respect to a transfer pursuant to (ii) above, shall have received an Opinion of Bond Counsel that such transfer shall not adversely affect the exemption of interest from federal income taxes on any Bonds for which an opinion of tax-exemption was delivered upon original issuance of such Bonds.

The Trustee shall pay costs of issuance of any Bonds and administrative costs associated with the approval process from the Higher Education Capital Improvement Fund at the direction of the Authority.

#### **Section 504. Deposit of Revenues.**

All Revenues shall be promptly deposited by the Authority upon receipt thereof into the Revenue Fund. All amounts deposited in the Revenue Fund shall be used and applied by the Authority in accordance with the Act, the Resolution and any Supplemental Resolution or Series Certificate.

#### **Section 505. Payments into Certain Funds.**

1. On or before each Payment Date with respect to each Series of Bonds, the Authority shall pay, credit or transfer from the Revenue Fund to the Trustee the following amounts to be applied as follows in the following order of priority:

(a) for deposit to the Debt Service Fund, the amount, if any, required so that the balance in said Fund shall equal the sum of the amounts of Debt Service on all Series of Bonds coming due on such Payment Date; and

(b) for deposit into the Debt Service Fund, the amount of any Financing Facility Payment Obligations on or before the due dates thereof.

2. Subject and subordinate at all times to the payments, credits or transfers required pursuant to subsection 1 of this Section 505, the Authority shall pay, credit or transfer from the Revenue Fund to the Trustee for deposit into the Subordinated Debt Fund the amount of any principal, prepayment or redemption price, interest or other amounts payable in connection with any Subordinated Debt on or before the due dates thereof.

3. Notwithstanding the foregoing, all Financing Facility Revenues shall be deposited in the Debt Service Fund and applied as provided in the Supplemental Resolution or Series Certificate applicable to the Series of Bonds for which such Financing Facility is applicable.

4. The Authority and the Trustee shall transfer to the Rebate Fund such amounts, from such Funds and Accounts and at such times as set forth in a certificate by the Authority as necessary to comply with the provisions of the Code.

#### **Section 506. Debt Service Fund.**

1. The Trustee shall pay out of the Debt Service Fund to the respective Paying Agents (i) on or before each Interest Payment Date for any of the Bonds, the amount required for the interest payable on such date; (ii) on or before the date when the principal of any Bonds shall become due, the amount of principal coming due on such date; and (iii) on or before any redemption date for the Bonds, the amount required for the payment of the Redemption Price of and interest on the Bonds then to be redeemed. In the case of Variable Interest Rate Bonds the Authority shall furnish the Trustee with a certificate setting forth the amount to be paid on such Bonds on each Interest Payment Date, such certificate shall be furnished on or prior to the Record Date with respect to any Interest Payment Date. Such amounts shall be applied by the Paying Agents on and after the due dates thereof. The Trustee shall also pay out of the Debt Service Fund the accrued interest included in the purchase price of Bonds purchased for retirement.

2. Amounts may be deposited by the Authority, in its sole discretion in the Debt Service Fund with respect to the Bonds of any Series and maturity to be applied by the Trustee, if so directed by the Authority, on the date specified by the Authority, which date shall be at least twenty-five days (or such shorter period as shall be acceptable to the Trustee or authorized in the applicable Supplemental Resolution or Series Certificate) prior to the maturity date of any Bonds of such Series, to (i) the purchase of Bonds of such Series and maturity or (ii) the redemption at the applicable Redemption Price of such Bonds, if then redeemable by their terms. All purchases of any Bonds pursuant to this subsection 2 shall be made at prices not exceeding the applicable Redemption Price of such Bonds plus accrued interest, and such purchases shall be made by the Trustee as directed in writing from time to time by the Authority.

3. The amount, if any, deposited in the Debt Service Fund from the proceeds of each Series of Bonds shall be set aside in such Fund and applied to the payment of interest on the Bonds of such Series as the same become due and payable.

4. In the event of the refunding of any Bonds, the Trustee shall, if the Authority so directs, withdraw from the Debt Service Fund all, or any portion of, the amounts accumulated therein with respect to Debt Service on the Bonds being refunded and deposit such amounts with itself as Trustee to be held for the payment of the principal or Redemption Price, if applicable, of and interest on the Bonds being refunded; provided that such withdrawal shall not be made unless immediately thereafter the Bonds being refunded shall be deemed to have been paid pursuant to subsection 2 of Section 1201.

5. The Trustee shall establish within the Debt Service Fund a separate Account for each Series of Bonds. In addition, if provided in the Supplemental Resolution or Series Certificate authorizing any Series of Bonds with respect to which the Authority or the Trustee enters into or obtains a Financing Facility, the Trustee shall establish separate subaccounts within the Account established for the Bonds of such Series in the Debt Service Fund for the receipt and/or application of Financing Facility Revenues and the payment of the applicable Financing Facility Payment Obligations as soon as reasonably practicable.

### **Section 507. Subordinated Debt Fund.**

1. Subject to subsection 2 of this Section 507, the Trustee as directed by the Authority shall apply amounts in the Subordinated Debt Fund to the payment of the principal or redemption or prepayment price of and interest on each issue of Subordinated Debt and reserves therefor in accordance with the provisions of, and subject to the priorities and limitations and restrictions provided in, the Supplemental Resolution or Series Certificate or other resolution or debt instrument authorizing each issue of Subordinated Debt.

2. Notwithstanding any other provisions of this Section 507, if on any Payment Date for any Series of Bonds, the amount on deposit in the Debt Service Fund shall be less than the Debt Service coming due on such Payment Date with respect to such Series of Bonds, upon direction by the Authority, the Trustee shall forthwith transfer from the Subordinated Debt Fund for deposit in the Debt Service Fund the amount necessary (or all moneys in the Subordinated Debt Fund, if necessary) to make up such deficiency.

**Section 508 was amended in its entirety in the Authority's Eighth Supplemental Bond Resolution adopted March 19, 2014. Prior to such amendment, Section 503 read as follows:**

### **Section 508. Rebate Fund.**

The Trustee shall apply such amounts to make payments to the United States pursuant to Section 148 of the Code, at the times and in the amounts set forth in a certificate from an Authorized Officer of the Authority.

**From and after March 19, 2014, Section 508 reads as follows:**

### **Section 508. Rebate Fund.**

The Authority and the Trustee shall deposit amounts in the Rebate Fund, and the Trustee shall apply such amounts to make payments to the United States pursuant to Section 148 of the Code, at the times and in the amounts set forth in the arbitrage and tax certificate or similar certificates delivered in connection with each Series of Bonds or as otherwise advised in writing by Bond Counsel.

In the case of any Bonds issued after the adoption of the Eighth Supplemental Resolution, the Trustee shall, upon receipt of the written direction of the Authority, withdraw from and pay out of the Rebate Fund, any amount which is then on deposit in the Rebate Fund in excess of the amount which is then reasonably required, in the opinion of the Authority, to be reserved for payment to the United States in respect of such Bonds pursuant to Section 148 of the Code. All amounts which are so withdrawn by the Trustee from the Rebate Fund shall forthwith upon withdrawal be paid and/or deposited in accordance with the written direction of the Authority.

## **ARTICLE VI**

### **SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS**

#### **Section 601. Moneys Held as Trust Funds.**

All moneys held by the Trustee under the provisions of the Resolution shall constitute trust funds. All moneys deposited under the provisions of the Resolution with the Trustee shall be held in trust and applied only in accordance with the provisions of the Resolution, and each of the Funds and Accounts established by the Resolution shall be a trust fund for the purposes thereof.

#### **Section 602. Deposits.**

1. All Revenues, Financing Facility Revenues, and moneys held by the Trustee under the Resolution may be placed on demand or time deposit, if and as directed by the Authority, provided that such deposit shall permit the moneys so held to be available for use at the time when needed. The Trustee shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law.

2. All moneys held under the Resolution by the Trustee shall be (a) either (1) insured by the Federal Deposit Insurance Corporation, as available or (2) in the case of moneys held by the Trustee in the Debt Service Fund, continuously and fully secured by lodging with the Trustee or any Federal Reserve Bank, as custodian, as collateral security, Federal Securities having a market value not less than the amount of such moneys, and (b) held in such other manner as may then be required by applicable Federal or State of New Jersey laws and regulations and applicable state laws and regulations of the state in which the Trustee is located, regarding security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that, to the extent permitted by law, it shall not be necessary for the Trustee to give security under this subsection 2 for the deposit of moneys with them held in trust and set aside by them for the payment of the principal or Redemption Price of or interest on any Bonds, or for the Trustee to give security for any moneys which shall be represented by obligations or certificates of deposit purchased as an investment of such moneys.

3. All moneys deposited with the Trustee shall be credited to the particular Fund or Account to which such moneys belong and, except as provided with respect to the investment of moneys in Investment Securities in Section 603 hereof, the moneys credited to each particular Fund or Account shall be kept separate and apart from, and not commingled with, any moneys credited to any other Fund or Account or any other moneys deposited with the Trustee.

#### **Section 603. Investment of Certain Funds.**

1. Moneys held in the Debt Service Fund shall be invested and reinvested by the Trustee to the fullest extent practicable in Federal Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from such Fund. Moneys held in the Higher Education Capital Improvement Fund and the Subordinated Debt Fund may be invested and reinvested in Investment Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from such Fund. The Trustee shall make all such investments of moneys held by it in accordance with



written instructions from time to time received from any Authorized Officer of the Authority. In making any investment in any Investment Securities with moneys in any Fund or Account established under the Resolution, the Authority may instruct the Trustee to combine such moneys with moneys in any other Fund or Account, but solely for purposes of making such investment in such Investment Securities.

2. Interest (net of that which represents a return of accrued interest paid in connection with the purchase of any investment) earned or any gain realized on any moneys or investments in such Funds or Accounts, other than the Debt Service Fund shall be held for the benefit of the Higher Education Capital Improvement Fund and shall be paid into the Higher Education Capital Improvement Fund on a periodic basis at least quarterly as shall be directed by the Authority. Interest earned or gain realized on any moneys or investments in the Debt Service Fund shall be held in such Fund for the purposes thereof.

3. Nothing in the Resolution shall prevent any Investment Securities acquired as investments of or security for funds held under the Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

4. Nothing in the Resolution shall preclude the Trustee from investing or reinvesting moneys through its bond department; provided, however, that the Authority may, in its discretion, direct that such moneys be invested or reinvested in a manner other than through such bond department.

#### **Section 604. Valuation and Sale of Investments.**

1. Obligations purchased as an investment of moneys in any Fund or Account created under the provisions of the Resolution shall be deemed at all times to be a part of such Fund or Account and any profit realized from the liquidation of such investment shall be credited to such Fund or Account, and any loss resulting from the liquidation of such investment shall be charged to the respective Fund or Account.

2. In computing the amount in any Fund or Account created under the provisions of the Resolution for any purpose provided in the Resolution, obligations purchased as an investment of moneys therein shall be valued at the amortized cost thereof. The accrued interest paid in connection with the purchase of any obligation shall be included in the value thereof until interest on such obligation is paid. Such computation shall be determined as of January 1 in each year and at such other times as the Authority shall determine.

3. Except as otherwise provided in the Resolution, the Trustee shall use its best efforts to sell at the best price obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be requested in writing by an Authorized Officer of the Authority so to do. Whenever it shall be necessary, or upon direction of the Authority in accordance with the Resolution, in order to provide moneys to meet any payment or transfer from any Fund or Account held by the Trustee, the Trustee shall use its best efforts to sell at the best price obtainable or present for redemption such obligation or obligations designated by an Authorized Officer of the Authority necessary to provide sufficient moneys for such payment or transfer.

4. The Trustee shall not be liable or responsible for any loss resulting from any such investment, sale or presentation for investment made in the manner provided above.

## **Section 605. Swap Agreements; Financing Facilities.**

1. Whenever the Authority desires to enter into a Swap Agreement, it shall give notice to each Rating Agency of its intent and shall provide to the Rating Agency copies of the proposed Swap Agreement and any other documentation or information reasonably requested by the Rating Agency at least fifteen (15) days prior to entering into such an agreement so that the Rating Agency may comment on the proposed Swap Agreement and indicate the effect of such agreement on the rating assigned by that Rating Agency to any Series of Bonds. Any proposed Swap Provider must be assigned a rating by each Rating Agency which has assigned or will assign a rating to the applicable Series of Bonds of (a) at least A, or (b) such higher rating as any such Rating Agency shall then require in order to obtain or maintain the rating then assigned or to be assigned to the applicable Series of Bonds.

2. Any Swap Agreement shall provide that, if the rating assigned by a Rating Agency to the Swap Provider shall be withdrawn or shall be lowered below the required minimum, the Authority shall have the option of (i) declaring a termination event under such agreement; or (ii) requiring the Swap Provider to post collateral or a guaranty or other surety sufficient to satisfy the minimum rating requirement.

3. Prior to obtaining any Financing Facility, the Authority shall give each Rating Agency notice of its intent to do so and shall provide to the Rating Agency copies of the Financing Facility, any reimbursement or purchase agreement relating thereto and any other documentation or information reasonably requested by the Rating Agency at least fifteen (15) days prior to obtaining the Financing Facility so that the Rating Agency may comment on the proposed Financing Facility and indicate the effect of such Financing Facility on the rating assigned by the Rating Agency to any Series of Bonds.

## **ARTICLE VII**

### **PARTICULAR COVENANTS OF THE AUTHORITY**

The Authority covenants and agrees with the Trustee and the Bondholders as follows:

#### **Section 701. Payment of Bonds.**

The Authority shall duly and punctually pay or cause to be paid, but solely from the Pledged Property, (a) the principal or Redemption Price of every Bond and the interest thereon, at the dates and places and in the manner provided in the Bonds, according to the true intent and meaning thereof, (b) the amount of every Financing Facility Payment Obligation as and when the same become due.

#### **Section 702. Extension of Payment of Bonds.**

The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase or funding of such Bonds or claims for interest or by any other arrangement, and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under the Resolution, to the benefit of the Resolution or to any payment out of Revenues or Funds established by the Resolution, including the investments, if any, thereof, pledged under the Resolution or the moneys (except moneys held in trust for the payment of particular Bonds or claims for interest pursuant to the Resolution) held by the Fiduciaries, except subject to the prior payment of the principal of all Bonds Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Authority to issue Refunding Bonds and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

#### **Section 703. Offices for Servicing Bonds.**

The Authority shall at all times maintain one or more agencies in the State of New Jersey, and may maintain one or more such agencies in any other state or states, where Bonds may be presented for payment. The Authority hereby appoints the Trustee as Bond Registrar, and the Trustee shall at all times maintain one or more agencies where Bonds may be presented for registration or transfer and where notices, demands and other documents may be served upon the Authority in respect of the Bonds or of the Resolution, and the Trustee shall continuously maintain or make arrangements to provide such services. The Authority hereby appoints the Paying Agent or Agents in such cities as its respective agents to maintain such agencies for the payment or redemption of Bonds.

#### **Section 704. Further Assurance.**

At any and all times the Authority shall, as far as it may be authorized by law, comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and

assurances as may be necessary or desirable for the better assuring, conveying, granting, pledging, assigning and confirming all and singular the rights, Revenues and other moneys, securities and funds hereby pledged, or intended so to be, or which the Authority may become bound to pledge.

