

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4496

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED FEBRUARY 9, 2023

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Atkins

SYNOPSIS

Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority; establishes “Charter School and Renaissance School Facilities Loan Program” in EDA.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 4, 2023, with amendments.

(Sponsorship Updated As Of: 6/27/2023)

1 AN ACT concerning the construction of school facilities projects,
2 supplementing P.L.2000, c.72 (18A:7G-1 et al.) ¹**[and]** ¹
3 chapter 18A of Title 18A of the New Jersey Statutes, and
4 ¹P.L.1974, c.80 (C.34:1B-1 et seq.), and¹ amending various parts
5 of the statutory law.

6
7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:

9
10 1. Section 2 of P.L.2000, c.72 (C.18A:7G-2) is amended to read
11 as follows:

12 2. The Legislature finds and declares that:

13 a. The Constitution of the State of New Jersey requires the
14 Legislature to provide for the maintenance and support of a
15 thorough and efficient system of free public schools and this
16 legislative responsibility includes ensuring that students are
17 educated in physical facilities that are safe, healthy, and conducive
18 to learning.

19 b. Inadequacies in the quality, utility, and safety of educational
20 facilities have arisen among local school districts of this State. In
21 order to ensure that the Legislature's constitutional responsibility
22 for adequate educational facilities is met, there is a need to establish
23 an efficiency standard for educational facilities at the elementary,
24 middle, and secondary school levels which will assure that the core
25 curriculum content standards are taught to all of the children of the
26 State in a setting which facilitates and promotes that learning.

27 c. Educational infrastructure inadequacies are greatest in the
28 SDA districts where maintenance has been deferred and new
29 construction has not been initiated due to concerns about cost. To
30 remedy the facilities inadequacies of the SDA districts, the State
31 must promptly engage in a facilities needs assessment and fund the
32 entire cost of repairing, renovating, and constructing the new school
33 facilities determined by the Commissioner of Education to be
34 required to meet the school facilities efficiency standards in the
35 SDA districts. In other districts, the State must also identify need in
36 view of anticipated growth in school population, and must
37 contribute to the cost of the renovation and construction of new
38 facilities to ensure the provision of a thorough and efficient
39 education in those districts.

40 d. While providing that the educational infrastructure meets the
41 requirements of a thorough and efficient education, the State must
42 also protect the interests of taxpayers who will bear the burden of
43 this obligation. Design of school facilities should incorporate
44 maximum operating efficiencies and new technologies to advance
45 the energy efficiency of school facilities and the efficiency of other

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted December 4, 2023.

1 school building systems, construction should be achieved in as
2 efficient a manner as possible while also ensuring that public funds
3 spent on the construction of school facilities support a skilled
4 workforce compensated at dignified wages, and a mechanism to
5 assure proper maintenance of new facilities should be established
6 and implemented, in order to reduce the overall cost of the program
7 and to preserve this infrastructure investment.
8 (cf: P.L.2007, c.260, s.38)
9

10 2. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to read
11 as follows:

12 3. As used in sections 1 through 30 and 57 through 71 of
13 P.L.2000, c.72 (C.18A:7G-1 et al.) **and**, sections 14 through 17 of
14 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections
15 5, **6, 8** 7¹, **13** 12¹, and 19 through 21 of P.L. , c. (C.)
16 (pending before the Legislature as this bill), unless the context clearly
17 requires a different meaning:

18 "Area cost allowance" means \$138 per square foot for the school
19 year 2000-2001 and shall be inflated by an appropriate cost index for
20 the 2001-2002 school year. For the 2002-2003 school year and
21 subsequent school years, the area cost allowance shall be established
22 by the commissioner pursuant to subsection h. of section 4 of
23 P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in
24 determining preliminary eligible costs of school facilities projects shall
25 be that of the year of application for approval of the project;

26 "Capital maintenance project" means a school facilities project
27 intended to extend the useful life of a school facility, including up-
28 grades and replacements of building systems, such as structure,
29 enclosure, mechanical, plumbing and electrical systems;

30 **"Charter school" means a school established pursuant to**
31 **P.L.1995, c.426 (C.18A:36A-1 et seq.);**¹

32 "Commissioner" means the Commissioner of Education;

33 "Core curriculum content standards" means the standards
34 established pursuant to the provisions of subsection a. of section 4 of
35 P.L.2007, c.260 (C.18A:7F-46);

36 "Cost index" means the average annual increase, expressed as a
37 decimal, in actual construction cost factors for the New York City and
38 Philadelphia areas during the second fiscal year preceding the budget
39 year as determined pursuant to regulations promulgated by the
40 development authority pursuant to section 26 of P.L.2000, c.72
41 (C.18A:7G-26);

42 "Debt service" means and includes payments of principal and
43 interest upon school bonds issued to finance the acquisition of school
44 sites and the purchase or construction of school facilities, additions to
45 school facilities, or the reconstruction, remodeling, alteration,
46 modernization, renovation or repair of school facilities, including
47 furnishings, equipment, architect fees and the costs of issuance of such
48 obligations and shall include payments of principal and interest upon

1 school bonds heretofore issued to fund or refund such obligations, and
2 upon municipal bonds and other obligations which the commissioner
3 approves as having been issued for such purposes. Debt service
4 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
5 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177
6 (C.18A:58-33.2 et seq.) is excluded;

7 "Demonstration project" means a school facilities project selected
8 by the State Treasurer for construction by a redevelopment entity
9 pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

10 "Development authority" means the New Jersey Schools
11 Development Authority established pursuant to section 3 of P.L.2007,
12 c.137 (C.52:18A-237);

13 "District" means a local or regional school district established
14 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
15 Statutes, a county special services school district established pursuant
16 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
17 county vocational school district established pursuant to article 3 of
18 chapter 54 of Title 18A of the New Jersey Statutes, and a district under
19 full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et
20 al.);

21 "District aid percentage" means the number expressed as a
22 percentage derived from dividing the district's equalization aid
23 calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as
24 of the date of the commissioner's determination of preliminary eligible
25 costs by the district's adequacy budget calculated pursuant to section 9
26 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's
27 determination of preliminary eligible costs;

28 "Excess costs" means the additional costs, if any, which shall be
29 borne by the district, of a school facilities project which result from
30 design factors that are not required to meet the facilities efficiency
31 standards and not approved pursuant to paragraph (1) of subsection g.
32 of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as
33 community design features included in final eligible costs pursuant to
34 subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

35 "Facilities efficiency standards" means the standards developed by
36 the commissioner pursuant to subsection h. of section 4 of P.L.2000,
37 c.72 (C.18A:7G-4);

38 "Final eligible costs" means for school facilities projects to be
39 constructed by the development authority, the final eligible costs of the
40 school facilities project as determined by the commissioner, in
41 consultation with the development authority, pursuant to section 5 of
42 P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final
43 eligible costs of the project as determined by the commissioner and
44 reviewed by the development authority which may include the cost of
45 community design features determined by the commissioner to be an
46 integral part of the school facility and which do not exceed the
47 facilities efficiency standards, and which were reviewed by the
48 development authority and approved by the State Treasurer pursuant to

1 section 6 of P.L.2000, c.72 (C.18A:7G-6); ~~and~~ ^{and} for districts
2 other than SDA districts, final eligible costs as determined pursuant to
3 paragraph (1) of subsection h. of section 5 of P.L.2000, c.72
4 (C.18A:7G-5)¹; and for school facilities projects of charter schools
5 and renaissance school projects physically located in SDA districts,
6 final eligible costs as determined pursuant to subsection c. of section 5
7 of P.L. , c. (C.) (pending before the Legislature as this bill)¹;