#### **Section 705. Power to Issue Bonds, Pledge of Pledged Property.**

The Authority is duly authorized under all applicable laws to create and issue the Bonds and to adopt the Resolution and to pledge the Pledged Property in the manner and to the extent provided in the Resolution. The Pledged Property so pledged is and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with the pledge and assignment created by the Resolution, and all action on the part of the Authority to that end has been and will be duly and validly taken. The Bonds and the provisions of the Resolution are and will be the valid and legally binding obligations of the Authority. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Pledged Property pledged under the Resolution and all the rights of the Bondholders under the Resolution against all claims and demands of all persons whomsoever.

#### **Section 706. Creation of Liens.**

The Authority shall not issue any bonds, notes, debentures or other evidences of indebtedness of similar nature, other than the Bonds, payable out of or secured by a pledge or assignment of the Pledged Property held or set aside by the Trustee under the Resolution and shall not create or cause to be created any lien or charge on the Pledged Property, provided, however, that nothing contained in the Resolution shall prevent the Authority from issuing, if and to the extent permitted by law (i) evidences of indebtedness payable out of or secured by a pledge and assignment of the Pledged Property on and after such date as the pledge of the Pledged Property provided in the Resolution shall be discharged and satisfied as provided in Section 1201 or (ii) Subordinated Debt.

#### **Section 707. State Contract.**

The Authority shall collect and forthwith cause to be deposited with the Trustee all amounts, if any, payable to it pursuant to the State Contract. The Authority shall enforce the provisions of the State Contract and agreements thereunder. The Authority will not consent or agree to or permit any amendment, change or modification to any State Contract which would reduce the amounts payable to the Authority or extend the times when such payments are to be made thereunder. A copy of each of the State Contract certified by an Authorized Officer of the Authority shall be filed with the Trustee, and a copy of any such amendment certified by an Authorized Officer of the Authority shall be filed with the Trustee.

#### **Section 708. Accounts and Reports.**

1. The Authority shall keep or cause to be kept proper books of record and account (separate from all other records and accounts) in accordance with generally accepted accounting principles in which complete and correct entries shall be made of its transactions relating to the amount of Revenues and the application thereof and each Fund or Account established under the Resolution. All books and papers of the Authority shall, subject to the terms thereof, at all times be subject to the inspection of the Trustee, the Holders of an aggregate of not

less than 5% in principal amount of the Bonds then Outstanding, each Financing Facility Provider and the holders of not less than 5% in principal amount of any Subordinated Debt then outstanding, or their respective representatives duly authorized in writing.

2. The Trustee shall advise the Authority as soon as practicable after the end of each month of the respective transactions during such month relating to each Fund or Account held by it under the Resolution.

3. The Authority shall annually, within 180 days after the close of each Fiscal Year file with the Trustee, and otherwise as provided by law, a copy of an annual report for such Fiscal Year, accompanied by an Accountant's Certificate and including the following statements in reasonable detail: (i) a statement of assets and liabilities as of the end of such Fiscal Year; (ii) a statement of Revenues and expenses of the Authority for such Fiscal Year; and (iii) a summary with respect to each Fund or Account established under the Resolution of the changes in financial condition during such Fiscal Year and the amount held therein at the end of such Fiscal Year. Such Accountant's Certificate shall state whether or not, to the knowledge of the signer, the Authority is in default with respect to any of the covenants, agreements or conditions on its part contained in the Resolution, and if so, the nature of such default.

4. The Authority shall file with the Trustee (a) forthwith upon becoming aware of any Event of Default or default in the performance by the Authority of any covenant, agreement or condition contained in the Resolution, a certificate signed by an Authorized Officer of the Authority and specifying such Event of Default or default and (b) within 120 days after the end of each Fiscal Year, a certificate signed by an appropriate Authorized Officer of the Authority stating whether, to the best of his or her knowledge and belief, the Authority has kept, observed, performed and fulfilled its covenants and obligations contained in the Resolution and that there does not exist at the date of such certificate any default by the Authority under the Resolution or any Event of Default or other event which, with the lapse of time specified in Section 801, would become an Event of Default, or, if any such default or Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

5. The reports, statements and other documents required to be furnished to the Trustee pursuant to any provisions of the Resolution shall be available for the inspection of Bondholders at the office of the Trustee and shall be mailed to each Bondholder who shall file a written request therefor with the Authority. The Authority and the Trustee may charge to each Bondholder requesting such reports, statements and other documents a reasonable fee to cover reproduction, handling and postage.

#### **Section 709. Maintenance of Existence, Compliance with Resolution and Act and Other Matters.**

1. The Authority shall at all times maintain its existence and shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Authority under the provisions of the Act and the Resolution.

2. Upon the date of authentication and delivery of any of the Bonds, all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed, and the issue of such Bonds, together with all other obligations of the Authority, shall comply in all respects with the applicable laws of the State of New Jersey.

#### **Section 710. Swap Agreements and Financing Facilities.**

Subject to Section 711, the Authority shall maintain in full force and effect, and duly and punctually perform its obligations under, any Swap Agreement or agreement entered into by it in connection with the issuance of any Financing Facility, including the payment when due, but solely from the Pledged Property, of all Financing Facility Payment Obligations and Swap Payment Obligations.

#### **Section 711. Obligation to Enforce Swap Agreements and Financing Facilities.**

Irrespective of whether an Event of Default shall have occurred or be continuing, the Trustee shall take any and all action necessary or appropriate to enforce, on behalf of the Authority and for the benefit of the Bondholders, all rights of the Authority under any Financing Facility to which the Authority or the Trustee is a party, and notwithstanding anything to the contrary contained herein, the Authority shall have no obligation whatsoever to take any action to enforce the provisions of any such Financing Facility. In the event of the transfer, assignment or other conveyance of any Swap Agreement in accordance with its terms by the Swap Provider thereof or the substitution of a new Financing Facility Provider for any then existing Financing Facility Provider, the Trustee shall promptly notify the Authority and the Rating Agencies of the name and address of the new Financing Facility Provider and any modifications, amendments or supplements to the terms of the existing Financing Facility.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT; REMEDIES OF BONDHOLDERS**

#### **Section 801. Events of Default.**

Resolution: 1. The following events shall constitute an Event of Default under the

(i) if default shall be made in the due and punctual payment of the principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise for a reason other than by reason of an Event of Non-Appropriation;

(ii) if default shall be made in the due and punctual payment of any installment of interest on any Bond when and as such interest shall become due and payable for a reason other than by reason of an Event of Non-Appropriation;

(iii) if default shall be made in the due and punctual payment of principal, interest or any other amounts payable in connection with any Subordinated Debt for a reason other than by reason of an Event of Non-Appropriation;

(iv) if default shall be made by the Authority in the performance or observance of any other covenants, agreements or conditions on its part in the Resolution or in the Bonds contained, and such default shall continue for a period of sixty (60) days after written notice thereof to the Authority by the Trustee or to the Authority and to the Trustee by the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds Outstanding;

(v) if the Authority shall commence a voluntary case or similar proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect or shall authorize, apply for or consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or similar official and/or its rents, fees, charges or other revenues therefrom, or shall make any general assignment for the benefit of creditors, or shall make a written declaration or admission to the effect that it is unable to meet its debts as such debts mature, or shall authorize or take any action in furtherance of any of the foregoing;

(vi) if a court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Authority in an involuntary case or similar proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for the Authority, and/or the rents, fees, charges or other revenues therefor, or a decree or order for the dissolution, liquidation or winding up of the Authority and its affairs or a decree or order finding or determining that the Authority is unable to meet its debts as such debts mature, and any such decree or order shall remain unstayed and in effect for a period of 60 consecutive days; or

(vii) if, pursuant to the terms of any Financing Facility, the Trustee shall receive a notice from the issuer of such Financing Facility stating that an event of default has occurred in respect of the Authority's obligations under such Financing Facility and directing the Trustee to declare the principal of and interest on the applicable Bonds to be immediately due and payable.

2. Upon the occurrence of an Event of Default, and so long as such Event of Default shall not have been remedied, unless the principal of all the Bonds shall have already become due and payable, the Trustee may, and at the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds Outstanding shall, declare the principal of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in the Resolution or in any of the Bonds contained to the contrary notwithstanding. The right of the Trustee to make any such declaration as aforesaid, however, is subject to the condition that if, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of principal, Redemption Price and interest upon the Bonds, together with interest on such overdue installments to the extent permitted by law and the reasonable and proper fees, charges, expenses and liabilities of the Trustee, and all other sums then payable by the Authority under the Resolution (except the principal of, and interest accrued since the next preceding Payment Date on the Bonds due and payable solely by virtue of such declaration) shall either be paid by or for the account of the Authority or provision satisfactory to the Trustee shall be made for such payment, and all defaults under the Bonds or under the Resolution (other than the payment of principal and interest due and payable solely by reason of such declaration) shall be made good or be secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, then and in every such case the Holders of twenty-five percent (25%) in principal amount of the Bonds Outstanding, by written notice to the Authority and the Trustee, may rescind such declaration and annul such default in its entirety, or, if the Trustee shall have acted itself, and if there shall not have been theretofore delivered to the Trustee written direction to the contrary by the Holders of twenty-five percent (25%) in principal amount of the Bonds Outstanding, then any such declaration shall ipso facto be deemed to be rescinded and any such default shall ipso facto be deemed to be annulled, but no such rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

3. Notwithstanding the provisions of this Section 801, and unless otherwise provided in the applicable Supplemental Resolution, if an Event of Default described in subsection (ii) above shall occur by reason of the failure by any Swap Provider to make any payment to the Authority or to the Trustee when due as required pursuant to the terms of the applicable Swap Agreement, neither the Trustee nor the Bondholders shall have any right to declare an acceleration of the Bonds as aforesaid unless and until there shall occur an early termination of the applicable Swap Agreement. If such Event of Default is cured (including, to the extent permitted by law, the payment of interest on overdue payments to the extent provided in the applicable Swap Agreement) prior to such early termination date (or on such date if the cure is effected by entering into a substitute Swap Agreement), no acceleration shall be declared with respect to such Event of Default and the Bonds shall remain Outstanding and in full force and effect.



4. An “Event of Non-Appropriation” with respect to the Bonds shall be deemed to have occurred under the State Contract, if the State legislature shall fail to appropriate funds for any fiscal year in an amount sufficient to pay when due its obligations under the State Contract. Notwithstanding anything contained in this Section 801 to the contrary, a failure by the Authority to pay when due any Bond Payment Obligations or Financing Facility Payment Obligations required to be made under this Resolution or the Bonds, or a failure by the Authority to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Resolution or the Bonds, resulting from the occurrence of an Event of Non-Appropriation shall not constitute an Event of Default under this Section 801.

#### **Section 802. Accounting and Examination of Records After Default.**

1. The Authority covenants that if an Event of Default shall have occurred and shall not have been remedied, the books of record and account of the Authority shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys.

2. The Authority covenants that if an Event of Default shall have occurred and shall have not have been remedied, the Authority, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under the Resolution for such period as shall be stated in such demand.

#### **Section 803. Application of Pledged Property After Default.**

1. The Authority covenants that if an Event of Default shall occur and shall not have been remedied, the Authority, upon the demand of the Trustee, shall pay over or cause to be paid over to the Trustee (a) forthwith, all Pledged Property then held by the Authority under the Resolution, and (b) all Revenues which are not paid directly to the Trustee as promptly as practicable after receipt thereof.

2. During the continuance of an Event of Default, the Trustee shall apply the Pledged Property, including all moneys, securities, funds and Revenues received by the Trustee pursuant to any right given or action taken under the provisions of this Article together with all Funds held by the Trustee under the Resolution (other than the Rebate Fund) as follows and in the following order:

(i) Expenses of Fiduciaries -- to the payment of the reasonable and proper fees (including reasonable attorney’s fees), charges, expenses and liabilities of the Fiduciaries;

(ii) Principal or Redemption Price and Interest -- to the payment of the interest and principal or Redemption Price then due on the Bonds, as follows:

(a) unless the principal of all of the Bonds shall have become or have been declared due and payable,

First: Interest -- To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment

thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; provided, however, that with respect to any Related Swap Bonds, interest shall be calculated at the effective fixed rate of interest (as set forth in the applicable Series Certificate and Swap Agreement) to be paid by the Authority by reason of the operation of the applicable Swap Agreement, and shall be applied, pro rata, to the payment of interest on such Related Swap Bonds at the actual rate of interest then in effect and Swap Payment Obligations payable by the Authority (including Swap Termination Payments) under such Swap Agreement; and

Second: Principal or Redemption Price -- To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference; provided, however, that amounts which would otherwise be payable in respect of the principal of any Related Swap Bonds will be applied, pro rata, to the payment of such principal and to the payment of any Swap Termination Payments payable by the Authority if so provided in the applicable Swap Agreement;

(b) if the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds; provided, however, that with respect to any Related Swap Bonds, interest shall be calculated at the fixed rate of interest (as set forth in the applicable Series Certificate and Swap Agreement) to be used in determining the Authority's Bond Payment Obligations in respect of the Related Swap Bonds and shall be applied, together with all amounts which would otherwise be payable in respect of the principal of any Related Swap Bonds, pro rata, to the payment of the principal of and interest on such Related Swap Bonds at the actual rate of interest then in effect and Swap Payment Obligations (including Swap Termination Payments) under such Swap Agreement.

(c) Notwithstanding the foregoing, to the extent provided in the applicable Supplemental Resolution or Series Certificate, Financing Facility

Revenues shall be applied to the payment of principal or Redemption Price of, and interest on, the Bonds to which such Financing Facility relate, and amounts which would otherwise be paid to the holders of such Bonds shall be paid to the applicable Financing Facility Provider.

3. During the continuance of an Event of Default, but subject and subordinate to the amounts required to be paid pursuant to paragraphs 1 and 2 of this Section 803, and only after all amounts required to be paid pursuant to paragraphs 1 and 2 of this Section 803 have been paid in full, the Trustee shall apply any and all moneys, securities and Revenues then on deposit in or available for deposit to the Subordinated Debt Fund first to the payment of the reasonable and proper fees (including reasonable attorneys' fees), charges, expenses and liabilities of the Fiduciaries, and second to the payment to the persons entitled thereto of all installments of principal, redemption or prepayment price of, interest on and any other amounts payable in connection with any Subordinated Debt then outstanding, in such order of priority as shall be specified in the Supplemental Resolutions or other resolutions of the Authority authorizing the issuance of such Subordinated Debt or, if not so specified, pro rata.

4. If and whenever all overdue installments of principal or Redemption Price of, and interest on, all Bonds and Financing Facility Payment Obligations, together with the reasonable and proper charges, fees (including reasonable attorneys' fees), expenses and liabilities of the Trustee, and all other sums payable by the Authority under the Resolution, including the principal and Redemption Price of and accrued unpaid interest on all Bonds which shall then be payable, by declaration or otherwise shall either be paid by or for the account of the Authority, or provisions satisfactory to the Trustee shall be made for such payment, and all defaults under the Resolution or the Bonds shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, the Trustee shall pay over to the Authority all moneys, securities and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of the Resolution to be deposited or pledged, with the Trustee), and thereupon the Authority and the Trustee shall be restored, respectively, to their former positions and rights under the Resolution. No such payment over to the Authority by the Trustee nor such restoration of the Authority and the Trustee to their former positions and rights shall extend to or affect any subsequent default under the Resolution or impair any right consequent thereon.

#### **Section 804. Application of Pledged Property After Event of Non-Appropriation.**

From and after the occurrence of an Event of Non-Appropriation, and provided that there shall not have occurred and then be continuing any Default, all applicable Pledged Property received by the Trustee shall be applied as follows:

1. First, to the payment of any prior applicable Bond Payment Obligations which remain unpaid by reason of the occurrence of such Event of Non-Appropriation in the order in which such prior Bond Payment Obligations became due and payable, and, if the amount available shall not be sufficient to pay in full all the applicable Bond Payment Obligations due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price and interest due on such date, to the Persons entitled thereto, without discrimination or preference;

2. Second, to the payment, to the extent permitted by law, of interest on the amounts described in Paragraph 1 above at the rate in effect on the applicable Bonds, from the last Payment Date to which interest has been paid; and

3. Third, as provided in subsection 5 of Section 506 hereof.

#### **Section 805. Proceedings Brought by Trustee.**

1. If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Holders of the Bonds under the Resolution forthwith by a suit or suits in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under the Resolution.

2. All rights of action under the Resolution may be enforced by the Trustee without the possession of any of the Bonds or the production thereof at the trial or other proceedings, and any such suit or proceedings instituted by the Trustee shall be brought in its name.

3. The Holders of not less than a majority in principal amount of the Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Bondholders not parties to such direction.

4. Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under the Resolution, the Trustee shall be entitled to exercise any and all rights and powers conferred in the Resolution and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

5. Regardless of the happening of an Event of Default, the Trustee shall have power to, but unless requested in writing by the Holders of twenty-five percent (25%) in principal amount of the Bonds then Outstanding and furnished with reasonable security and indemnity, shall be under no obligation to, institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under the Resolution by any acts which may be unlawful or in violation of the Resolution, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders.

#### **Section 806. Restrictions on Bondholder's Action.**

1. No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of the Resolution or the

execution of any trust under the Resolution or for any remedy under the Resolution, unless such Holder shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Article, and the Holders of at least twenty-five percent (25%) in principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity, either to exercise the powers granted in the Resolution or by the Act or by the laws of the State of New Jersey or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, fees (including reasonable attorney's fees), expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his, her, its or their action to affect, disturb or prejudice the pledge created by the Resolution, or to enforce any right under the Resolution, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of the Resolution shall be instituted, had and maintained in the manner provided in the Resolution and for the equal benefit of all Holders of the Outstanding Bonds, subject only to the provisions of Section 702.

2. Nothing in the Resolution or in the Bonds contained shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of his Bond.

#### **Section 807. Remedies Not Exclusive.**

No remedy by the terms of the Resolution conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or existing at law or in equity or by statute on or after the date of execution and delivery of the Resolution.

#### **Section 808. Effect of Waiver and Other Circumstances.**

1. No delay or omission of the Trustee or any Bondholder to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Trustee or to the Bondholders may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

2. Prior to the declaration of maturity of the Bonds as provided in Section 801, the Holders of not less than a majority in principal amount of the Bonds at the time Outstanding, or their attorneys-in-fact duly authorized, may on behalf of the Holders of all of the Bonds waive any past default under the Resolution and its consequences, except a default in the payment of interest on or principal of or premium (if any) on any of the Bonds. No such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

#### **Section 809. Notice of Default.**

The Trustee shall promptly mail written notice of the occurrence of any Event of Default to each registered owner of Bonds then Outstanding at such registered owner's address, if any, appearing upon the registry books of the Authority and to each Financing Facility Provider.

#### **Section 810. Rights of Financing Facility Providers.**

To the extent provided in the applicable Supplemental Resolution or Series Certificate, any rights granted to the holders of the Bonds pursuant to this Article VIII may, instead, be exercised on behalf of the Financing Facility Provider with respect to the Bonds to which such Financing Facility relates.

#### **Section 811. Rights of Holders of Subordinated Debt.**

From and after the payment in full of the principal or Redemption Price of and interest on all Bonds issued and Outstanding under the Resolution and all Financing Facility Payment Obligations in respect of Financing Facilities which were issued on a parity with the Bonds pursuant to this Article VIII, any rights granted to the Holders of the Bonds and such Financing Facility Providers pursuant to this Article VIII may be exercised by the Holders of any Subordinated Debt then outstanding.

## **ARTICLE IX**

### **CONCERNING THE FIDUCIARIES**

#### **Section 901. Trustee; Appointment and Acceptance of Duties.**

The Authority shall appoint the Trustee in the Series Certificate to be executed in connection with the issuance of the first Series of Bonds to be issued under the Resolution. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Resolution and such Supplemental Resolution or Series Certificate by executing and delivering to the Authority a written acceptance thereof, and by executing such acceptance the Trustee shall be deemed to have accepted such duties and obligations with respect to all Bonds issued under the Resolution, but only, however, upon the terms and conditions set forth in the Resolution and such Supplemental Resolution or Series Certificate.

#### **Section 902. Paying Agents; Appointment and Acceptance of Duties.**

1. The Authority shall appoint one or more Paying Agents for the Bonds of each Series, and may at any time or from time to time appoint one or more other Paying Agents. All Paying Agents appointed shall have the qualifications set forth in Section 913 for a successor Paying Agent. The Trustee may be appointed a Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the interest on and principal or Redemption Price of the Bonds.

#### **Section 903. Responsibilities of Fiduciaries.**

1. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Authority and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of the Resolution or of any Bonds issued thereunder or as to the security afforded by the Resolution, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of the Resolution to the Authority or any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of subsection 2 of this Section 903, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

2. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in the Resolution. In case an Event of Default has

occurred (which has not been cured) the Trustee shall exercise such of the rights and powers vested in it by Resolution, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. Any provision of the Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 903 and Section 904.

#### **Section 904. Evidence on Which Fiduciaries May Act.**

1. Each Fiduciary, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond or other paper or document furnished to it pursuant to any provision of the Resolution, shall examine such instrument to determine whether it conforms to the requirements of the Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be counsel to the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under the Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Resolution, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Authority, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of the Resolution upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as it may deem reasonable.

3. Except as otherwise expressly provided in the Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority when signed by an Authorized Officer of the Authority.

#### **Section 905. Compensation.**

1. The Authority shall pay to each Fiduciary from time to time reasonable compensation for all services rendered under the Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including without limitation those of its attorneys, agents and employees, incurred in and about the performance of their powers and duties under the Resolution, in accordance with the agreements made from time to time between the Authority and the Fiduciary.

2. The Authority hereby agrees to the extent permitted by law to reimburse and hold harmless each Fiduciary from and against any and all claims, damages, losses, liabilities, costs or reasonable expenses whatsoever which such Fiduciary may incur in connection with the performance by such Fiduciary of its obligations under the Resolution; provided, however, that the Authority shall not be required to reimburse and hold harmless any Fiduciary for any claims, damages, losses, liabilities, costs or expenses caused in whole or in part by such Fiduciary's negligence, bad faith, breach of contract or misconduct arising out of or as a result of such Fiduciary's performing its obligations under the Resolution or undertaking any transaction contemplated by the Resolution; and further provided, that the foregoing is subject to the



limitations of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:2-1 et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

3. Each Fiduciary, by accepting its appointment as such under the Resolution, agrees that such Fiduciary (i) shall give the Authority prompt notice in writing of any actual or potential claim described above, and the institution of any suit or action; (ii) shall not adjust, settle or compromise any such claim, suit or action without the consent of the Authority; and (iii) shall permit the Authority, at the Authority's sole discretion, to assume full control of the adjustment, settlement, compromise or defense of each such claim, suit or action.

4. While the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. is not applicable by its terms to claims arising under contracts with the Authority, each Fiduciary, by accepting its appointment as such under the Resolution, agrees that such statute (except N.J.S.A. 59:13-9) shall be applicable to all claims against the Authority arising under this Section 905.

5. The indemnification provided in this Section 905 does not apply to or extend to any indemnification which may be given by any Fiduciary to any other person.

#### **Section 906. Certain Permitted Acts.**

Any Fiduciary, individually or otherwise, may become the owner of any Bonds, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization arising out of the enforcement of the Bonds or the Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

#### **Section 907. Resignation of Trustee.**

The Trustee may at any time resign and be discharged of the duties created by the Resolution by giving no less than ninety (90) days written notice to the Authority, and mailing notice thereof to the Holders of Bonds then Outstanding, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the date specified in such notice unless (i) previously a successor shall have been appointed by the Authority or the Bondholders as provided in Section 909, in which event such resignation shall take effect immediately on the appointment of such successor, or (ii) a successor shall not have been appointed by the Authority or the Bondholders as provided in Section 909 on such date, in which event such resignation shall not take effect until a successor is appointed.

#### **Section 908. Removal of the Trustee.**

The Trustee may be removed at any time with or without cause by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Holders of a majority in principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. In addition, so long as no Event of Default, or an event which, with notice or passage of time, or both, would become an Event of Default, shall have occurred and be continuing, the Trustee may be removed at any time with or without cause by a resolution of the Authority filed with the Trustee.

### **Section 909. Appointment of Successor Trustee.**

1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor Trustee may be appointed by the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority, but if the Authority does not appoint a successor Trustee within sixty (60) days then by the Holders of a majority in principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee. After such appointment of a successor Trustee, the Authority shall mail notice of any such appointment by it or the Bondholders to the registered owners of the Bonds then Outstanding.

2. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 120 days after the Trustee shall have given to the Authority written notice as provided in Section 907 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, removal, or for any other reason whatsoever, the Trustee (in the case of its resignation under Section 907) or the Holder of any Bond (in any case) may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

3. Any Trustee appointed under the provisions of this Section 909 in succession to the Trustee shall be a bank or trust company organized under the laws of any state or a national banking association and shall have capital stock, surplus and undivided earnings aggregating at least \$50,000,000 if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

### **Section 910. Transfer of Rights and Property to Successor Trustee.**

Any successor Trustee appointed under the Resolution shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Authority, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Authority or of the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property, rights, interests and estates held by it under the Resolution, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such

deed, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agents of its appointment as Trustee.

#### **Section 911. Merger or Consolidation.**

Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all the duties imposed upon it by the Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

#### **Section 912. Adoption of Authentication.**

In case any of the Bonds contemplated to be issued under the Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall have the full force which it is anywhere in said Bonds or in the Resolution provided that the certificate of the Trustee shall have.

#### **Section 913. Resignation or Removal of Paying Agent and Appointment of Successor.**

1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by the Resolution by giving at least sixty (60) days written notice to the Authority, the Trustee and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock, surplus and undivided earnings aggregating at least \$50,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by the Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

## ARTICLE X

### SUPPLEMENTAL RESOLUTIONS

#### **Section 1001. Supplemental Resolutions Effective Upon Filing With the Trustee.**

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, shall be fully effective in accordance with its terms:

(1) To authorize Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Article II, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with the Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Bonds;

(2) To close the Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in the Resolution on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(3) To add to the covenants and agreements of the Authority in the Resolution, other covenants and agreements to be observed by the Authority which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(4) To add to the limitations and restrictions in the Resolution, other limitations and restrictions to be observed by the Authority which are not contrary to or inconsistent with the Resolution as theretofore in effect;

(5) To authorize, in compliance with all applicable law, Bonds of each Series to be issued in the form of Bonds issued and held in book-entry form on the books of the Authority and Fiduciary or custodian appointed for that purpose by the Authority and, in connection therewith, make such additional changes herein, not adverse to the rights of the Holders of the Bonds, as are necessary or appropriate to accomplish or recognize such book-entry form Bonds, substitute for any such Fiduciary or custodian, provide for in, and amend any provisions in, the Resolution relating to the giving of notice, and specify and determine the matters and things relative to the issuance of such book-entry form Bonds as are appropriate or necessary;

(6) To confirm, as further assurance, any pledge or assignment under, and the subjection to any security interest, pledge or assignment created or to be created by, the Resolution of the Pledged Property or the creation of a debt service reserve fund and the limitations of the pledge of any amounts therein to a particular Series of Bonds and to pledge any

additional revenues, moneys, securities, Financing Facilities, Swap Agreements or other agreements;

(7) To modify any of the provisions of the Resolution in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange therefor or in place thereof; and

(8) To authorize the issuance of Subordinated Debt in accordance with the Resolution and the Act.

### **Section 1002. Supplemental Resolutions Effective Upon Consent of Trustee.**

For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, and (ii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

(1) To cure any ambiguity, supply any omission, or correct any defect or inconsistent provision in the Resolution; or

(2) To insert such provisions clarifying matters or questions arising under the Resolution as are necessary or desirable and are not contrary to or inconsistent with the Resolution as theretofore in effect.

### **Section 1003. Supplemental Resolutions Effective with Consent of Bondholders.**

At any time and from time to time, a Supplemental Resolution may be adopted subject to consent by (a) Bondholders in accordance with and subject to the provisions of Article XI, and (b) any Financing Facility Provider the consent of which is required by the applicable Financing Facility, which Supplement Resolution, upon the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority and upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as provided in said Article XI.

### **Section 1004. General Provisions.**

1. The Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI. Nothing contained in this Article X or Article XI shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of Section 704 or the right or obligation of the Authority to execute and deliver to any Fiduciary any instrument which elsewhere in the Resolution it is provided shall be delivered to said Fiduciary.

2. Any Supplemental Resolution referred to and permitted or authorized by Sections 1001 and 1002 may be adopted by the Authority without the consent of any of the Bondholders, but shall become effective only on the conditions, to the extent and at the time provided in said Sections, respectively. The copy of every Supplemental Resolution when filed with the Trustee shall be accompanied by an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights generally.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to and permitted or authorized by Section 1001 or 1002 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on an opinion of Bond Counsel that such Supplemental Resolution is authorized or permitted by the provisions of the Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

## **ARTICLE XI**

### **AMENDMENTS**

#### **Section 1101. Mailing.**

Any provision in this Article for the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed postage prepaid only (i) to each registered owner of Bonds then Outstanding at such registered owner's address, if any, appearing upon the registry books of the Authority, and (ii) to the Trustee.

#### **Section 1102. Powers of Amendment.**

Any modification or amendment of the Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds thereunder, in any particular, may be made by a Supplemental Resolution with the written consent, given as provided in Section 1103, of the Holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto, or shall permit a change in the terms of redemption or prepayment of any Subordinated Debt or the payment of interest thereon or any other amount payable in connection therewith without the consent of the holder of such Subordinated Debt. For the purpose of this Section, a Series shall be deemed to be affected by a modification or amendment of the Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series or maturity would be affected by any modification or amendment of the Resolution and any such determination shall be binding and conclusive on the Authority and all Holders of Bonds.