8 "Financing authority" means the New Jersey Economic
9 Development Authority established pursuant to P.L.1974, c.80
10 (C.34:1B-1 et seq.);

11 "FTE" means a full-time equivalent student which shall be
12 calculated as follows: each student in grades 1 through 12 shall be
13 counted at ~~100%~~ ^{100 percent} of the actual count of students, in the
14 case of districts which operate a half-day kindergarten program each
15 kindergarten student shall be counted at ~~50%~~ ^{50 percent} of the
16 actual count of kindergarten students, in the case of districts which
17 operate a full-day kindergarten program or which currently operate a
18 half-day kindergarten program but propose to build facilities to house
19 a full-day kindergarten program each kindergarten student shall be
20 counted at ~~100%~~ ^{100 percent} of the actual count of kindergarten
21 students, and each preschool student who is enrolled in a full-day
22 preschool program pursuant to section 12 of P.L.2007, c.260
23 (C.18A:7F-54) shall be counted at ~~100%~~ ^{100 percent} of the actual
24 count of preschool students. In addition, each preschool disabled child
25 who is entitled to receive a full-time program pursuant to
26 N.J.S.18A:46-6 shall be counted at ~~100%~~ ^{100 percent} of the actual
27 count of these students in the district;

28 "Functional capacity" means the number of students that can be
29 housed in a building in order to have sufficient space for it to be
30 educationally adequate for the delivery of programs and services
31 necessary for student achievement of the core curriculum content
32 standards. Functional capacity is determined by dividing the existing
33 gross square footage of a school building by the minimum area
34 allowance per FTE student pursuant to subsection b. of section 8 of
35 P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained
36 therein. The difference between the projected enrollment determined
37 pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8)
38 and the functional capacity is the unhoused students that are the basis
39 upon which the additional costs of space to provide educationally
40 adequate facilities for the entire projected enrollment are determined.
41 The existing gross square footage for the purposes of defining
42 functional capacity is exclusive of existing spaces that are not
43 contained in the facilities efficiency standards but which are used to
44 deliver programs and services aligned to the core curriculum content
45 standards, used to provide support services directly to students, or
46 other existing spaces that the district can demonstrate would be

1 structurally or fiscally impractical to convert to other uses contained in
2 the facilities efficiency standards;

3 “Kit of Parts’ standardized school design elements” means the
4 prototypical design utilizing standardized Modern Building
5 Component Elements, Model Educational Specifications, and Model
6 Program Templates created by the development authority for the
7 efficient, adaptable, and scalable organization and configuration of
8 instructional, large group assembly, and other elements within a school
9 facilities project^{1 [.] :}

10 "Lease purchase payment" means and includes payment of
11 principal and interest for lease purchase agreements in excess of five
12 years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to
13 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the
14 purchase or construction of school facilities, additions to school
15 facilities, or the reconstruction, remodeling, alteration, modernization,
16 renovation or repair of school facilities, including furnishings,
17 equipment, architect fees and issuance costs. Approved lease purchase
18 agreements in excess of five years shall be accorded the same
19 accounting treatment as school bonds;

20 "Local share" means, in the case of a school facilities project to be
21 constructed by the development authority, the total costs less the State
22 share as determined pursuant to section 5 of P.L.2000, c.72
23 (C.18A:7G-5); in the case of a demonstration project, the total costs
24 less the State share as determined pursuant to sections 5 and 6 of
25 P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a
26 school facilities project which shall be financed pursuant to section 15
27 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as
28 determined pursuant to that section;

29 "Local unit" means a county, municipality, board of education or
30 any other political subdivision or instrumentality authorized to
31 construct, operate and maintain a school facilities project and to
32 borrow money for those purposes pursuant to law;

33 "Local unit obligations" means bonds, notes, refunding bonds,
34 refunding notes, lease obligations and all other obligations of a local
35 unit which are issued or entered into for the purpose of paying for all
36 or a portion of the costs of a school facilities project, including moneys
37 payable to the development authority;

38 "Long-range facilities plan" means the plan required to be
39 submitted to the commissioner by a district pursuant to section 4 of
40 P.L.2000, c.72 (C.18A:7G-4);

41 "Maintenance" means expenditures which are approved for repairs
42 and replacements for the purpose of keeping a school facility open and
43 safe for use or in its original condition, including repairs and
44 replacements to a school facility's heating, lighting, ventilation,
45 security and other fixtures to keep the facility or fixtures in effective
46 working condition. Maintenance shall not include capital maintenance
47 or contracted custodial or janitorial services, expenditures for the
48 cleaning of a school facility or its fixtures, the care and upkeep of

1 grounds or parking lots, and the cleaning of, or repairs and
2 replacements to, movable furnishings or equipment, or other
3 expenditures which are not required to maintain the original condition
4 over the school facility's useful life. Approved maintenance
5 expenditures shall be as determined by the commissioner pursuant to
6 regulations to be adopted by the commissioner pursuant to section 26
7 of P.L.2000, c.72 (C.18A:7G-26);

8 “Materials and Systems Standards” means the development
9 authority’s “Materials and Systems Standards Manual” and
10 “Construction Details Manual,” which are:

11 a. intended to implement standardized designs in support of
12 repeatable, durable, and cost-effective construction of school facilities
13 projects;

14 b. comprised of “Design Requirements” prescribing the approved
15 standards for selection of materials, systems, and equipment to be
16 incorporated into a school facilities project; and

17 c. comprised of “Construction Details” containing standardized
18 construction details for the construction of school facilities projects.

19 “Model Building Component Elements” means the development of
20 standardized prototypical model room layouts for instructional, large
21 group, and core component building elements¹ [.] ;¹

22 “Model Educational Specifications” means the development of:

23 a. room educational specifications, which describe a school’s
24 programs and activities, spatial relationships, and special
25 environmental requirements for each space; and

26 b. room fit-out lists, which provide the number, type, and size of
27 equipment, furniture, and fixtures contained in each room inclusive of
28 the party responsible for providing them in a school facility.

29 “Model Program Templates” means the development of
30 programmatic models that define the number and type of rooms and
31 spaces to be provided in a school facility¹ [.] ;¹

32 “Model school design program” means the design standards for
33 school facilities projects comprised of the “Kit of Parts” standardized
34 school design elements, developed by the development authority for
35 the adaptable and scalable configuration and repeatable and efficient
36 construction of school facilities projects, pursuant to paragraph (2) of
37 subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

38 “Other allowable costs” means the costs of temporary facilities,
39 site development, acquisition of land or other real property interests
40 necessary to effectuate the school facilities project, fees for the
41 services of design professionals, including architects, engineers,
42 construction managers and other design professionals, legal fees,
43 financing costs and the administrative costs of the development
44 authority and the financing authority or the district¹ [., charter school,
45 or renaissance school project]¹ incurred in connection with the school
46 facilities project;

47 “Other facilities” means athletic stadiums, swimming pools, ice
48 rinks, any associated structures or related equipment tied to such

1 facilities including, but not limited to, grandstands and night field
2 lights, greenhouses, facilities used for non-instructional or non-
3 educational purposes, and any structure, building, or facility used
4 solely for school administration;

5 "Preliminary eligible costs" means the initial eligible costs of a
6 school facilities project as calculated pursuant to the formulas set forth
7 in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided
8 pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall
9 be deemed to include the costs of construction and other allowable
10 costs;

11 "Project charter" means the document that sets forth the scope,
12 budget, and schedule of a school facilities project, as approved by the
13 board of the development authority, and which is updated from time to
14 time during the course of the school facilities project with board
15 approval.