#### **Section 1103. Consent of Bondholders.**

The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 1102 to take effect when and as provided in this Section 1103. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Bondholders for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Bondholders (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section 1103 provided). Such Supplemental Resolution shall not be effective unless and until (i) there shall have been filed with

the Trustee (a) the written consents of Holders of the percentages of Outstanding Bonds specified in Section 1102, (b) the written consent of any Financing Facility Provider the consent of which is required pursuant to the applicable Financing Facility and (c) an opinion of Bond Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of the Resolution, is authorized or permitted by the Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms, subject to any applicable bankruptcy, insolvency or other laws affecting creditors' rights generally, and (ii) a notice shall have been given as hereinafter in this Section 1103 provided. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. A certificate or certificates executed by the Trustee and filed with the Authority stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Holder of the Bonds giving such consent and, anything in Section 1202 to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof) unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section 1103 provided for is filed, such revocation and, if such Bonds are transferable by delivery, proof that such Bonds are held by the signer of such revocation in the manner permitted by Section 1202 hereof. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of Bonds have filed such consents. Such written statements shall be conclusive that such consents have been so filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds and will be effective as provided in this Section 1103, may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 1103 provided). The Authority shall file with the Trustee proof of the mailing thereof. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of forty (40) days after the filing with the Trustee of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such forty (40) day period; provided, however, that any Fiduciary and the Authority during such forty (40) day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.



#### **Section 1104. Modifications by Unanimous Consent.**

The terms and provisions of the Resolution and the rights and obligations of the Authority and of the Holders of the Bonds thereunder may be modified or amended in any respect upon the adoption and filing by the Authority of a Supplemental Resolution and the consent of (a) the Holders of all of the Bonds then Outstanding, and (b) any Financing Facility Provider the consent of which is required by the applicable Financing Facility, such consents to be given as provided in Section 1103 except that no notice to Bondholders shall be required; provided, however, that no such modification or amendment shall change or modify any of the rights or obligations of any Fiduciary without the filing with the Trustee of the written assent thereto of such Fiduciary in addition to the consent of the Bondholders.

#### **Section 1105. Exclusion of Bonds.**

Bonds owned or held by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the Authority shall furnish the Trustee a certificate of an Authorized Officer of the Authority, upon which the Trustee may rely, describing all Bonds so to be excluded.

#### **Section 1106. Notation on Bonds.**

Bonds authenticated and delivered after the effective date of any action taken as in Article X or this Article XI provided may, and, if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and presentation of his Bond for the purpose at the principal corporate trust office of the Trustee or upon any transfer or exchange of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by the Trustee as to any such action. If the Authority or the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee and the Authority to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

## ARTICLE XII

### MISCELLANEOUS

#### **Section 1201. Defeasance.**

1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds and Subordinated Debt, if any, the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated in the Bonds and Subordinated Debt, if any, and in the Resolution, then the pledge of the Pledged Property, any Revenues, and other moneys and securities pledged under the Resolution and all covenants, agreements and other obligations of the Authority to the Bondholders, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority and, upon the request of the Authority, shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries shall pay over or deliver to the Authority the Pledged Property, including all moneys or securities held by them pursuant to the Resolution which are not required for the payment of principal or Redemption Price, if applicable, and interest on Bonds not theretofore surrendered for such payment or redemption. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Outstanding Bonds of a particular Series, or of a particular maturity or particular Bonds within a maturity within a Series, the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under the Resolution, and all covenants, agreements and obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Paying Agents (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section. Subject to the provisions of subsection 3 through subsection 6 of this Section, any Outstanding Bonds shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee irrevocable instructions to mail as provided in Article IV notice of redemption of such Bonds (other than Bonds which have been purchased by the Trustee at the direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of such notice of redemption ) on said date, (b) there shall have been deposited with the Trustee either moneys (including moneys withdrawn and deposited pursuant to subsection 4 of Section 506 and subsection 4 of Section 507) in an amount which shall be sufficient, or Federal Securities (including any Federal Securities issued or held in book-entry form on the books of the Department of the Treasury of the United States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the principal or Redemption Price, if applicable, and

interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) in the event said Bonds are not by their terms subject to redemption within the next succeeding sixty (60) days, the Authority shall have given the Trustee irrevocable instructions to mail a notice to the Holders of such Bonds that the deposit required by (b) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon which moneys are expected, subject to the provisions of subsection 6 of this Section 1201, to be available for the payment of the principal or Redemption Price, if applicable, of and accrued and unpaid interest on said Bonds (other than Bonds which have been purchased by the Trustee at the direction of the Authority or purchased or otherwise acquired by the Authority and delivered to the Trustee as hereinafter provided prior to the mailing of the notice of redemption referred to in clause (a) hereof). Any notice of redemption mailed pursuant to the preceding sentence with respect to Bonds which constitute less than all of the Outstanding Bonds of any maturity within a Series shall specify the letter and number or other distinguishing mark of each such Bond. The Trustee shall, as and to the extent necessary, apply moneys held by it pursuant to this Section 1201 to the payment when due of the principal or Redemption Price of and interest on such Bonds, all in the manner provided in the Resolution. The Trustee shall, if so directed by the Authority (i) prior to the maturity date of Bonds deemed to have been paid in accordance with this Section 1201 which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in clause (a) above with respect to any Bonds deemed to have been paid in accordance with this Section 1201 which are to be redeemed on any date prior to their maturity, apply moneys deposited with the Trustee in respect of such Bonds and redeem or sell Federal Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Bonds and the Trustee shall immediately thereafter cancel all such Bonds so purchased; provided, however, that the moneys and Federal Securities remaining on deposit with the Trustee after the purchase and cancellation of such Bonds shall be sufficient to pay when due the principal or Redemption Price, if applicable, of, and interest due or to become due on all Bonds, in respect of which such moneys and Federal Securities are being held by the Trustee on or prior to the redemption date or maturity date thereof, as the case may be. If, at any time (i) prior to the maturity date of Bonds deemed to have been paid in accordance with Section 1201 which are not to be redeemed prior to their maturity date or (ii) prior to the mailing of the notice of redemption referred to in clause (a) with respect to any Bonds deemed to have been paid in accordance with this Section 1201 which are to be redeemed on any date prior to their maturity, the Authority shall purchase or otherwise acquire any such Bonds and deliver such Bonds to the Trustee prior to their maturity date or redemption date, as the case may be, the Trustee shall immediately cancel all such Bonds so delivered; such delivery of Bonds to the Trustee shall be accompanied by directions from the Authority to the Trustee as to the manner in which such Bonds are to be applied against the obligation of the Trustee to pay or redeem Bonds deemed paid in accordance with this Section 1201. The directions given by the Authority to the Trustee referred to in the preceding sentence shall also specify the portion, if any, of such Bonds so purchased or delivered and cancelled to be applied against the obligation of the Trustee to pay Bonds deemed paid in accordance with this Section 1201 upon their maturity date or dates and the portion, if any, of such Bonds so purchased or delivered and cancelled to be applied against the obligation of the Trustee to redeem Bonds deemed paid in accordance with this Section 1201 on any date or dates prior to their maturity. In the event that on any date as a result of any purchases, acquisitions and cancellations of Bonds as provided in this Section 1201 the total amount of moneys and Federal Securities remaining on deposit with the Trustee under this Section

1201 is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of the remaining Bonds in order to satisfy subclause (b) of this subsection 2 of Section 1201, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this Resolution. Except as otherwise provided in this subsection 2 of Section 1201 and in subsection 3 through subsection 6 of this Section 1201, neither Federal Securities nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, of, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority as received by the Trustee, free and clear of any trust, lien or pledge securing said Bonds or otherwise existing under the Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Federal Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price, if applicable, and interest to become due on said Bonds on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Resolution. For the purposes of this Section, Federal Securities shall mean and include only (A) Federal Securities which shall not be subject to redemption prior to their maturity other than at the option of the holder thereof, (B) Federal Securities as to which an irrevocable notice of redemption of such securities has been given and such securities are not otherwise subject to redemption prior to such specified date other than at the option of the Holder thereof, or (C) upon compliance with the provisions of subsection 5 of this Section 1201, Federal Securities which are subject to redemption prior to maturity at the option of the issuer thereof on a specified date or dates.

3. For purposes of determining whether Variable Interest Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or Federal Securities and moneys, if any, in accordance with the second sentence of subsection 2 of this Section 1201, the interest to come due on such Variable Interest Rate Bonds on or prior to the maturity date or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate permitted by the terms thereof; provided, however, that if on any date, as a result of such Variable Interest Rate Bonds having borne interest at less than such Maximum Interest Rate for any period, the total amount of moneys and Federal Securities on deposit with the Trustee for the payment of interest on such Variable Interest Rate Bonds is in excess of the total amount which would have been required to be deposited with the Trustee on such date in respect of such Variable Interest Rate Bonds in order to satisfy the second sentence of subsection 2 of this Section 1201, the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, pledge or assignment securing the Bonds or otherwise existing under the Resolution.

4. Federal Securities described in clause (C) of subsection 2 of Section 1201 may be included in the Federal Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection 2 of Section 1201 only if the determination as to whether the moneys and Federal Securities to be deposited with the Trustee in order to satisfy the requirements of such clause (b) would be sufficient to pay when due either on the maturity date

thereof or, in the case of any Bonds to be redeemed prior to the maturity date thereof, on the redemption date or dates specified in any notice of redemption to be mailed by the Trustee in accordance with subsection 2 of Section 1201, the principal and Redemption Price, if applicable, and interest on the Bonds which will be deemed to have been paid as provided in subsection 2 of Section 1201 is made both (i) on the assumption that the Federal Securities described in clause (C) were not redeemed at the option of the issuer prior to the maturity date thereof and (ii) on the assumptions that such Federal Securities would be redeemed by the issuer thereof at its option on each date on which such option could be exercised, that as of such date or dates interest ceased to accrue on such Federal Securities and that the proceeds of such redemption would not be reinvested by the Trustee.

5. In the event that after compliance with the provisions of subsection 4 of Section 1201, the Federal Securities described in clause (C) of subsection 2 of Section 1201 are included in the Federal Securities deposited with the Trustee in order to satisfy the requirements of clause (b) of subsection 2 of Section 1201 and any such Federal Securities are actually redeemed by the issuer thereof prior to their maturity date, then the Trustee at the direction of the Authority, provided that the aggregate of the moneys and Federal Securities to be held by the Trustee, taking into account any changes in redemption dates or instructions to give notice of redemption given to the Trustee by the Authority in accordance with subsection 6 of Section 1201, shall at all times be sufficient to satisfy the requirements of clause (b) of subsection 2 of Section 1201, shall reinvest the proceeds of such redemption in Federal Securities.

6. Any notice of redemption to be mailed by the Trustee and any set of instructions relating to a notice of redemption given to the Trustee may provide, at the option of the Authority, that any redemption date or dates in respect of all or any portion of the Bonds to be redeemed on such date or dates may at the option of the Authority be changed to any other permissible redemption date or dates and that redemption dates may be established for any Bonds deemed to have been paid in accordance with this Section 1201 upon their maturity date or dates at any time prior to the actual mailing of any applicable notice of redemption.

7. Option Bonds shall be deemed to have been paid in accordance with the second sentence of subsection 2 of this Section 1201 only if, in addition to satisfying the requirements of clauses (a) and (c) of such sentence, there shall have been deposited with the Trustee moneys (including moneys withdrawn and deposited pursuant to subsection 4 of Section 506 and subsection 4 of 507) in an amount which shall be sufficient to pay when due the maximum amount of principal of and premium, if any, and interest on such Bonds which could become payable to the Holders of such Bonds upon the exercise of any options provided to the Holders of such Bonds; provided, however, that if, at the time a deposit is made with the Trustee pursuant to subsection 2 of this Section, the options originally exercisable by the Holder of an Option Bond are no longer exercisable, such Bond shall not be considered an Option Bond for purposes of this subsection. If any portion of the moneys deposited with the Trustee for the payment of the principal of and premium, if any, and interest on Option Bonds is not required for such purpose the Trustee shall, if requested by the Authority, pay the amount of such excess to the Authority free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under the Resolution.

8. Related Swap Bonds and the Authority's Swap Payment Obligations under the applicable Swap Agreements shall be deemed to have been paid for purposes of Section 1201 above if (a) there shall have been deposited with the Trustee moneys and Federal Securities of the

type described in Section 1201(2) in an amount which, together with amounts due and to become due from the Swap Provider under the applicable Swap Agreement, shall be sufficient to pay when due (i) during the term of the applicable Swap Agreement, the Authority's Bond Payment Obligations, Related Swap Bond Payment Obligations and Swap Payment Obligations (other than Swap Termination Payments) in respect of such Related Swap Bonds and (ii) thereafter, all principal of and premium, if any, and interest on such Bonds to maturity or prior redemption and (b) the Authority shall have given to the Trustee irrevocable written instructions directing the Trustee to pay, during the term of the applicable Swap Agreement to the applicable Paying Agent or Swap Provider, as the case may be, the amount required to pay the Authority's Bond Payment Obligations, Related Swap Bond Payment Obligations and Swap Payment Obligations in respect of such Related Swap Bonds. Neither moneys nor Federal Securities deposited with the Trustee pursuant to this Section 1201(8) nor principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payments to be made pursuant to subsections (i) and (ii) above; provided that any cash received from such principal or interest payments on such Federal Securities deposited with the Trustee, if not then needed for such purpose, shall to the extent practicable, be reinvested in Federal Securities maturing at the times and in amounts sufficient, together with other moneys available for the purpose, to make the payments set forth in subsections (i) and (ii) above, and interest earned from such reinvestments shall be paid over to the Authority, as received by the Trustee, free and clear of any trust, lien or pledge, and provided, further that any Federal Securities may be sold, transferred, redeemed or otherwise disposed of and the proceeds thereof applied to the purchase of other Federal Securities of the type permitted for this purpose, the principal of and interest on which, when due, together with moneys and other Federal Securities then held by the Trustee for such purpose, shall be sufficient to make the payments set forth in subsections (i) and (ii) above. Notwithstanding the defeasance of any Bonds and discharge of the lien of the Resolution pursuant to this Section 1201, during the term of any Swap Agreement for which the Related Swap Bonds have been defeased, the Trustee shall, subject to the foregoing provisions of this Section 1201, hold and apply (i) the Federal Securities deposited with it pursuant to this Section as provided in Section 505, and (ii) all payments from the Swap Provider under the applicable Swap Agreement as Swap Revenues pursuant to Section 506. If any portion of the moneys deposited with the Trustee for the payment of the amounts set forth in subsection (a) above is not required for such purpose, the Trustee shall pay the amount of such excess as the Authority shall direct in writing.

9. Anything in the Resolution to the contrary notwithstanding, any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for two years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for two years after the date of deposit of such moneys if deposited with the Fiduciary after the said date when such Bonds became due and payable, shall, at the written request of the Authority, be repaid by the Fiduciary to the Authority, as its absolute property and free from trust, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the Authority for the payment of such Bonds; provided, however, that before being required to make any such payment to the Authority the Fiduciary shall, at the expense of the Authority, cause to be published at least twice, at an interval of not less than seven days between publications, in an Authorized Newspaper, a notice that said moneys remain unclaimed and that, after a date named in said notice, which date shall be not less than thirty (30)

days after the date of the first publication of such notice, the balance of such moneys then unclaimed will be returned to the Authority.

10. Any Subordinated Debt shall be defeased in the manner and subject to the terms and conditions set forth in the Supplemental Resolution or other resolution of the Authority authorizing the issuance thereof.

#### **Section 1202. Evidence of Signatures of Bondholders and Ownership of Bonds.**

1. Any request, consent, revocation of consent or other instrument which the Resolution may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of (i) the execution of any such instrument, or of any instrument appointing any such attorney, or (ii) the holding by any person of the Bonds shall be sufficient for any purpose of the Resolution (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(1) The fact and date of the execution by any Bondholder or such Bondholder's attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature, guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

(2) The amount of Bonds transferable by delivery held by any person executing any instrument as a Bondholder, the date of such person's holding such Bonds, and the numbers and other identification thereof, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Trustee, executed by the Trustee or by a member of a financial firm or by an officer of a bank, trust company, insurance company, or financial corporation or other depository wherever situated, showing at the date therein mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Trustee. In addition to the foregoing provisions, the Trustee may from time to time make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

2. The ownership of Bonds registered otherwise than to bearer and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

3. Any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Authority or any Fiduciary in accordance therewith.

#### **Section 1203. Moneys Held for Particular Bonds.**

The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

#### **Section 1204. Preservation and Inspection of Documents.**

All documents received by any Fiduciary under the provisions of the Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority, any other Fiduciary, and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

#### **Section 1205. Parties Interested Herein.**

Nothing in the Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any person or corporation, other than the Authority, the Fiduciaries, the Holders of the Bonds, any Financing Facility Providers and the holders of any Subordinated Debt, any right, remedy or claim under or by reason of the Resolution or any covenant, condition or stipulation thereof; and all the covenants, stipulations, promises and agreements in the Resolution contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Fiduciaries, the Holders of the Bonds, any Financing Facility Provider and the holders of any Subordinated Debt.

#### **Section 1206. No Recourse on the Bonds.**

No recourse shall be had for the payment of the principal of or interest on the Bonds, the Financing Facility Payment Obligations or the principal of or interest on any Subordinated Debt for any claim based thereon or on the Resolution against any member or officer of the Authority or any person executing the Bonds, any Financing Facility or any instrument evidencing Subordinated Debt.

#### **Section 1207. Publication of Notice; Suspension of Publication.**

1. Any publication to be made under the provisions of the Resolution in successive weeks or on successive weeks or on successive dates may be made in each instance upon any business day of the week and need not be made in the same Authorized Newspaper for any or all of the successive publications but may be made in a different Authorized Newspaper.



2. If, because of the temporary or permanent suspension of the publication or general circulation of any Authorized Newspaper or for any other reason, it is impossible or impractical to publish any notice pursuant to the Resolution in the manner herein provided, then such publication in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient publication of such notice.

#### **Section 1208. Severability of Invalid Provisions.**

If any one or more of the covenants or agreements provided in the Resolution on the part of the Authority or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of the Resolution.

#### **Section 1209. Holidays.**

Except with respect to the computation of a Record Date, if the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in the Resolution, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Trustee or the operational office of the Authority are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in the Resolution, and no interest shall accrue for the period after such nominal date.

#### **Section 1210. Compound Interest Bonds; Compound Interest and Income Bonds.**

For the purposes of (i) receiving payment of the Redemption Price if a Compound Interest Bond or Compound Interest and Income Bond is redeemed prior to maturity, or (ii) receiving payment of a Compound Interest Bond or Compound Interest and Income Bond if the principal of all Bonds is declared immediately due and payable following an Event of Default, as provided in Section 801 of the Resolution, or (iii) computing the principal amount of Bonds held by the registered owner of a Compound Interest Bond or Compound Interest and Income Bond in giving to the Authority or the Trustee any notice, consent, request or demand pursuant to the Resolution for any purpose whatsoever, or (iv) determining whether any Compound Interest Bond or Compound Interest and Income Bond has been paid or deemed to have been paid pursuant to Section 1201 of the Resolution, the principal amount of a Compound Interest Bond or Compound Interest and Income Bond shall be deemed to be its Accreted Value or Appreciated Value, respectively.

## **ARTICLE XIII**

### **BOND FORM AND EFFECTIVE DATE**

#### **Section 1301. Form of Bonds, Trustee's Certificate of Authentication.**

Subject to the provisions of the Resolution, the form of Bonds of each Series and the Trustee's Certificate of Authentication shall be in substantially the form set forth in the Supplemental Resolution.

#### **Section 1302. Effective Date.**

This Resolution shall take effect immediately upon its adoption in accordance with the Act.

**APPENDIX III**  
**STATE CONTRACT**

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**CONTRACT**

by and between

**THE TREASURER OF THE STATE OF NEW JERSEY,**

and the

**NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY**

Dated as of July 1, 2000

**5132,800,000**

**New Jersey Educational Facilities Authority**

**Revenue Bonds**

**Higher Education Capital Improvement Fund Issue**

**Series 2000 A**

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**CONTRACT WITH RESPECT TO  
HIGHER EDUCATION CAPITAL IMPROVEMENT FUND PROGRAM**

THIS CONTRACT is made as of July 1, 2000, by and between the Treasurer of the State of New Jersey (the "State Treasurer"), acting on behalf of the State of New Jersey (the "State"), and the New Jersey Educational Facilities Authority (the "Authority"), a public body corporate and politic of the State.

**WITNESSETH:**

WHEREAS, pursuant to the provisions of the Higher Education Capital Improvement Fund Act (P.L. 1999, c. 217) (the "Capital Improvement Fund Act"), the New Jersey Educational Facilities Authority Law, constituting Chapter 72A of Title 18A, Education, of the New Jersey Statutes, as enacted by Chapter 271 of the Public Laws of 1967 was amended and supplemented to provide within the Authority a higher education capital improvement fund to provide grants for the funding of higher education capital improvements and related costs at public institutions of higher education (the "Public Colleges") and private institutions of higher education (the "Private Colleges" and, together with the Public Colleges, the "Colleges") within the State; and

WHEREAS, the Authority is authorized, pursuant to the Capital Improvement Fund Act, to issue bonds to provide grants for the funding of such higher education capital improvements and related costs to the Colleges provided that the total outstanding principal amount of the bonds outstanding shall not exceed \$550,000,000 and the term of any bond issued shall not exceed 30 years; and

WHEREAS, the Authority, by resolution duly adopted on June 21, 2000, has determined to proceed with a higher education capital improvement fund program to provide grants to Colleges for the cost, or a portion of the cost, of the renewal, renovation, improvement, expansion, construction, and reconstruction of facilities and technology infrastructure; and

WHEREAS, in order to provide funds to pay the costs of such capital improvements, the Authority proposes to issue its Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2000 A (the "Series 2000 A Bonds"), and to secure the same under the terms and provisions of the Higher Education Capital Improvement General Bond Resolution (the "Bond Resolution") adopted by the Authority on June 21, 2000, and the First Supplemental Higher Education Capital Improvement Fund Resolution adopted by the Authority on June 21, 2000 (the "First Supplemental Resolution"); and

WHEREAS, pursuant to the Capital Improvement Fund Act and in order to provide for the payment of debt service on the Series 2000 A Bonds and any Additional Bonds issued pursuant to the Bond Resolution, the Authority is authorized to enter into a Contract with the State Treasurer providing for the payment, subject to available annual appropriations, of the

debt service on the Series 2000 A Bonds and any Additional Bonds issued pursuant to the Bond Resolution; and

NOW, THEREFORE, in consideration of the mutual covenants, undertakings and agreements set forth herein, and intending to be legally bound, the Authority and the Treasurer hereby covenant and agree as follows:

## **ARTICLE I DEFINITIONS**

### **1.1. Definitions.**

Capitalized terms used herein shall have the meanings set forth below or, where not so defined, in the Bond Resolution.

"Bond" or "Bonds" means any of the bonds of the Authority which shall be authenticated and delivered under and pursuant to the terms of the Bond Resolution, including *Additional Bonds and Refunding Bonds*.

"Bond Resolution" means the New Jersey Educational Facilities Authority Higher Education Capital Improvement General Bond Resolution adopted by the Authority on June 21, 2000, as the same may be amended and supplemented from time to time;

"Business Day" means any day that is not a Saturday, Sunday or legal holiday in the State or a day on which banking institutions chartered by the State or the United States are legally authorized to close.

"Code" means the Internal Revenue Code of 1986, as amended.

"Debt Service" means, for any period, as of any date of calculation and with respect to any Bonds, an amount equal to the sum of (i) the interest payable during such period on such Series of Bonds except to the extent such interest is to be paid from deposits made from Bond proceeds, and (ii) the amount payable in respect of the principal and premium, if any, and Sinking Fund Installments, if any, on such Series of Bonds during such period;

"Fiscal Year" means the fiscal year of the State, being the twelve (12) month period beginning on July 1 of each year and ending on June 30 of the succeeding year.

"Series 2000 A Bonds" means the \$132,800,000 aggregate principal amount of Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2000 A, issued by the Authority pursuant to the Capital Improvement Fund Act, the Resolution and the First Supplemental Resolution.

"State" means the State of New Jersey.

"State Treasurer's Contract" or "Contract" means this agreement which is to be entered into by and between the Treasurer and the Authority, pursuant to Section 7b of the Capital Improvement Fund Act, together with any and all amendments and supplements thereto.

"Treasurer" means the Treasurer of the State.

"Trustee" means The Bank of New York, West Paterson, New Jersey, the trustee for the Series 2000 A Bonds appointed under the Bond Resolution, or any successor thereto.

## **ARTICLE II**

### **ESTABLISHMENT OF FUNDS**

#### **2.1. Revenue Bond.**

The Authority shall establish and maintain with the Trustee, in accordance with the Bond Resolution, the Higher Education Capital Improvement Fund.

#### **2.2. Funds and Accounts.**

The Authority shall establish and maintain with the Trustee the funds and accounts required by the Bond Resolution. Such funds and accounts shall be invested at the direction of the Authority, with the approval of the Treasurer, in accordance with the provisions of the Bond Resolution.

## **ARTICLE III**

### **ISSUANCE OF BONDS; APPROVALS OF STATE TREASURER**

#### **3.1. Issuance of Bonds.**

The issuance of the Series 2000 A Bonds, any Financing Facility and any other Series of Bonds issued pursuant to the Bond Resolution shall be subject to the prior written consent of the Treasurer.

#### **3.2. Consents.**

The Authority agrees that it shall at the written request of the Treasurer, take any of the following actions with respect to any of the Bonds:

- (a) the exercise of any option to redeem Bonds;
- (b) the purchase of any Bonds;
- (c) the defeasance of any Bonds;
- (d) the refunding of any Bonds;
- (e) the adoption of any Supplemental Resolution; and
- (f) the removal of the Trustee or any other fiduciary appointed under the Bond Resolution or the appointment of any successor trustee or other successor fiduciary under the Bond Resolution.

#### **3.3. Approvals.**

The Authority agrees to use its best efforts to take whatever action the Treasurer deems necessary or desirable to effectuate the purposes and provisions of the Capital Improvement Fund Act and to request from the Treasurer any approval which is required to be obtained by the Authority under the Bond Resolution. The Treasurer further agrees, upon the request of the Authority, to deliver to the Authority, the State's enacted General Appropriation Act as soon as practicable after such act is available.

#### **3.4. Disposition of Funds.**

To the extent permitted by law, when provision has been made for the payment of all Outstanding Bonds in accordance with the Bond Resolution, the Authority agrees to direct the Trustee to pay over to the State any available balances in the funds held under the Bond Resolution.



## **ARTICLE IV**

### **PAYMENTS**

#### **4.1. Transfer from Higher Education Capital Improvement Fund.**

The Authority shall cause the Trustee to transfer from the Higher Education Capital Improvement Fund for deposit to the appropriate Funds and Accounts established under the Bond Resolution all amounts on deposit in the Higher Education Capital Improvement Fund.

#### **4.2. Pledge of Funds and Accounts.**

The Authority and the Treasurer agree that from and after the date of issuance of the Series 2000 A Bonds and so long thereafter as any Bonds shall be Outstanding, the Higher Education Capital Improvement Fund and all other Funds and Accounts provided for in the Bond Resolution shall be maintained by the Trustee and shall be pledged and applied as provided therein for the benefit and security of the Holders of the Bonds (except the Rebate Fund).

#### **4.3. Obligation to Pay Bonds and Financing Facility.**

The Treasurer, acting under this Contract on behalf of the State, hereby agrees to pay, solely from amounts appropriated by the State Legislature, the principal and interest on the Bonds or any Financing Facility as they become due and payable based on each "Schedule of Payments" delivered to the Treasurer by the Authority promptly after the issuance of any Bonds or Financing Facility. Each "Schedule of Payments", shall identify the Bonds or Financing Facility, as the case may be, and its date of issuance, shall set forth the amounts and dates of principal and interest payments and state the date of approval of the issuance of the Bonds or Financing Facility by the Treasurer. The Treasurer, at the sole option of the State, may prepay any such payments in amounts and subject to conditions determined by the Treasurer.

#### **4.4. Manner of Payment of Bonds and Financing Facility.**

The Treasurer shall transfer the amounts required to pay principal and interest on the Bonds and any Financing Facility to the Trustee in immediately available funds at least one business day prior to the due date of such payments. Standing payment instructions shall be provided to the Treasurer by the Authority. All such amounts shall be deposited in the appropriate account of the Higher Education Capital Improvement Fund. The Authority will maintain that fund, and the appropriate accounts in the fund, with the Trustee until all Bonds and any Financing Facility have been "paid" (as such term is used in the Bond Resolution).

#### **4.5. Appropriation as Sole Source of Payment of Bonds and Financing Facility.**

It is expressly understood that the payment obligations of the Treasurer under this Contract are subject to and dependent upon appropriations being made from time to time by the

State Legislature for the purposes of paying principal of and interest on the Bonds and any Financing Facility.

**4.6. Payments Under Grant Agreements with Colleges.**

In accordance with Section 7 of the Capital Improvement Fund Act, the Authority agrees to include in its grant agreements with the Colleges provisions to ensure that each Public College shall provide an amount equal to one-third of the amount necessary to pay the Debt Service on the Bonds and that each Private College shall provide an amount equal to one-half of the amount necessary to pay the Debt Service on the Bonds. The Authority shall also include in those agreements, an agreement of the College permitting the Treasurer to retain from State aid or an appropriation payable to the College an amount sufficient to satisfy any amount that such College fails or is unable to pay for capital improvements under its grant agreement, which acknowledges that any such retention shall not obligate the State to make, nor entitle the College to receive, any additional appropriation or apportionment.

**4.7. No Set Off Against Appropriations.**

The Treasurer and the Authority acknowledge that the only source of payment for the Bonds are amounts appropriated by the State Legislature and that amounts appropriated by the State Legislature for the payment of principal of and interest on the Bonds shall be paid, solely from appropriations, in amounts sufficient to meet such principal and interest on the Bonds without set off, counterclaim or other reduction in amounts, including, without limitation, reductions in amounts for failure of an institution to make payments required to be made under any grant agreement.