16 "Redevelopment entity" means a redevelopment entity authorized
17 by a municipal governing body to implement plans and carry out
18 redevelopment projects in the municipality pursuant to the "Local
19 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
20 al.);

21 ¹["Renaissance school project" means a school established
22 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.);]¹

23 "School bonds" means, in the case of a school facilities project
24 which is to be constructed by the development authority, a
25 redevelopment entity, or a district under section 15 of P.L.2000, c.72
26 (C.18A:7G-15), bonds, notes or other obligations issued by a district to
27 finance the local share; and, in the case of a school facilities project
28 which is not to be constructed by the development authority or a
29 redevelopment entity, or financed under section 15 of P.L.2000, c.72
30 (C.18A:7G-15), bonds, notes or other obligations issued by a district to
31 finance the total costs;

32 "School enrollment" means the number of FTE students other than
33 evening school students, including post-graduate students and post-
34 secondary vocational students, who, on the last school day prior to
35 October 16 of the current school year, are recorded in the registers of
36 the school;

37 "School facility" means and includes any structure, building, or
38 facility used wholly or in part for educational purposes by a district
39 and facilities that physically support such structures, buildings and
40 facilities, such as district wastewater treatment facilities, power
41 generating facilities, and steam generating facilities, but shall exclude
42 other facilities¹. "School facility" shall also mean any structure,
43 building, or facility used wholly or in part for educational purposes
44 that is owned, or leased from a nonprofit entity or government agency,
45 and operated by a charter school or renaissance school project and the
46 facilities that physically support such structures, buildings, and
47 facilities, for which the charter school or renaissance school project is

1 seeking the State share of funding pursuant to section 5 of P.L. , c.
2 (C.) (pending before the Legislature as this bill)]¹;
3 "School facilities project" means the planning, acquisition,
4 demolition, construction, improvement, alteration, modernization,
5 renovation, reconstruction or capital maintenance of all or any part of a
6 school facility or of any other personal property necessary for, or
7 ancillary to, any school facility, and shall include fixtures, furnishings
8 and equipment, and shall also include, but is not limited to, site
9 acquisition, site development, the services of design professionals,
10 such as engineers and architects, construction management, legal
11 services, financing costs and administrative costs and expenses
12 incurred in connection with the project;
13 "SDA district" is a district that received education opportunity aid
14 or preschool expansion aid in the 2007-2008 school year;
15 "Special education services pupil" means a pupil receiving specific
16 services pursuant to chapter 46 of Title 18A of the New Jersey
17 Statutes;
18 "State aid" means State municipal aid and State school aid;
19 "State debt service aid" means for school bonds issued for school
20 facilities projects approved by the commissioner after the effective
21 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not
22 to have a redevelopment entity construct the project or which elect not
23 to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-
24 15), the amount of State aid determined pursuant to section 9 of
25 P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of
26 participation issued for school facilities projects approved by the
27 commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-
28 1 et al.) the amount of State aid determined pursuant to section 10 of
29 P.L.2000, c.72 (C.18A:7G-10);
30 "State municipal aid" means business personal property tax
31 replacement revenues, State urban aid and State revenue sharing, as
32 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or
33 other similar forms of State aid payable to the local unit and to the
34 extent permitted by federal law, federal moneys appropriated or
35 apportioned to the municipality or county by the State;
36 "State school aid" means the funds made available to school
37 districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);
38 "State share" means the State's proportionate share of the final
39 eligible costs of a school facilities project to be constructed by the
40 development authority as determined pursuant to section 5 of
41 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project,
42 the State's proportionate share of the final eligible costs of the project
43 as determined pursuant to sections 5 and 6 of P.L.2000, c.72
44 (C.18A:7G-5 and C.18A:7G-6); **[and]** ¹and¹ in the case of a school
45 facilities project to be financed pursuant to section 15 of P.L.2000,
46 c.72 (C.18A:7G-15), the State share as determined pursuant to that
47 section¹**[**; and in the case of a school facilities project of a charter
48 school or renaissance school project physically located in an SDA

1 district, the State share as determined pursuant to section 5 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)]¹;

3 "Total costs" means, in the case of a school facilities project which
4 is to be constructed by the development authority or a redevelopment
5 entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-
6 15), the final eligible costs plus excess costs if any; and in the case of a
7 school facilities project which is not to be constructed by the
8 development authority or a redevelopment entity or financed pursuant
9 to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the
10 project as determined by the district.

11 (cf: P.L.2007, c.260, s.39)

12

13 3. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to
14 read as follows:

15 4. a. (1) By December 15, 2000 and by October 1, 2005, each
16 district shall prepare and submit to the commissioner a long-range
17 facilities plan that details the district's school facilities needs and
18 the district's plan to address those needs for the ensuing five years.
19 Following the approval of the 2005 long-range facilities plan, each
20 district shall amend its long-range facilities plan at least once every
21 five years to update enrollment projections, building capacities, and
22 health and safety conditions. The long-range facilities plan shall
23 incorporate the facilities efficiency standards and shall be filed with
24 the commissioner for approval in accordance with those standards.
25 For those Abbott districts that have submitted long-range facilities
26 plans to the commissioner prior to the effective date of P.L.2000,
27 c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require
28 an additional filing by October 1, 2000.

29 (2) (a) Every long-range facilities plan submitted to the
30 commissioner after the effective date of P.L. , c. (C.)
31 (pending before the Legislature as this bill), including any
32 amendment thereto, shall include a capital improvement plan for
33 each public school within the district. At a minimum, the capital
34 improvement plan shall indicate the enrollment projections,
35 building capacities, and health and safety conditions of each public
36 school within the district, as well as the school facilities needs of
37 each school.

38 (b) Beginning in the 2025-2026 school year and for each school
39 year thereafter, a school district, as part of its comprehensive
40 review conducted under the New Jersey Quality Single
41 Accountability Continuum administered pursuant to section 10 of
42 P.L.1975, c.212 (C.18A:7A-10), shall certify that it has included in
43 its most recent long-range facilities plan a capital improvement plan
44 for each public school within the district in accordance with the
45 provisions of subparagraph (a) of this paragraph. Notwithstanding
46 the provisions of this paragraph to the contrary, an SDA district
47 shall not be required to complete a capital improvement plan for a
48 school that is part of an SDA district school facilities project

1 included in the most recent Statewide strategic plan developed
2 pursuant to paragraphs (2) and (3) of subsection m. of section 5 of
3 P.L.2000, c.72 (C.18A:7G-5).

4 b. Notwithstanding any other law or regulation to the contrary,
5 an application for a school facilities project pursuant to section 5 of
6 P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the
7 district has filed a long-range facilities plan that is consistent with
8 the application and the plan has been approved by the
9 commissioner; except that prior to October 1, 2000, the
10 commissioner may approve an application if the project is necessary
11 to protect the health or safety of occupants of the school facility, or
12 is related to required early childhood education programs, or is
13 related to a school facility in which the functional capacity is less
14 than **【90%】** 90 percent of the facilities efficiency standards based
15 on current school enrollment, or the district received bids on the
16 school facilities project prior to the effective date of P.L.2000, c.72
17 (C.18A:7G-1 et al.) and the district demonstrates that further delay
18 will negatively affect the cost of the project.