## **ARTICLE V**

### **SECURITY FOR BONDS**

#### **5.1. Assignment of State Contract.**

The parties hereto acknowledge that the Authority intends (a) to pledge and assign this Contract to the Trustee for the benefit and security of the Bonds; and (b) to require the Trustee to covenant with the holders of the Bonds to enforce the provisions of this Contract. The Treasurer consents to such pledge and assignment and acknowledges the obligation of the Trustee to enforce the provisions of this Contract.



## ARTICLE VI

### STATE OBLIGATION SUBJECT TO APPROPRIATIONS

#### 6.1. *Obligation of State.*

It is expressly understood and agreed by the parties hereto that the incurrence of any obligation by the State or the Treasurer under this Contract shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes set forth herein and in the Capital Improvement Fund Act. The obligation of the State or the Treasurer to pay the amounts provided for herein shall not constitute a debt or liability of the State within the meaning of any constitutional or statutory provision or pledge of the faith and credit of the State and shall be deemed executory only to the extent of moneys appropriated, and no liability shall be incurred by the State or the Treasurer beyond the moneys then appropriated. For all purposes of this Contract, the references to the State shall include, without limitation, the present and all future Legislatures of the State and the members thereof.

**ARTICLE VII**  
**MISCELLANEOUS**

**7.1. Amendments.**

This Contract may be amended or supplemented, from time to time, to implement further the provisions of the Capital Improvement Fund Act without the approval of owners of the Bonds, provided, that (i) no such amendment or supplement to this Contract shall adversely effect the interest of the owners of the Bonds and or (ii) the Treasurer and the Authority agree that a change in this Contract shall be permitted when necessary and to assure continued compliance with Section 148(f) of the Code. The Treasurer and the Authority are empowered to amend certain provisions of this Contract to assure compliance with such Code Section; provided that, the Treasurer and the Authority obtain and deliver to the Trustee an opinion of nationally recognized bond counsel to the effect that such change is necessary to assure compliance with the Code. The obligations of the Treasurer and the Authority with respect to the federal tax laws shall survive the payment, redemption or defeasance of the Bonds until the expiration of all statutes of limitation applicable to the Authority with respect to the Bonds and Section 148 of the Code. No amendment or waiver of the provisions of the Resolution shall be effective without the prior written consent of the Treasurer other than amendments or waivers that have no effect on the amounts payable by the Treasurer pursuant to this Contract.

**7.2. Notices.**

Any notice to, or other instrument to be filed with, or demand upon the Trustee may be served, presented or made by being hand-delivered or sent by registered or certified United States mail or overnight courier service addressed to the Principal Corporate Trust Office of the Trustee, c/o Bank of New York, 385 Rifle Camp Road, West Paterson, New Jersey 07425, or such other address as may be filed in writing by the Trustee with the Authority and the Treasurer. Any notice to, or other instrument to be filed with, or demand upon the Authority shall be deemed to have been sufficiently given or served, presented or made by the Trustee or others for all purposes by being hand-delivered or sent by registered or certified United States mail or overnight courier service addressed to the Authority at 101 College Road East, Princeton, New Jersey 08540-6601, or at such other address as may be filed in writing by the Authority with the Trustee and the Treasurer. Any notice to, or other instrument to be filed with, or demand upon the Treasurer shall be deemed to have been sufficiently given or served, presented for all purposes by being hand-delivered or sent by registered or certified United States mail or overnight courier service addressed to the Treasurer in care of the Office of Public Finance at 50 W. State Street, 5th Floor, CN 002, Trenton, New Jersey 08625, or at such other address as may be filed in writing by the Treasurer with the Trustee and the Authority; except that service of process upon the Treasurer shall be made upon the Attorney General of New Jersey pursuant to New Jersey Court Rule 4:4-4(f).

**7.3. Effective Date of Agreement.**

This Contract shall become effective immediately upon its execution and delivery by the Treasurer and the Authority.

**7.4. Termination of Agreement.**

This Contract shall not terminate unless the Treasurer shall have paid or made provision for payment of all Bonds secured by this Contract. When all Bonds have been paid (within the meaning of the Bond Resolution) and fees and expenses required to be paid under the Bond Resolution have been paid or provided for, all other available funds shall be turned over to the Treasurer.

**7.5. Signatories.**

None of the signatories to this Contract shall have any personal liability or accountability as a result of their execution of this Contract.

**7.6. Construction.**

This Contract shall be construed and governed in accordance with the laws of the State of New Jersey.

**7.7. Severability of Invalid Provisions.**

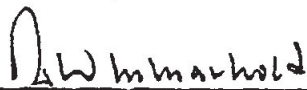
If any one or more of the covenants, representations or agreements provided in this Contract to be performed on the part of the Authority or the Treasurer shall be determined to be contrary to law, then such covenant or covenants, representation, or representations or agreement or agreements shall be deemed severable from the remaining covenants, representations, or agreements contained herein and shall not in any way affect the validity of the other provisions of this Contract.

**7.8. Counterparts.**

This Contract may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Treasurer by its duly authorized deputy and the Authority by its duly authorized officer, each acting in their official capacities, have caused this Contract to be executed and delivered as of July 1, 2000.

TREASURER, STATE OF NEW JERSEY

By:   
Roland M. Machold  
State Treasurer

NEW JERSEY EDUCATIONAL  
FACILITIES AUTHORITY

By:   
Victor Cantillo  
Executive Director

**APPENDIX IV**

**FORM OF THE CONTINUING DISCLOSURE AGREEMENT**

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## CONTINUING DISCLOSURE AGREEMENT

This **CONTINUING DISCLOSURE AGREEMENT** (the “Disclosure Agreement”) is made as of the \_\_\_ day of October, 2023, by and among the TREASURER OF THE STATE OF NEW JERSEY (the “Treasurer”), the NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY (the “Authority”), a public body corporate and politic of the State of New Jersey (the “State”), and THE BANK OF NEW YORK MELLON, as Dissemination Agent (the “Dissemination Agent”), in its capacity as trustee under the Higher Education Capital Improvement General Bond Resolution adopted by the Authority on June 21, 2000 (the “General Bond Resolution”), as amended and supplemented, including by the Eleventh Supplemental Higher Education Capital Improvement Fund Resolution adopted by the Authority on July 25, 2023, and a Series Certificate of the Authority, dated as of October \_\_\_, 2023 (collectively, the “Resolution”). This Disclosure Agreement is entered into in connection with the issuance and sale of the Authority’s \$\_\_\_\_\_ Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2023A (“Series 2023 Bonds”).

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered for the benefit of the holders and beneficial owners of the Series 2023 Bonds (collectively, the “Holders”) and in compliance with Rule 15c2-12(b)(5) of the Securities and Exchange Commission (the “SEC”), as it may be amended from time to time, including administrative or judicial interpretations thereof, as it applies to the Series 2023 Bonds.

**SECTION 2. Definitions.** In addition to the definitions set forth above and in the Resolution, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined herein, the following capitalized terms shall have the following meanings:

“**Continuing Disclosure Information**” shall mean, collectively, (i) the Treasurer’s Annual Report, (ii) any notice required to be filed with the MSRB pursuant to Section 3(c) of this Disclosure Agreement, and (iii) any notice of a Listed Event required to be filed with the MSRB pursuant to Section 5(c) of this Disclosure Agreement.

“**Listed Event**” or “**Listed Events**” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“**MSRB**” shall mean the Municipal Securities Rulemaking Board.

“**Obligated Person**” shall have the meaning given to such term in the Rule.

“**Opinion of Counsel**” shall mean a written opinion of counsel expert in federal securities law acceptable to the Treasurer and the Authority, which may be counsel or bond counsel to the Authority.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as it may be amended from time to time, including administrative or judicial interpretations thereof, as it applies to the Series 2023 Bonds.

**“Treasurer’s Annual Report”** shall mean the Treasurer’s Annual Report provided pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

### **SECTION 3. Provision of the Treasurer’s Annual Report.**

(a) The Treasurer shall, (a) by not later than March 15, 2024 and (b) by not later than March 15 of each year thereafter during which any of the Series 2023 Bonds remain Outstanding, provide to the Dissemination Agent the Treasurer’s Annual Report prepared for the fiscal year of the State ending the immediately preceding June 30 (or if the fiscal year of the State shall end on any date other than June 30, the Treasurer shall provide the Treasurer’s Annual Report to the Dissemination Agent not later than the fifteenth day of the ninth month next following the end of such other fiscal year); provided, however, that the audited financial statements of the State may be submitted separately from the Treasurer’s Annual Report and later than the date required herein for the filing of the Treasurer’s Annual Report if such audited financial statements are not available by such date, but only if the unaudited financial statements are included in such respective Treasurer’s Annual Report. Each Treasurer’s Annual Report provided to the Dissemination Agent by the Treasurer shall comply with the requirements of Section 4 of this Disclosure Agreement but may be submitted as a single document or as separate documents comprising a package. Each Treasurer’s Annual Report may cross-reference other information which is available to the public on the MSRB’s internet website or which has been filed with the SEC and, if the document incorporated by reference is a final official statement, it must be available from the MSRB. Unless otherwise required by law, any Continuing Disclosure Information filed with the MSRB in accordance with this Disclosure Agreement shall be in an electronic format as shall be prescribed by MSRB Rule G-32, and shall be accompanied by such identifying information as shall be prescribed by MSRB Rule G-32.

(b) The Dissemination Agent, promptly on receiving the Treasurer’s Annual Report, and, in any event, not later than April 1 in each year (or if the fiscal year of the State shall end on any date other than June 30, not later than the first day of the tenth month next following the end of such other fiscal year), shall submit such Treasurer’s Annual Report received by it to the MSRB in accordance with the Rule.

(c) If the Treasurer fails to submit the Treasurer’s Annual Report to the Dissemination Agent by the date required in subsection (a) of this Section 3, the Dissemination Agent shall send a notice to the Treasurer and the Authority advising of such failure. Whether or not such notice is given or received, if the Treasurer thereafter fails to submit the Treasurer’s Annual Report to the Dissemination Agent or to submit it directly to the MSRB as provided in subsection (d) of this Section 3 by the last Business Day of the month in which such Treasurer’s Annual Report was due, the Dissemination Agent shall promptly send a notice to the MSRB, in substantially the form attached as Exhibit A hereto.

(d) (i) Notwithstanding anything to the contrary contained in this Disclosure Agreement, in order to expedite the transmission of the Treasurer’s Annual Report to the MSRB, as set forth in subsections (a), (b) and (c) of this Section 3, the Treasurer shall have the option, but shall not be obligated, to submit the Treasurer’s Annual Report directly to the MSRB by not later than March 15 in each year during which any of the Series 2023 Bonds remain Outstanding (or if the fiscal year of the State shall end on any date other than June 30, not



later than the fifteenth day of the ninth month next following the end of such other fiscal year). In the event that the Treasurer elects to submit the Treasurer's Annual Report directly to the MSRB, the Treasurer shall, at the same time, submit the Treasurer's Annual Report to the Dissemination Agent together with evidence that such Treasurer's Annual Report has been forwarded by the Treasurer to the MSRB, upon which evidence the Dissemination Agent may rely. In the event that the Treasurer elects not to submit the Treasurer's Annual Report directly to the MSRB, the Treasurer shall provide the Treasurer's Annual Report to the Dissemination Agent within the time period specified in subsection (a) of this Section 3.

(ii) If the Dissemination Agent does not receive notice that the Treasurer has submitted the Treasurer's Annual Report directly to the MSRB as provided in subsection (d)(i) of this Section 3 by the last Business Day of the month in which such Treasurer's Annual Report was due, the Dissemination Agent shall promptly send a notice to the MSRB, in substantially the form attached as Exhibit A hereto.

#### **SECTION 4. Contents of the Treasurer's Annual Report.**

(a) Treasurer's Annual Report means (i) information pertaining to the finances and operating data of the State substantially of the type captioned as follows in Appendix I to the Official Statement of the Authority circulated in connection with the issuance of the Series 2023 Bonds: "STATE FINANCES," "FINANCIAL RESULTS AND ESTIMATES," "CASH MANAGEMENT," "TAX AND REVENUE ANTICIPATION NOTES," "LONG-TERM OBLIGATIONS," "MORAL OBLIGATIONS," "STATE EMPLOYEES," "STATE FUNDING OF PENSION PLANS," "FUNDING POST-RETIREMENT MEDICAL BENEFITS" and "LITIGATION" and (ii) the State's Annual Comprehensive Financial Report, being the audit report prepared annually by the Office of the State Auditor with respect to the State's general purpose financial statements for each year, all such financial information included in clause (ii) above being prepared using the accounting standards set forth in subsection (b) of this Section 4.

(b) The State prepares its financial statements in accordance with the provisions of Statements No. 34 and No. 35 of the Governmental Accounting Standards Board.

#### **SECTION 5. Reporting of Listed Events.**

(a) This Section 5 shall govern the giving of notices of the occurrence of any of the following Listed Events:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;

- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Series 2023 Bonds, or other material events affecting the tax status of the Series 2023 Bonds;
- (7) Modifications to rights of Holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances of the Series 2023 Bonds;
- (10) Release, substitution or sale of property securing repayment of the Series 2023 Bonds, if material;
- (11) Rating changes relating to the Series 2023 Bonds;
- (12) Bankruptcy, insolvency, receivership or similar event of the Obligated Person;<sup>1</sup>
- (13) The consummation of a merger, consolidation, or acquisition involving the Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee for the Series 2023 Bonds or the change of name of a trustee for the Series 2023 Bonds, if material;
- (15) Incurrence of a Financial Obligation (as defined below) of the Obligated Person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a

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<sup>1</sup> For the purposes of the event identified in paragraph (a)(12) of this Section 5, the event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for the Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

Financial Obligation of the Obligated Person, any of which affect Holders, if material; and

- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Obligated Person, any of which reflect financial difficulties.

With respect to events (15) and (16), “Financial Obligation” means a (A) debt obligation; (B) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (C) guarantee of (A) or (B), but shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

(b) The Treasurer shall in a timely manner not in excess of seven (7) Business Days after the occurrence of any Listed Event notify the Dissemination Agent in writing to report the event pursuant to subsection (c) of this Section 5. The Authority shall promptly upon obtaining actual knowledge of the occurrence of any of the Listed Events notify the Treasurer in writing of the occurrence of such event, but shall not be required to give any such notice to the Dissemination Agent. In determining the materiality of any of the Listed Events specified in subsection (a) of this Section 5, the Treasurer and the Authority may, but shall not be required to, rely conclusively on an Opinion of Counsel.

(c) If the Dissemination Agent has been instructed by the Treasurer to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the MSRB within three (3) Business Days of the receipt of such instruction, but in no event later than ten (10) Business Days after the occurrence of a Listed Event. In addition, notice of Listed Events described in subsections (a)(8) and (9) of this Section 5 shall be given by the Dissemination Agent under this subsection simultaneously with the giving of the notice of the underlying event to the Holders of the affected Series 2023 Bonds pursuant to the Resolution.

(d) Notwithstanding anything to the contrary in this Disclosure Agreement, in order to expedite the transmission of the occurrence of Listed Events as set forth in this Section 5, the Treasurer shall have the option, but shall not be obligated to, file timely notice (which notice, if filed, shall not be filed in excess of ten (10) Business Days after the occurrence of any Listed Event), directly with the MSRB, copying the Dissemination Agent on any such notice.