19 c. An amendment to a long-range facilities plan may be
20 submitted at any time to the commissioner for review and
21 determination on the approval or disapproval of the amendment.

22 d. Each long-range facilities plan shall include a cohort
23 survival methodology or other methodology approved by the
24 commissioner, accompanied by a certification by a qualified
25 demographer retained by the district that serves as the basis for
26 identifying the capacity and program needs detailed in the long-
27 range facilities plan.

28 e. The long-range facilities plan shall include an educational
29 adequacy inventory of all existing school facilities in the district
30 including the adequacy of school facilities to educate within the
31 district the existing and projected number of pupils with disabilities,
32 the identification of all deficiencies in the district's current
33 inventory of school facilities, which includes the identification of
34 those deficiencies that involve emergent health and safety concerns,
35 and the district's proposed plan for future construction and
36 renovation. The long-range facilities plan submissions shall
37 conform to the guidelines, criteria and format prescribed by the
38 commissioner.

39 f. Each district shall determine the number of "unhoused
40 students" for the ensuing five-year period calculated pursuant to the
41 provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

42 g. Each district shall submit the long-range facilities plan to the
43 planning board of the municipality or municipalities in which the
44 district is situate for the planning board's review and findings and
45 the incorporation of the plan's goals and objectives into the
46 municipal master plan adopted by the municipality pursuant to
47 section 19 of P.L.1975, c.291 (C.40:55D-28).

1 h. (1) The commissioner shall develop, for the March 2002
2 Report on the Cost of Providing a Thorough and Efficient
3 Education issued by the commissioner pursuant to section 4 of
4 P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for
5 elementary, middle, and high schools consistent with the core
6 curriculum school delivery assumptions in the report and sufficient
7 for the achievement of the core curriculum content standards,
8 including the provision of required programs in Abbott districts and
9 early childhood education programs in the districts in which these
10 programs are required by the State. The area allowances per FTE
11 student in each class of the district shall be derived from these
12 facilities efficiency standards. The commissioner shall revise the
13 facilities efficiency standards and the area cost allowance in
14 accordance with such schedule as the commissioner deems
15 necessary. The commissioner shall publish the revised facilities
16 efficiency standards and the area cost allowance in the New Jersey
17 Register and, within a reasonable period of time after 30 days
18 following publication, shall file the revised facilities efficiency
19 standards and the area cost allowance with the Office of
20 Administrative Law for publication in the New Jersey Register and
21 those standards shall become effective immediately upon filing.
22 During the 30-day period the commissioner shall provide an
23 opportunity for public comment on the proposed facilities
24 efficiency standards and the area cost allowance.

25 The facilities efficiency standards developed by the
26 commissioner shall not be construction design standards but rather
27 shall represent the instructional spaces, specialized instructional
28 areas, and administrative spaces that are determined by the
29 commissioner to be educationally adequate to support the
30 achievement of the core curriculum content standards including the
31 provision of required programs in Abbott districts and early
32 childhood education programs in the districts in which these
33 programs are required by the State. A district may design, at its
34 discretion, the educational and other spaces to be included within
35 the school facilities project. The design of the project may
36 eliminate spaces in the facilities efficiency standards, include
37 spaces not in the facilities efficiency standards, or size spaces
38 differently than in the facilities efficiency standards upon a
39 demonstration of the adequacy of the school facilities project to
40 deliver the core curriculum content standards pursuant to paragraph
41 (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

42 Within a reasonable period of time after the effective date of
43 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
44 the facilities efficiency standards developed for the 2000-2001,
45 2001-2002, and 2002-2003 school years in the New Jersey Register.
46 Within a reasonable period of time after 30 days after publication in
47 the New Jersey Register, the commissioner shall file the facilities
48 efficiency standards with the Office of Administrative Law and

1 those standards shall become effective immediately upon filing with
2 the Office of Administrative Law. During the 30-day period the
3 commissioner shall provide an opportunity for public comment on
4 the proposed facilities efficiency standards.

5 (2) Within 120 days of the effective date of P.L. ,
6 c. (C.) (pending before the Legislature as this bill), the
7 development authority, in consultation with the commissioner, shall
8 promulgate a model school design program that shall establish
9 uniform standards for the exterior and interior design of school
10 facilities projects. The development authority may revise the model
11 school design program as the development authority deems
12 necessary to incorporate advances or improvements in materials,
13 technology, construction methods, or educational standards.

14 i. Within 90 days of the commissioner's receipt of a long-range
15 facilities plan for review, the commissioner shall determine whether
16 the plan is fully and accurately completed and whether all
17 information necessary for a decision on the plan has been filed by
18 the district. If the commissioner determines that the plan is
19 complete, the commissioner shall promptly notify the district in
20 writing and shall have 60 days from the date of that notification to
21 determine whether to approve the plan or not. If the commissioner
22 determines that the plan is not complete, the commissioner shall
23 notify the district in writing. The district shall provide to the
24 commissioner whatever information the commissioner determines is
25 necessary to make the plan accurate and complete. The district
26 shall submit that information to the commissioner, and the
27 commissioner shall have 60 days from the date of receipt of
28 accurate and complete information to determine whether to approve
29 the plan or not.

30 j. Notwithstanding any provision in subsection i. of this
31 section, if at any time the number of long-range facilities plans filed
32 by school districts with the commissioner and pending review
33 exceeds **[20%]** 20 percent of the number of school districts in New
34 Jersey, the commissioner may extend by 60 days the deadline for
35 reviewing each plan pending at that time.

36 k. (Deleted by amendment, P.L.2007, c.260).

37 l. By July 1, 2001, the commissioner shall provide the
38 Legislature with recommendations to address the circumstances of
39 districts which are contiguous with two or more Abbott districts.
40 The recommendations shall address the issues of the financing of
41 school facilities projects and the funding of the educational and
42 other programs required within these districts as a result of their
43 unique demographic situation.

44 m. By July 1, 2001, the commissioner shall study the Safe
45 Schools Design Guidelines, prepared by the Florida Center for
46 Community Design and Research, which address the issues of
47 school safety and security through the design of school facilities.
48 Based upon the commissioner's study, the commissioner shall issue

1 recommendations to districts on the appropriateness of including
2 the Safe Schools Design Guidelines in the design and construction
3 of school facilities projects.
4 (cf: P.L.2007, c.260, s.40)

5
6 4. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to read
7 as follows:

8 5. a. The development authority shall undertake and the financing
9 authority shall finance the school facilities projects of SDA districts.

10 b. In the case of a district other than an SDA district, State
11 support for the project shall be determined pursuant to section 9 or
12 section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as
13 applicable.

14 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
15 contrary, the procedures for obtaining approval of a school facilities
16 project shall be as set forth in **[this act]** P.L.2000, c.72 (C.18A:7G-1
17 et al.); provided that any district whose school facilities project is not
18 constructed by the development authority shall also be required to
19 comply with the provisions of N.J.S.18A:18A-16 and, in the case of a
20 school facilities project that has estimated total costs over
21 \$10,000,000, shall be overseen by a non-conflicted construction
22 management service provider, which holds a current, valid
23 classification issued by the Division of Property Management and
24 Construction in the Department of Treasury pursuant to its
25 classification processes for construction managers, who shall serve
26 from initial application to the commissioner for approval of the project
27 through project completion.

28 d. (1) Any district seeking to initiate a school facilities project
29 shall apply to the commissioner for approval of the project. The
30 application may include, but not be limited to: a description of the
31 school facilities project; a schematic drawing of the project or, at the
32 option of the district, preliminary plans and specifications; a
33 delineation and description of each of the functional components of the
34 project; educational specifications detailing the programmatic needs of
35 each proposed space; the number of unhoused students to be housed in
36 the project; the area allowances per FTE student as calculated pursuant
37 to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to
38 complete the project as determined by the district.

39 (2) (a) In the case of an SDA district school facilities project,
40 based upon its educational priority ranking and the Statewide strategic
41 plan established pursuant to subsection m. of this section, the
42 commissioner may authorize the development authority to undertake
43 preconstruction activities which may include, but need not be limited
44 to, site identification, investigation, and acquisition, feasibility studies,
45 land-related design work, design work, site remediation, demolition,
46 and acquisition of temporary facilities. Upon receipt of the
47 authorization, the development authority may initiate the
48 preconstruction activities required to prepare the application for

1 commissioner approval of the school facilities project. Site
2 remediation and demolition preconstruction activities undertaken by
3 the development authority pursuant to this subparagraph shall be
4 included as part of the project charter of the SDA district school
5 facilities project, which project charter covers all other construction
6 activities of the school facilities project.

7 (b) In the case of an SDA district school facilities project, the
8 project design shall conform to the standards of the model school
9 design program developed by the development authority pursuant to
10 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72
11 (C.18A:7G-4). The development authority may permit an SDA district
12 school facilities project to include design features that are considered
13 excess costs provided that the design features do not exceed the lesser
14 of 10 percent of total estimated project costs or \$2,000,000.

15 (c) In the case of a district other than an SDA district, the project
16 design of a school facilities project may conform to the standards of
17 the model school design program developed by the development
18 authority pursuant to paragraph (2) of subsection h. of section 4 of
19 P.L.2000, c.72 (C.18A:7G-4). ¹**【If the project conforms to the**
20 standards of the model school design program, the district's district aid
21 percentage shall be increased by 15 percent.】¹

22 e. The commissioner shall review each proposed school facilities
23 project to determine whether it is consistent with the district's long-
24 range facilities plan and whether it complies with the facilities
25 efficiency standards and the area allowances per FTE student derived
26 from those standards; and in the case of an SDA district the
27 commissioner shall also review the project's educational priority
28 ranking and the Statewide strategic plan developed pursuant to
29 paragraphs (2) and (3) of subsection m. of this section and whether the
30 project conforms to the standards of the model school design program;
31 and in the case of a district other than an SDA district the
32 commissioner shall also review the project's priority pursuant to
33 paragraph (4) of subsection m. of this section. The commissioner shall
34 make a decision on a district's application within 90 days from the date
35 **【he】** the commissioner determines that the application is fully and
36 accurately completed and that all information necessary for a decision
37 has been filed by the district, or from the date of the last revision made
38 by the district. If the commissioner is not able to make a decision
39 within 90 days, **【he】** the commissioner shall notify the district in
40 writing explaining the reason for the delay and indicating the date on
41 which a decision on the project will be made, provided that the date
42 shall not be later than 60 days from the expiration of the original 90
43 days set forth in this subsection. If the decision is not made by the
44 subsequent date indicated by the commissioner, then the project shall
45 be deemed approved and the preliminary eligible costs for new
46 construction shall be calculated by using the proposed square footage
47 of the building as the approved area for unhoused students.

1 f. If the commissioner determines that the school facilities project
2 complies with the facilities efficiency standards and the district's long-
3 range facilities plan and does not exceed the area allowance per FTE
4 student derived from those standards, the commissioner shall calculate
5 the preliminary eligible costs of the project pursuant to the formulas
6 set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1)
7 in the case of a county special services school district or a county
8 vocational school district, the commissioner shall calculate the
9 preliminary eligible costs to equal the amount determined by the board
10 of school estimate and approved by the board of chosen freeholders
11 pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or
12 N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district,
13 the commissioner shall calculate the preliminary eligible costs to equal
14 the estimated cost as determined by the development authority.

15 g. If the commissioner determines that the school facilities project
16 is inconsistent with the facilities efficiency standards or exceeds the
17 area allowances per FTE student derived from those standards, the
18 commissioner shall notify the district.

19 (1) The commissioner shall approve area allowances in excess of
20 the area allowances per FTE student derived from the facilities
21 efficiency standards if the board of education or State district
22 superintendent, as appropriate, demonstrates that school facilities
23 needs related to required programs cannot be addressed within the
24 facilities efficiency standards and that all other proposed spaces are
25 consistent with those standards. The commissioner shall approve area
26 allowances in excess of the area allowances per FTE student derived
27 from the facilities efficiency standards if the additional area
28 allowances are necessary to accommodate centralized facilities to be
29 shared among two or more school buildings within the district and the
30 centralized facilities represent a more cost effective alternative.

31 (2) The commissioner may waive a facilities efficiency standard if
32 the board of education or State district superintendent, as appropriate,
33 demonstrates to the commissioner's satisfaction that the waiver will
34 not adversely affect the educational adequacy of the school facility,
35 including the ability to deliver the programs and services necessary to
36 enable all students to achieve the core curriculum content standards.

37 (3) To house the district's central administration, a district may
38 request an adjustment to the approved areas for unhoused students of
39 2.17 square feet for each FTE student in the projected total district
40 school enrollment if the proposed administrative offices will be housed
41 in a school facility and the district demonstrates either that the existing
42 central administrative offices are obsolete or that it is more practical to
43 convert those offices to instructional space. To the extent that existing
44 administrative space will continue to be used for administrative
45 purposes, the space shall be included in the formulas set forth in
46 section 7 of P.L.2000, c.72 (C.18A:7G-7).

47 If the commissioner approves excess facilities efficiency standards
48 or additional area allowances pursuant to paragraph (1), (2), or (3) of

1 this subsection, the commissioner shall calculate the preliminary
2 eligible costs based upon the additional area allowances or excess
3 facilities efficiency standards pursuant to the formulas set forth in
4 section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the
5 commissioner does not approve the excess facilities efficiency
6 standards or additional area allowances, the district may either: modify
7 its submission so that the school facilities project meets the facilities
8 efficiency standards; or pay for the excess costs.

9 (4) The commissioner shall approve spaces in excess of, or
10 inconsistent with, the facilities efficiency standards, hereinafter
11 referred to as nonconforming spaces, upon a determination by the
12 district that the spaces are necessary to comply with State or federal
13 law concerning individuals with disabilities, including that the spaces
14 are necessary to provide in-district programs and services for current
15 disabled pupils who are being served in out-of-district placements or
16 in-district programs and services for the projected disabled pupil
17 population. A district may apply for additional State aid for
18 nonconforming spaces that will permit pupils with disabilities to be
19 educated to the greatest extent possible in the same buildings or
20 classes with their nondisabled peers. The nonconforming spaces may:
21 (a) allow for the return of pupils with disabilities from private
22 facilities; (b) permit the retention of pupils with disabilities who would
23 otherwise be placed in private facilities; (c) provide space for regional
24 programs in a host school building that houses both disabled and
25 nondisabled pupils; and (d) provide space for the coordination of
26 regional programs by a county special services school district,
27 educational services commission, jointure commission, or other
28 agency authorized by law to provide regional educational services in a
29 school building that houses both disabled and nondisabled pupils. A
30 district's State support ratio shall be adjusted to equal the lesser of the
31 sum of its district aid percentage as defined in section 3 of P.L.2000,
32 c.72 (C.18A:7G-3) plus 0.25, or **【100%】** 100 percent for any
33 nonconforming spaces approved by the commissioner pursuant to this
34 paragraph.