(e) Each notice of a Listed Event relating to the Series 2023 Bonds shall include the CUSIP numbers of the Series 2023 Bonds to which such notice relates or, if the notice relates to all bond issues of the Authority, including the Series 2023 Bonds, such notice need only include the base CUSIP number of the Authority.

**SECTION 6. Termination of Reporting Obligation.** The respective obligations of the Treasurer and the Authority under this Disclosure Agreement shall terminate upon the defeasance, prior redemption or payment in full of all of the Series 2023 Bonds.

**SECTION 7. Amendment; Waiver.** Notwithstanding any other provisions of this Disclosure Agreement, the Authority and the Treasurer may amend this Disclosure Agreement,

and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an Opinion of Counsel addressed to the Treasurer, the Authority and the Dissemination Agent to the effect that such amendment or waiver will not, in and of itself, cause the undertakings herein to violate the Rule. No amendment to this Disclosure Agreement shall change or modify the rights or obligations of the Dissemination Agent without its written assent thereto.

**SECTION 8. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Treasurer or the Authority from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Treasurer's Annual Report or notice of occurrence of a Listed Event, as the case may be, in addition to that which is required by this Disclosure Agreement. If the Treasurer or the Authority chooses to include any information in any Treasurer's Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, it shall not have any obligation under this Disclosure Agreement to update or continue to provide such information or include it in any future Treasurer's Annual Report or notice of occurrence of a Listed Event.

**SECTION 9. Default.**

(a) In the event of a failure of the Treasurer or the Authority to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the written request of the Holders of at least 25% in aggregate principal amount of Outstanding Series 2023 Bonds affected by such failure shall), or any Holder may take such actions as may be necessary and appropriate to cause the Treasurer or the Authority to comply with its obligations under this Disclosure Agreement; provided, however, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances. Notwithstanding the foregoing, the right of any Holder to challenge the adequacy of information provided pursuant to this Disclosure Agreement shall be limited in the same manner as enforcement rights are limited under the General Bond Resolution. A default under this Disclosure Agreement shall not be deemed an Event of Default under the Resolution, and the sole remedy under this Disclosure Agreement in the event of any failure of the Treasurer or the Authority to comply with this Disclosure Agreement shall be an action to compel performance.

(b) For purposes of this Disclosure Agreement, in making determinations under applicable securities law, the Treasurer or the Authority may, but shall not be required to, rely on an Opinion of Counsel with respect to matters of a legal nature.

**SECTION 10. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the Dissemination Agent and the Holders, and each Holder is hereby declared to be a third-party beneficiary of this Disclosure Agreement. Except as provided in the immediately preceding sentence, this Disclosure Agreement shall create no rights in any other person or entity.

**SECTION 11. Reimbursement of the Dissemination Agent.** The provisions of Section 905 of the General Bond Resolution relating to reimbursement of a Fiduciary shall apply

to the performance by the Dissemination Agent of its obligations as Dissemination Agent under this Disclosure Agreement.

**SECTION 12. Notices.** All notices and other communications required or permitted under this Disclosure Agreement shall be in writing and shall be deemed to have been duly given, made and received only when delivered (personally, by recognized national or regional courier service, or by other messenger, for delivery to the intended addressee) or when deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

(i) If to the Authority:

New Jersey Educational Facilities Authority  
103 College Road East, 2<sup>nd</sup> Floor  
Princeton, New Jersey 08540  
Attn: Executive Director

(ii) If to the Treasurer:

New Jersey Department of the Treasury  
c/o Office of Public Finance  
50 West State Street, 5<sup>th</sup> Floor  
P.O. Box 005  
Trenton, New Jersey 08625  
Attn: Director, Office of Public Finance

(iii) If to the Dissemination Agent:

The Bank of New York Mellon  
385 Rifle Camp Road  
Woodland Park, New Jersey 07424  
Attention: Corporate Trust

Any party may alter the address to which communications are to be sent by giving notice of such change of address in conformity with the provisions of this Section 12 for the giving of notice.

**SECTION 13. Successors and Assigns.** All of the covenants, promises and agreements contained in this Disclosure Agreement by or on behalf of the Treasurer, the Authority or the Dissemination Agent shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

**SECTION 14. Headings for Convenience Only.** The descriptive headings in this Disclosure Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the provisions hereof.

**SECTION 15. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 16. Severability.** If any provision of this Disclosure Agreement, or the application of any such provision in any jurisdiction or to any person or circumstance, shall be held invalid or unenforceable, the remaining provisions of this Disclosure Agreement, or the application of such provision as is held invalid or unenforceable in jurisdictions or to persons or circumstances other than those in or as to which it is held invalid or unenforceable, shall not be affected thereby.

**SECTION 17. Governing Law and Venue.** This Disclosure Agreement shall be governed by and construed in accordance with the laws of the State. The parties hereto agree that the Authority, the Treasurer or the State may be sued, pursuant to Section 9 hereof, only in a State court in the County of Mercer in the State.

**SECTION 18. Compliance with L. 2005, c. 271.** The Dissemination Agent hereby acknowledges that it has been advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC") pursuant to N.J.S.A. 19:44A-20.13 (L. 2005, c. 271, section 3) if the Dissemination Agent enters into agreements or contracts, such as this Disclosure Agreement, with a public entity, such as the Authority, and receives compensation or fees in excess of \$50,000 or more in the aggregate from public entities, such as the Authority, in a calendar year. It is the Dissemination Agent's responsibility to determine if filing is necessary. Failure to do so can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

**SECTION 19. Compliance with L. 2005, c. 92.** In accordance with L. 2005, c. 92, the Dissemination Agent agrees that all services performed under this Disclosure Agreement or any subcontract awarded under this Disclosure Agreement shall be performed within the United States of America.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, the parties hereto have caused this Disclosure Agreement to be executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**TREASURER, STATE OF NEW JERSEY**

By: \_\_\_\_\_  
Elizabeth Maher Muoio  
State Treasurer

**NEW JERSEY EDUCATIONAL FACILITIES  
AUTHORITY**

By: \_\_\_\_\_  
Sheryl A. Stitt  
Executive Director

**THE BANK OF NEW YORK MELLON,  
as Dissemination Agent**

By: \_\_\_\_\_  
Authorized officer

[SIGNATURE PAGE TO CONTINUING DISCLOSURE AGREEMENT]

EXHIBIT A

NOTICE OF FAILURE TO FILE AN ANNUAL REPORT

Name of Issuer: New Jersey Educational Facilities Authority

Name of Bond Issue affected: \$\_\_\_\_\_ Revenue Bonds, Higher Education  
Capital Improvement Fund Issue, Series 2023A (the  
“Series 2023 Bonds”)

Date of Issuance of affected Bond Issue: October \_\_, 2023

NOTICE IS HEREBY GIVEN that the Treasurer of the State of New Jersey has not provided the Treasurer’s Annual Report with respect to the above-named issue as required by Section 3 of the Continuing Disclosure Agreement dated as of October \_\_, 2023 by and among the Treasurer, the New Jersey Educational Facilities Authority and the Dissemination Agent.

[TO BE INCLUDED ONLY IF THE DISSEMINATION AGENT HAS BEEN ADVISED OF THE EXPECTED FILING DATE – The Treasurer anticipates that the specified Treasurer’s Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

**THE BANK OF NEW YORK MELLON,  
as Dissemination Agent**

By: \_\_\_\_\_  
Name:  
Title:

cc: State Treasurer  
New Jersey Educational Facilities Authority



**APPENDIX V**  
**FORM OF OPINION OF BOND COUNSEL**

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[UPON DELIVERY OF THE SERIES 2023 BONDS, CHIESA SHAHINIAN & GIANTOMASI PC, BOND COUNSEL, IS EXPECTED TO RENDER ITS APPROVING LEGAL OPINION IN SUBSTANTIALLY THE FOLLOWING FORM]

[CLOSING DATE]

New Jersey Educational Facilities Authority  
Princeton, New Jersey 08540

The Honorable Elizabeth Maher Muoio  
Treasurer, State of New Jersey  
Trenton, New Jersey

Re: New Jersey Educational Facilities Authority  
Revenue Bonds, Higher Education Capital Improvement Fund Issue,  
Series 2023 A

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by the New Jersey Educational Facilities Authority (the “Authority”) of its \$ \_\_\_\_\_ Revenue Bonds, Higher Education Capital Improvement Fund Issue, Series 2023 A (the “Series 2023 Bonds”).

The Series 2023 Bonds are being issued under and pursuant to the Higher Education Capital Improvement Fund Act, being Chapter 217 of the Public Laws of 1999, as amended and supplemented (the “CIF Act”), which amended and supplemented the New Jersey Educational Facilities Authority Law, being Chapter 72A of Title 18A of the Public Laws of 1967, as amended and supplemented (the “Authority Law” and, together with the CIF Act, the “Act”), and under and pursuant to the Authority’s Higher Education Capital Improvement General Bond Resolution adopted on June 21, 2000, as amended and supplemented to date (the “General Bond Resolution”), including as supplemented by the Eleventh Supplemental Higher Education Capital Improvement Fund Resolution adopted on July 25, 2023 (the “Eleventh Supplemental Resolution”) and a certificate executed by an Authorized Officer of the Authority dated the date of sale of the Series 2023 Bonds (the “Series Certificate”). The General Bond Resolution, as heretofore amended and supplemented, including as supplemented by the Eleventh Supplemental Resolution and the Series Certificate, is referred to collectively herein as the “Resolution.” The Bank of New York Mellon, Woodland Park, New Jersey, is acting as trustee (the “Trustee”) under the Resolution. Capitalized terms used herein and not otherwise defined herein have the meaning given to such terms in the Resolution or the Act.

The Act, among other things, empowers the Authority to issue its obligations and to make Grants to Public Institutions of Higher Education and Private Institutions of Higher Education within the State for the purpose of financing the renewal, renovation, improvement, expansion,

construction and reconstruction of facilities and technology infrastructure at instructional, laboratory, communication, research, administrative, and student-support facilities (each, a “Capital Improvement Project” and collectively, the “Capital Improvement Projects”).

The Series 2023 Bonds are being issued for the purpose of (i) providing funds to make Grants to Public Institutions of Higher Education and Private Institutions of Higher Education within the State to finance Capital Improvement Projects pursuant to the Act, and (ii) paying the costs of issuing the Series 2023 Bonds.

In connection with the issuance of the Series 2023 Bonds, the Authority will enter into grant agreements (each, a “Grant Agreement” and collectively, the “Grant Agreements”) with the Public Institutions of Higher Education and Private Institutions of Higher Education that are receiving Grants funded with proceeds of the Series 2023 Bonds (each a “CIF Grantee” and collectively, the “CIF Grantees”).

The Series 2023 Bonds are dated and bear interest from their date of delivery. Interest on the Series 2023 Bonds will be payable semi-annually on each March 1 and September 1, commencing March 1, 2024. The Series 2023 Bonds bear interest at the respective rates per annum, mature on the dates and in the principal amounts, and will be subject to redemption prior to maturity, all as set forth in the Resolution.

The Series 2023 Bonds are being issued in fully registered form without coupons and, when issued, will be registered initially in the name of and held by Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York, which will act as securities depository for the Series 2023 Bonds. Purchases of the Series 2023 Bonds will be in book-entry only form in authorized denominations as provided for in the Resolution.

As required by the Act and in order to provide for payments relating to the Series 2023 Bonds and any other bonds issued under the Resolution, the Treasurer of the State of New Jersey (the “State Treasurer”) and the Authority have entered into a Contract, dated as of July 1, 2000 (the “State Contract”), pursuant to which the State Treasurer has agreed to make payments solely from amounts appropriated by the New Jersey State Legislature (the “State Legislature”) in amounts sufficient to pay the principal of and interest on the Series 2023 Bonds, and any other bonds issued under the Resolution, subject to and dependent upon appropriations being made from time to time by the State Legislature. Pursuant to the Resolution, the pledge securing the payment of the principal of, or redemption price, if any, and interest on the Series 2023 Bonds and any other bonds issued under the Resolution consists of the Revenues, the rights of the Authority in and to the State Contract, and all amounts and Investment Securities held or set aside or to be held or set aside pursuant to the terms of the Resolution in the Funds (other than the Rebate Fund) established and created under the Resolution (collectively, the “Pledged Property”).

Neither the State of New Jersey (the “State”) nor any political subdivision thereof is obligated to pay, and neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal or redemption price of and interest on the Series 2023 Bonds. The Series 2023 Bonds are special and limited obligations of the

Authority, payable solely out of the Revenues or other receipts, funds or moneys of the Authority pledged under the Resolution and from any amounts otherwise available under the Resolution for payment of the Series 2023 Bonds. The Series 2023 Bonds do not now and will never constitute a charge against the general credit of the Authority. The Authority has no taxing power.

In our capacity as Bond Counsel and as a basis for the opinions set forth below, we have examined the proceedings related to the authorization and issuance of the Series 2023 Bonds, including, among other things: (a) certified copies of the Resolution, the State Contract, and the forms of the Series 2023 Bonds, (b) such matters of law, including, *inter alia*, the Act, (c) various documents and certificates executed by the Authority, the State Treasurer, and the CIF Grantees, and (d) such other opinions, agreements, proceedings, certificates, records, approvals, resolutions and documents as to various matters with respect to the issuance of the Series 2023 Bonds, as we have deemed necessary or appropriate. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to matters of fact, we have relied upon the genuineness, accuracy and completeness of all the documents and other instruments which we have examined.

The Internal Revenue Code of 1986, as amended (the “Code”), together with the Treasury Regulations promulgated thereunder (the “Treasury Regulations”), imposes certain requirements which must be met on a continuing basis subsequent to the issuance of the Series 2023 Bonds in order for interest on the Series 2023 Bonds to be and remain excludable from gross income for federal income tax purposes under Section 103 of the Code. Such requirements include, but are not limited to, requirements relating to the use and investment of the proceeds of the Series 2023 Bonds and the rebate of certain investment earnings derived from such proceeds to the United States Treasury Department on a periodic basis.

The sale date of the Series 2023 Bonds is within fourteen (14) days of the sale date of the Authority’s \$\_\_\_\_\_ Revenue Bonds, Higher Education Equipment Leasing Fund Program Issue, Series 2023 A (the “ELF Bonds”). The ELF Bonds are being issued under and pursuant to the Higher Education Equipment Leasing Fund Act, being Chapter 136 of the Public Laws of 1993, as amended and supplemented (the “ELF Act”) and under and pursuant to a separate bond resolution from the Series 2023 Bonds. The ELF Bonds are secured pursuant to a separate contract with the State Treasurer and are being sold pursuant to a separate official statement from the Series 2023 Bonds. The ELF Bonds are being issued for the purpose of (i) providing funds to finance the cost of acquiring and installing scientific, engineering, technical, computer, communications, and instructional equipment (collectively, the “Higher Education Equipment Projects”) at Public Institutions of Higher Education and Private Institutions of Higher Education within the State in accordance with the ELF Act, and (ii) paying the costs of issuance of the ELF Bonds. In connection with the issuance of the ELF Bonds, the Authority is entering into lease agreements (each, an “ELF Lease Agreement” and collectively, the “ELF Lease Agreements”) with the Public Institutions of Higher Education and Private Institutions of Higher Education that will lease the Higher Education Equipment Projects from the Authority pursuant to the ELF Lease Agreements (each an “ELF Grantee” and collectively, the “ELF Grantees”).