35 h. Upon approval of a school facilities project and determination
36 of the preliminary eligible costs:

37 (1) In the case of a district other than an SDA district, the
38 commissioner shall notify the district whether the school facilities
39 project is approved and, if so approved, the preliminary eligible costs
40 and the excess costs, if any. Following the determination of
41 preliminary eligible costs and the notification of project approval, the
42 district may appeal to the commissioner for an increase in those costs
43 if the detailed plans and specifications completed by a design
44 professional for the school facilities project indicate that the cost of
45 constructing that portion of the project which is consistent with the
46 facilities efficiency standards and does not exceed the area allowances
47 per FTE student exceeds the preliminary eligible costs as determined
48 by the commissioner for the project by **【10%】** 10 percent or more.

1 The district shall file its appeal within 30 days of the preparation of the
2 plans and specifications. If the district chooses not to file an appeal,
3 then the final eligible costs shall equal the preliminary eligible costs.

4 The appeal shall outline the reasons why the preliminary eligible
5 costs calculated for the project are inadequate and estimate the amount
6 of the adjustment which needs to be made to the preliminary eligible
7 costs. The commissioner shall forward the appeal information to the
8 development authority for its review and recommendation. If the
9 additional costs are the result of factors that are within the control of
10 the district or are the result of design factors that are not required to
11 meet the facilities efficiency standards, the development authority
12 shall recommend to the commissioner that the preliminary eligible
13 costs be accepted as the final eligible costs. If the development
14 authority determines the additional costs are not within the control of
15 the district or are the result of design factors required to meet the
16 facilities efficiency standards, the development authority shall
17 recommend to the commissioner a final eligible cost based on its
18 experience for districts with similar characteristics, provided that,
19 notwithstanding anything to the contrary, the commissioner shall not
20 approve an adjustment to the preliminary eligible costs which exceeds
21 **【10%】** 10 percent of the preliminary eligible costs. The commissioner
22 shall make a determination on the appeal within 30 days of its receipt.
23 If the commissioner does not approve an adjustment to the school
24 facilities project's preliminary eligible costs, the commissioner shall
25 issue his findings in writing on the reasons for the denial and on why
26 the preliminary eligible costs as originally calculated are sufficient.

27 (2) In the case of an SDA district, the commissioner shall promptly
28 prepare and submit to the development authority a preliminary project
29 report which shall consist, at a minimum, of the following information:
30 a complete description of the school facilities project; the actual
31 location of the project; the total square footage of the project together
32 with a breakdown of total square footage by functional component; the
33 preliminary eligible costs of the project; the project's priority ranking
34 determined pursuant to subsection m. of this section; any other factors
35 to be considered by the development authority in undertaking the
36 project; and the name and address of the person from the district to
37 contact in regard to the project.

38 i. Upon receipt by the development authority of the preliminary
39 project report, the development authority, upon consultation with the
40 district, shall prepare detailed plans and specifications and schedules
41 which contain the development authority's estimated cost and schedule
42 to complete the school facilities project. The development authority
43 shall transmit to the commissioner its recommendations in regard to
44 the project which shall, at a minimum, contain the detailed plans and
45 specifications; whether the school facilities project can be completed
46 within the preliminary eligible costs; and any other factors which the
47 development authority determines should be considered by the
48 commissioner.

1 (1) In the event that the development authority determines that the
2 school facilities project can be completed within the preliminary
3 eligible costs: the final eligible costs shall be deemed to equal the
4 preliminary eligible costs; the commissioner shall be deemed to have
5 given final approval to the project; and the preliminary project report
6 shall be deemed to be the final project report delivered to the
7 development authority pursuant to subsection j. of this section.

8 (2) In the event that the development authority determines that the
9 school facilities project cannot be completed within the preliminary
10 eligible costs, prior to the submission of its recommendations to the
11 commissioner, the development authority shall, in consultation with
12 the district and the commissioner, determine whether changes can be
13 made in the project which will result in a reduction in costs while at
14 the same time meeting the facilities efficiency standards approved by
15 the commissioner.

16 (a) If the development authority determines that changes in the
17 school facilities project are possible so that the project can be
18 accomplished within the scope of the preliminary eligible costs while
19 still meeting the facilities efficiency standards, the development
20 authority shall so advise the commissioner, whereupon the
21 commissioner shall: calculate the final eligible costs to equal the
22 preliminary eligible costs; give final approval to the project with the
23 changes noted; and issue a final project report to the development
24 authority pursuant to subsection j. of this section.

25 (b) If the development authority determines that it is not possible
26 to make changes in the school facilities project so that it can be
27 completed within the preliminary eligible costs either because the
28 additional costs are the result of factors outside the control of the
29 district or the additional costs are required to meet the facilities
30 efficiency standards, the development authority shall recommend to
31 the commissioner that the preliminary eligible costs be increased
32 accordingly, whereupon the commissioner shall: calculate the final
33 eligible costs to equal the sum of the preliminary eligible costs plus the
34 increase recommended by the development authority; give final
35 approval to the project; and issue a final project report to the
36 development authority pursuant to subsection j. of this section.

37 (c) If the additional costs are the result of factors that are within
38 the control of the district or are the result of design factors that are not
39 required to meet the facilities efficiency standards or approved
40 pursuant to paragraph (1) of subsection g. of this section, the
41 development authority shall recommend to the commissioner that the
42 preliminary eligible costs be accepted, whereupon the commissioner
43 shall: calculate the final eligible costs to equal the preliminary eligible
44 costs and specify the excess costs which are to be borne by the district;
45 give final approval to the school facilities project; and issue a final
46 project report to the development authority pursuant to subsection j. of
47 this section; provided that the commissioner may approve final eligible
48 costs which are in excess of the preliminary eligible costs if, in his

1 judgment, the action is necessary to meet the educational needs of the
2 district.

3 (d) For a school facilities project undertaken by the development
4 authority, the development authority shall be responsible for any costs
5 of construction, but only from the proceeds of bonds issued by the
6 financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and
7 P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount
8 originally projected by the development authority and approved for
9 financing by the development authority, provided that the excess is the
10 result of an underestimate of labor or materials costs by the
11 development authority. After receipt by the development authority of
12 the final project report, the district shall be responsible only for the
13 costs associated with changes, if any, made at the request of the district
14 to the scope of the school facilities project.

15 j. The development authority shall not commence the
16 construction of a school facilities project unless the commissioner
17 transmits to the development authority a final project report and the
18 district complies with the approval requirements for the local share, if
19 any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The
20 final project report shall contain all of the information contained in the
21 preliminary project report and, in addition, shall contain: the final
22 eligible costs; the excess costs, if any; the total costs which equals the
23 final eligible costs plus excess costs, if any; the State share; and the
24 local share.

25 k. For the SDA districts, the State share shall be ~~100%~~ 100
26 percent of the final eligible costs. Except as otherwise provided
27 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other
28 districts, the State share shall be an amount equal to the district aid
29 percentage; except that the State share shall not be less than ~~40%~~ 40
30 percent of the final eligible costs.

31 If any district which is included in district factor group A or B,
32 other than an SDA district, is having difficulty financing the local
33 share of a school facilities project, the district may apply to the
34 commissioner to receive ~~100%~~ 100 percent State support for the
35 project and the commissioner may request the approval of the
36 Legislature to increase the State share of the project to ~~100%~~ 100
37 percent.

38 l. The local share for school facilities projects constructed by the
39 authority or a redevelopment entity shall equal the final eligible costs
40 plus any excess costs less the State share.

41 m. (1) Within 90 days of the effective date of P.L.2007, c.137
42 (C.52:18A-235 et al.), the commissioner shall develop an educational
43 facilities needs assessment for each SDA district. The assessment
44 shall be updated periodically by the commissioner in accordance with
45 the schedule the commissioner deems appropriate for the district;
46 except that each assessment shall at a minimum be updated within five
47 years of the development of the district's most recent prior educational
48 facilities needs assessment. The assessment shall be transmitted to the

1 development authority to be used to initiate the planning activities
2 required prior to the establishment of the educational priority ranking
3 of school facilities projects pursuant to paragraph (2) of this
4 subsection.

5 (2) Following the approval of an SDA district's long-range
6 facilities plan or of an amendment to that plan, but prior to
7 authorization of preconstruction activities for a school facilities project
8 included in the plan or amendment, the commissioner shall establish,
9 in consultation with the SDA district, an educational priority ranking
10 of all school facilities projects in the SDA district based upon the
11 commissioner's determination of critical need in accordance with
12 priority project categories developed by the commissioner. The
13 priority project categories shall include, but not be limited to, health
14 and safety, overcrowding in the early childhood, elementary, middle,
15 and high school grade levels, spaces necessary to provide in-district
16 programs and services for current disabled students who are being
17 served in out-of-district placements or in-district programs and
18 services for the projected disabled student population, rehabilitation,
19 and educational adequacy.

20 (3) (a) Upon the commissioner's determination of the educational
21 priority ranking of school facilities projects in SDA districts pursuant
22 to paragraph (2) of this subsection, the development authority, in
23 consultation with the commissioner, the SDA districts, and the
24 governing bodies of the municipalities in which the SDA districts are
25 situate, shall establish a Statewide strategic plan to be used in the
26 sequencing of SDA district school facilities projects based upon the
27 projects' educational priority rankings and issues which impact the
28 development authority's ability to complete the projects including, but
29 not limited to, the construction schedule and other appropriate factors.
30 The development authority shall revise the Statewide strategic plan
31 and the sequencing of SDA district school facilities projects in
32 accordance with that plan no less than once every five years, except
33 that the plan shall be updated within 120 days of the effective date of
34 P.L. , c. (C.) (pending before the Legislature as this bill). In
35 addition to any other information that the development authority may
36 deem appropriate, the Statewide strategic plan shall ¹include the
37 following information for each project:

38 (i) a] ¹ description of the project, which shall indicate whether the
39 project will be new construction or renovation and whether the project
40 will require the acquisition of land¹ [;

41 (ii) the total estimated project costs; and

42 (iii) the number of full-time equivalent staff needed to support the
43 project]¹.

44 (b) In developing the Statewide strategic plan, the development
45 authority shall prioritize:

46 (i) new construction projects;

47 (ii) projects located on land owned by the school district or other
48 public entities; and

1 (iii) projects needed to replace school buildings that have been in
2 use for '1[50] 100' or more years.

3 (c) Any amendment to an SDA district's long-range facilities plan
4 that is submitted to the commissioner in the period between the five-
5 year updates of the long-range facilities plan shall be considered by the
6 development authority, in consultation with the commissioner, for
7 incorporation into the Statewide strategic plan. In making a
8 determination on whether or not to amend the Statewide strategic plan,
9 the development authority shall consider the cost of the amendment,
10 the impact of the amendment upon the school development plans for
11 other districts, and other appropriate factors.

12 (d) Within 10 days following any update to the Statewide strategic
13 plan, the development authority shall transmit the plan to the
14 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
15 and to the members of the Senate Education Committee and the
16 Assembly Education Committee, or any successor committees.

17 (4) In the case of a district other than an SDA district, the
18 commissioner shall establish a priority process for the financing of
19 school facilities projects based upon the commissioner's determination
20 of critical need in accordance with priority project categories
21 developed by the commissioner. The priority project categories shall
22 include, but not be limited to, health and safety, overcrowding in the
23 elementary, middle, and high school grade levels, spaces necessary to
24 provide in-district programs and services for current disabled students
25 who are being served in out-of-district placements or in-district
26 programs and services for the projected disabled student population,
27 and full-day kindergarten facilities in the case of school districts
28 required to provide full-day preschool pursuant to section 12 of
29 P.L.2007, c.260 (C.18A:7F-54).

30 n. The provisions of the "Public School Contracts Law,"
31 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities
32 project constructed by a district but shall not be applicable to projects
33 constructed by the development authority or a redevelopment entity
34 pursuant to the provisions of this act.

35 o. In the case of a school facilities project of a district other than
36 an SDA district, any proceeds of school bonds issued by the district for
37 the purpose of funding the project which remain unspent upon
38 completion of the project shall be used by the district to reduce the
39 outstanding principal amount of the school bonds.

40 p. Upon completion by the development authority of a school
41 facilities project, if the cost of construction and completion of the
42 project is less than the total costs, the district shall be entitled to
43 receive a portion of the local share based on a pro rata share of the
44 difference based on the ratio of the State share to the local share.

45 q. The development authority shall determine the cause of any
46 costs of construction which exceed the amount originally projected by
47 the development authority and approved for financing by the financing
48 authority.

1 r. (Deleted by amendment, P.L.2007, c.137).

2 s. (Deleted by amendment, P.L.2007, c.137).

3 (cf: P.L.2009, c.185, s.1)

4

5 ¹5. (New section) a. The State share of a school facilities
6 project undertaken by a charter school or renaissance school project
7 that is physically located in an SDA district shall be 100 percent of
8 the final eligible costs as determined pursuant to subsection c. of
9 this section. A charter school or renaissance school project that is
10 not physically located in an SDA district shall not be eligible for
11 State support pursuant to this section. Notwithstanding the
12 provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5) or of any
13 other section of law, rule, or regulation to the contrary, a charter
14 school or renaissance school project located in an SDA district
15 seeking to initiate a school facilities project, and that is seeking the
16 State share of the school facilities project, shall apply to the
17 development authority for approval of the project. In the case of a
18 charter school or renaissance school project established after the
19 effective date of P.L. , c. (C.) (pending before the
20 Legislature as this bill), the development authority shall not approve
21 a school facilities project until after the charter school's first
22 renewal under section 17 of P.L.1995, c.426 (C.18A:36A-17) or
23 after the renaissance school project's first renewal under section 10
24 of P.L.2011, c.176 (C.18A:36C-10).