Pursuant to Treasury Regulations Section 1.150-1(c)(1), in general, if two or more bond issues are sold at substantially the same time, pursuant to a common plan of finance, and are reasonably expected to be paid from the same source of funds for federal income tax purposes, then such bonds will be treated as part of the same issue for federal income tax purposes. The effect of being treated as one issue for federal income tax purposes is that the failure of one of the bond issues to comply with the requirements of the Code and Treasury Regulations applicable to such bond issue could cause interest on such bond issue to be includable in gross income of the holders of the bonds of such bond issue retroactive to the date of issuance of such bond issue, and could also cause interest on such other bond issue to be includable in gross income of the holders of the bonds of such other bond issue retroactive to the date of issuance of such other bond issue.

Pursuant to Treasury Regulations Section 1.150-1(c)(3), an issuer may, subject to certain requirements and restrictions, elect to treat bonds that would otherwise be treated as one issue for federal income tax purposes as separate issues for certain purposes of the Code, if each such separate issue independently qualifies as a tax-exempt bond issue. However, bonds may not be treated as separate issues for certain provisions of the Code, including provisions relating to arbitrage and arbitrage rebate and private activity limitations.

Accordingly, the Series 2023 Bonds and the ELF Bonds as being treated as one issue for certain purposes of the Code. However, for certain purposes under the Code, the Authority is electing to treat the portion of the Series 2023 Bonds and the portion of the ELF Bonds being used to finance grants to Public Institutions of Higher Education as traditional governmental bonds, and is electing to treat the portion of the Series 2023 Bonds and the portion of the ELF Bonds being used to finance grants to Private Institutions of Higher Education as qualified 501(c)(3) bonds, within the meaning of the Code.

As such, a failure by the Authority, the Public Institutions of Higher Education, or the Private Institutions of Higher Education to comply with certain requirements and restrictions under the Code, whether with respect to the Series 2023 Bonds or the ELF Bonds, could cause the interest on the Series 2023 Bonds to be includable in gross income of the holders of the Series 2023 Bonds retroactive to the date of issuance of the Series 2023 Bonds.

In connection with the issuance of the Series 2023 Bonds and the ELF Bonds, the Authority is delivering its tax certificate (the “Authority Tax Certificate”), the CIF Grantees are each delivering their respective tax certificates (each, a “CIF Grantee Tax Certificate” and collectively, the “CIF Grantee Tax Certificates”), and the ELF Grantees are each delivering their respective tax certificates (each, a “ELF Grantee Tax Certificate” and collectively, the “ELF Grantee Tax Certificates”). The Authority Tax Certificate, the CIF Grantee Tax Certificates, and the ELF Grantee Tax Certificates (collectively, the “Tax Certificates”) each contain representations, provisions and procedures as to compliance with the requirements of the Code and Treasury Regulations relating to the exclusion of interest from gross income for federal income tax purposes.

The Authority, by an Authorized Officer of the Authority responsible for issuing the Series 2023 Bonds, and authorized officers of each of the Grantees (as such term is hereinafter

defined), have each executed their respective Tax Certificates stating their respective reasonable expectations on the date of issuance of the Series 2023 Bonds as to future events that are material pursuant to the requirements of the Code in order for interest on the Series 2023 Bonds to be and remain excluded from gross income for federal income tax purposes under Section 103 of the Code. In addition, the Authority has represented in the Authority Tax Certificate that it expects and intends to comply, and to the extent permitted by law, will comply, with the requirements set forth in the Authority Tax Certificate, and the CIF Grantees and the ELF Grantees have represented and covenanted in their respective CIF Grantee Tax Certificates and ELF Grantee Tax Certificates to comply with such applicable requirements.

Each of the CIF Grantees and each of the ELF Grantees (each, a “Grantee” and collectively, the “Grantees”) has covenanted that, throughout the term of the Series 2023 Bonds or ELF Bonds, as applicable, allocable to such Grantee, such Grantee will not carry on or permit to be carried on in any property now or hereafter owned by it any trade or business, nor will it take any action or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, if the conduct of such trade or business or such other action or circumstance would cause all or a portion of the interest paid by the Authority on the Series 2023 Bonds, or any portion thereof, to be includible in gross income for federal income tax purposes.

Each of the CIF Grantees and each of the ELF Grantees constituting a Private Institution of Higher Education (each, a “Private Grantee” and collectively, the “Private Grantees”) has represented that it is an organization described in Section 501(c)(3) of the Code, is not a “private foundation” within the meaning of Section 509(a) of the Code, and is exempt from federal income tax under Section 501(a) of the Code, except for unrelated business income subject to taxation under Section 511 of the Code.

For purposes of rendering the opinions set forth below, we have assumed, with your permission, (i) the accuracy and genuineness of all representations made by the Authority in the Resolution, (ii) the accuracy and genuineness of all representations made by the Authority and the State Treasurer in the State Contract, (iii) the genuineness of the signatures of all persons and the authenticity of all documents submitted to us as copies and the legal capacity of all natural persons, and (iv) the proper authorization and due execution and delivery by, and enforceability against, all parties, other than the Authority and the State Treasurer, of the documents and other instruments which we have examined. We have also relied upon opinions of counsel to each of the Private Grantees, of even date herewith, that (a) each such Private Grantee (I) has been determined to be and is exempt from federal income taxes under Section 501(a) of the Code by virtue of being an organization described in Section 501(c)(3) of the Code, except for unrelated business income subject to taxation under Section 511 of the Code, and (II) is not a “private foundation” as defined in Section 509(a) of the Code, and (b) to the knowledge of such counsel, after due inquiry of responsible officers of such Private Grantee, such Private Grantee has made all filings necessary to maintain its status as an exempt organization and has done nothing to impair its status as an exempt organization described in Section 501(c)(3) of the Code, and (c) the projects of such Private Grantee financed with the proceeds of the respective grants will be, if used as described in the Private Grantee’s grant agreement or lease agreement, as applicable, and related applications, used in furtherance of such Private Grantee’s exempt purpose under the

Code, will not be used in an unrelated business activity within the meaning of Section 513 of the Code and will not adversely impact such Private Grantee's status as an organization described in Section 501(c)(3) of the Code. Such opinions are based on certain assumptions and contain certain exceptions, limitations and qualifications.

In addition, in rendering our opinion with respect to the exclusion of interest on the Series 2023 Bonds from gross income for federal income tax purposes and with respect to interest on the Series 2023 Bonds not constituting an item of tax preference, we have assumed continuing compliance by the Authority with the representations set forth in the Authority Tax Certificate, by the CIF Grantees with the representations and covenants set forth in their respective CIF Grantee Tax Certificates, and by the ELF Grantees with the representations and covenants set forth in their respective ELF Grantee Tax Certificates.

Based upon the foregoing and, with your permission, subject to the further assumptions and qualifications set forth below, we are of the opinion that:

1. The Authority is a public body corporate and politic constituting an instrumentality of the State, is duly created and validly existing under the Act, and has the right, power and authority under the Act to adopt the General Bond Resolution and the Eleventh Supplemental Resolution and to execute the Series Certificate and to perform its obligations thereunder, to enter into the State Contract, and to issue and sell the Series 2023 Bonds.

2. The General Bond Resolution and the Eleventh Supplemental Resolution have each been duly and lawfully adopted by the Authority and the Series Certificate has been duly and lawfully executed by the Authority, each is in full force and effect and is valid and binding upon the Authority, enforceable in accordance with its terms, and no other authorization for the General Bond Resolution, the Eleventh Supplemental Resolution or the Series Certificate is required, which has not already been obtained.

3. The Resolution creates the valid pledge which it purports to create of the Pledged Property, including payments made to the Authority pursuant to the State Contract, subject to and dependent upon appropriations being made from time to time by the State Legislature for such purpose.

4. The Series 2023 Bonds have been duly and validly authorized, executed, issued and delivered by the Authority in accordance with the Constitution and statutes of the State, including the Act and the Resolution, constitute legal, valid and binding obligations of the Authority as provided in the Resolution, are entitled to the benefits of the Resolution, the State Contract and the Act, and are enforceable in accordance with their terms and the terms of the Resolution.

5. The State Contract is in full force and effect and is legal, valid and binding upon the Authority and the State Treasurer, and enforceable against the Authority and the State Treasurer in accordance with its terms, subject to the payment obligations thereunder being subject to and dependent upon appropriations being made from time to time by the State Legislature for such purpose.



6. Under existing statutes, regulations, rulings and judicial decisions, and assuming continuing compliance with the provisions of the Code applicable to the Series 2023 Bonds, interest on the Series 2023 Bonds is excludable from gross income of the holders thereof for federal income tax purposes. Interest on the Series 2023 Bonds is not an item of tax preference under Section 57 of the Code for purposes of computing the federal alternative minimum tax applicable to individuals. For tax years beginning after December 31, 2022, interest on the Series 2023 Bonds may affect the federal alternative minimum tax imposed on certain corporations. The opinions set forth in this paragraph are subject to the condition that the Authority and the Grantees comply with all applicable federal income tax law requirements that must be satisfied subsequent to the issuance of the Series 2023 Bonds in order that interest thereon continues to be excluded from gross income. Failure to comply with certain of such requirements could cause the interest on the Series 2023 Bonds to be so includable in gross income retroactive to the date of issuance of the Series 2023 Bonds. As discussed above, failure to comply with certain of such requirements applicable to the ELF Bonds could cause the interest on the Series 2023 Bonds to be includable in gross income retroactive to the date of issuance of the Series 2023 Bonds. The Authority has represented in the Authority Tax Certificate that it expects and intends to comply, and to the extent permitted by law, will comply, with all such requirements. In addition, the Grantees have covenanted to comply with all such requirements applicable to the Grantees.

We express no opinion regarding other federal tax consequences relating to the Series 2023 Bonds or the receipt of interest thereon.

7. Under the laws of the State of New Jersey, as enacted and construed on the date hereof, interest on the Series 2023 Bonds and gain from the sale thereof is excludable from gross income under the New Jersey Gross Income Tax Act, as amended.

The foregoing opinions are qualified to the extent that the enforceability of the Series 2023 Bonds, the Resolution, the State Contract and the other documents mentioned herein may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws or equitable principles affecting rights or remedies of creditors and secured parties, from time to time in effect relating to the enforcement of creditors' rights generally, and that the availability of specific enforcement, injunctive relief or other equitable remedies is subject to the discretion of the court before which any proceedings may be brought.

Attention is called to the fact that the Series 2023 Bonds and the interest thereon are special, limited obligations of the Authority payable solely from and secured solely by the Pledged Property under the Resolution, and that all amounts payable by the State Treasurer under the State Contract are subject to and dependent upon appropriations being made from time to time by the State Legislature, which has no legal obligation to make any such appropriation. The failure of the State Legislature to make such appropriation is not an event of default under the State Contract or under the Resolution. The Series 2023 Bonds and the interest thereon do not create or constitute any indebtedness, liability or obligation of the State or any political subdivision of the State other than the Authority (and only to the limited extent set forth in the Series 2023 Bonds and in the Resolution) or constitute a pledge of the faith and credit or taxing power of the State or any political subdivision thereof. The Authority has no taxing power.

The opinions expressed herein are based upon, and limited to, the laws and judicial decisions of the State, exclusive of conflicts of law provisions, and the federal laws and judicial decisions of the United States of America as of the date hereof and are subject to any amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for our opinions, or laws or judicial decisions hereafter enacted or rendered. Our engagement by the Authority with respect to the opinions expressed herein does not require, and shall not be construed to constitute, a continuing obligation on our part to notify or otherwise inform the addressees hereof of the amendment, repeal or other modification of the applicable laws or judicial decisions that served as the basis for this opinion letter or of laws or judicial decisions hereafter enacted or rendered which impact on this opinion letter. This is only an opinion letter and not a warranty or guaranty of the matters discussed herein.

Very truly yours,

## **APPENDIX VI**

### **BOOK-ENTRY ONLY SYSTEM**

#### **Book-Entry Only System**

The information in this APPENDIX VI concerning The Depository Trust Company (“DTC”) and DTC’s book-entry only system has been provided by DTC. Accordingly, the Authority takes no responsibility for the completeness or accuracy of such information and neither the DTC participants nor the Beneficial Owners should rely on such information with respect to such matters but should instead confirm the same with DTC or the DTC participants, as the case may be.

DTC will act as securities depository for the Series 2023 Bonds. The Series 2023 Bonds will be issued as fully-registered securities, in authorized denominations, registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2023 Bonds certificate will be issued for each maturity of the Series 2023 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing authority” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of the Depository Trust and Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC rules applicable to its Direct Participants and Indirect Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2023 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2023 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2023 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2023 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive

certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Series 2023 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2023 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2023 Bonds with DTC and their registration in the name of Cede & Co., or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2023 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2023 Bonds are credited, which may or may not be the Beneficial Owners. The Direct Participants and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of the Series 2023 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2023 Bonds, such as redemptions, tenders, defaults and proposed amendments to the Series 2023 Bond documents. For example, Beneficial Owners of the Series 2023 Bonds may wish to ascertain that the nominee holding the Series 2023 Bonds for their benefit has agreed to obtain and transmit notices to the Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2023 Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to any matter related to the Series 2023 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an omnibus proxy to the Authority as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Series 2023 Bonds are credited on the record date (identified in a listing attached to the omnibus proxy).

Redemption proceeds, principal and interest payments on the Series 2023 Bonds will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Trustee on payable dates in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority and the Trustee; disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of the Direct Participants and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2023 Bonds at any time by giving written notice to the Authority which shall promptly provide a copy of such notice to

the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Series 2023 Bond certificates are required to be printed and delivered.

The Authority may decide to discontinue use of book-entry only transfers through DTC (or a successor securities depository). In such event, Series 2023 Bond certificates will be printed and delivered to DTC.

NEITHER THE AUTHORITY, THE TRUSTEE NOR THE PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATION, EITHER SINGULARLY OR JOINTLY, TO DIRECT PARTICIPANTS, TO INDIRECT PARTICIPANTS, OR TO ANY BENEFICIAL OWNER WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT, OR ANY INDIRECT PARTICIPANT; (II) ANY NOTICE THAT IS PERMITTED OR REQUIRED TO BE GIVEN TO THE OWNERS OF THE SERIES 2023 BONDS UNDER THE RESOLUTION; (III) THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF A PARTIAL REDEMPTION OF THE SERIES 2023 BONDS; (IV) THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OR REDEMPTION PREMIUM, IF ANY, OR INTEREST DUE WITH RESPECT TO THE SERIES 2023 BONDS; (V) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS THE OWNER OF SERIES 2023 BONDS, OR (VI) ANY OTHER MATTER.

SO LONG AS CEDE & CO., AS NOMINEE OF DTC, IS THE REGISTERED OWNER OF ALL OF THE SERIES 2023 BONDS, REFERENCES IN THIS APPENDIX VI TO THE OWNERS, HOLDERS, OR REGISTERED OWNERS OF THE SERIES 2023 BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE SERIES 2023 BONDS.

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