25 b. (1) The development authority, in consultation with the
26 Department of Education, shall annually review the applications for
27 school facilities projects submitted pursuant to subsection a. of this
28 section and, upon such review, create a Statewide charter school
29 and renaissance school project facilities strategic plan to be used in
30 the sequencing of school facilities projects of charter schools and
31 renaissance school projects in SDA districts. The Statewide charter
32 school and renaissance school project facilities strategic plan shall
33 include a Statewide educational priority ranking of the school
34 facilities projects based upon the development authority's
35 determination of critical need, the criteria and methodology of
36 which shall be established by the development authority pursuant to
37 regulations promulgated by the development authority pursuant to
38 subsection h. of this section. At a minimum, the criteria and
39 methodology established by the development authority for the
40 determination of critical need shall prioritize, in order from highest
41 to lowest priority:

42 (a) school facilities projects that address critical operational
43 building needs related to health and safety issues and program
44 mandates, which projects shall include, in order from highest to
45 lowest priority:

46 (i) essential building systems upgrades including, but not limited
47 to, finishing work and the repair or replacement of structural,
48 mechanical, heating and cooling, electrical, and plumbing systems;

- 1 (ii) building skin including, but not limited to, the repair or
- 2 replacement of roofs, windows, and masonry;
- 3 (iii) improvements or other modifications and alterations needed
- 4 to address appropriate building code issues;
- 5 (iv) upgrades required for a school facility to meet the standards
- 6 of the “Americans with Disabilities Act of 1990” (42 U.S.C.
- 7 s.12101 et seq.);
- 8 (v) hazardous material abatement and required refinishing work,
- 9 which hazardous material may include, but not be limited to, radon,
- 10 lead, and asbestos;
- 11 (vi) security and communications systems upgrades;
- 12 (vii) technology infrastructure upgrades;
- 13 (viii) site drainage related to the remediation of an existing issue
- 14 and not in conjunction with new construction;
- 15 (ix) the upgrade or replacement of existing elementary and
- 16 secondary school playgrounds to meet lifecycle, safety, or consumer
- 17 product safety codes;
- 18 (x) the renovation, or new construction, of early childhood
- 19 classrooms;
- 20 (xi) projects necessary to address special population needs for
- 21 program expansion and educational adequacy;
- 22 (xii) existing site upgrades, including upgrades to sidewalks,
- 23 paving, fencing, and security lighting, but excluding upgrades to
- 24 athletic fields and tracks; and
- 25 (xiii) renovation or new construction of capacity-generating
- 26 classrooms to address overcrowding or substandard conditions;
- 27 (b) new construction projects; and
- 28 (c) major renovation and rehabilitation projects that seek to
- 29 expand the capacity of a charter school or renaissance school
- 30 project facility used for education purposes.
- 31 (2) In the event that a school facilities project for which a
- 32 charter school or renaissance school project is seeking State support
- 33 pursuant to this section is requested for a leased facility in which
- 34 the charter school or renaissance school project is a lessee, the
- 35 applicant charter school or renaissance school project shall submit
- 36 the lease agreement or lease agreement addendum. The lease
- 37 agreement or lease agreement addendum shall demonstrate that the
- 38 lessor of the facility is a non-profit entity or government agency and
- 39 that the term of the lease is no less than 10 years, inclusive of all
- 40 lease renewal options. A charter school or renaissance school
- 41 project shall not receive State support pursuant to this section in the
- 42 event that the school facilities project for which the charter school
- 43 or renaissance school project is seeking funds is requested for a
- 44 leased facility in which the lessor is a for-profit entity.
- 45 (3) In the event that a school facilities project for which a
- 46 charter school or renaissance school project is seeking State support
- 47 pursuant to this section is requested for a leased facility in which
- 48 the charter school or renaissance school project is not the only

1 lessee, the charter school or renaissance school project shall not
2 seek State support for, and final eligible costs approved pursuant to
3 subsection c. of this section shall not include, any costs related to
4 the improvement, alteration, modernization, renovation,
5 reconstruction, maintenance, or capital maintenance of all or any
6 part of the shared spaces of the facility, which shared spaces shall
7 include, but need not be limited to, elevators, stairs, roofs, and
8 common areas.

9 c. If the school facilities project of a charter school or
10 renaissance school project physically located in an SDA district is
11 approved pursuant to this section, the development authority, in
12 consultation with the charter school or renaissance school project,
13 shall determine the final eligible costs of the approved school
14 facilities project, which final eligible costs shall be the reasonable
15 estimated costs of providing a school facility under the school
16 facilities project proposal that is structurally adequate and safe and
17 that is capable of providing an educational program which enables
18 students enrolled in the charter school or renaissance school project
19 to meet the core curriculum content standards.

20 d. Following the determination of final eligible costs of a school
21 facilities project pursuant to subsection c. of this section, the
22 development authority shall authorize the charter school or
23 renaissance school project to undertake the school facilities project.
24 Notwithstanding the provisions of section 7 of P.L.2011, c.176
25 (C.18A:36C-7) or any other law, rule, or regulation to the contrary,
26 a charter school or renaissance school project authorized to
27 undertake a school facilities project pursuant to this section shall be
28 subject to public bidding requirements, as provided under the
29 "Public School Contracts Law," N.J.S.18A:18A-1 et seq.
30 Notwithstanding the provisions of section 7 of P.L.2011, c.176
31 (C.18A:36C-7) or any other law, rule, or regulation to the contrary,
32 the development authority may undertake a school facilities project
33 on behalf of the charter school or renaissance school project, at the
34 request of the charter school or renaissance school project.
35 Notwithstanding the provisions of section 10 of P.L.1995, c.426
36 (C.18A:36A-10) or any other law, rule, or regulation to the
37 contrary, any school facilities project of a charter school or
38 renaissance school project that is undertaken by the development
39 authority shall adhere to all public school facility regulations.

40 e. The development authority shall require, as a condition of
41 providing the State share of funds for a school facilities project
42 approved pursuant to this section that includes school facilities
43 owned by the charter school or renaissance school project, that,
44 notwithstanding the provisions of section 7 of P.L.2013, c.149
45 (C.18A:36C-16) or of any other law, rule, or regulation to the
46 contrary, the fee simple title of the facility shall revert to the State,
47 except that the board of education of the district in which the
48 charter school or renaissance school project is located shall have the

1 right of first refusal of the school facilities project prior to the
2 reversion to the State. The provisions of this subsection shall apply
3 in the following instances:

4 (1) upon the revocation or surrendering of a charter school's
5 charter, the non-renewal of a charter school's charter or of a
6 renaissance school project, or the closure of a charter school or
7 renaissance school project. In the case of the revocation,
8 surrendering, or non-renewal of a charter school's charter or the
9 closure of a charter school, the fee simple title shall revert to the
10 State during and as part of the comprehensive closure plan
11 implemented by the charter school's board of trustees pursuant to
12 section 17 of P.L.1995, c.426 (C.18A:36A-17) and regulations
13 promulgated thereto; or

14 (2) in the event that the school facilities project is no longer
15 being utilized for the purposes for which it was intended under the
16 application approved pursuant to this section.

17 f. The development authority shall require, as a condition of
18 providing the State share of funds pursuant to this section for a
19 school facilities project that includes a facility in which a charter
20 school or renaissance school project is a lessee, that the school
21 facilities project is a capital maintenance project, as that term is
22 defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3),
23 provided that the useful life of any leasehold improvements made
24 under the capital maintenance project does not exceed the
25 remaining term of the lease inclusive of any lease renewal options.

26 g. No charter school or renaissance school project that is
27 operated by a for-profit management company shall be eligible to
28 apply to the development authority for the State share of a school
29 facilities project pursuant to this section.

30 h. The authority shall promulgate, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.), such rules and regulations as may be necessary to implement
33 the provisions of this section, which rules and regulations shall
34 establish at a minimum:

35 (1) the process for review and approval of school facilities
36 projects undertaken by charter schools or renaissance school
37 projects;

38 (2) within 180 days following the date of enactment of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), the
40 specific criteria and methodology that the development authority
41 shall implement in creating an educational priority ranking under
42 the Statewide charter school and renaissance school project
43 facilities strategic plan pursuant to subsection b. of this section;

44 (3) the process for the determination of final eligible costs for
45 which a charter school or renaissance school project would receive
46 State support pursuant to this section; and

47 (4) the process for the reversion to the State of a school facilities
48 project pursuant to subsection e. of this section.]¹

1 **‘[6.] 5.’** (New section) a. Notwithstanding the provisions of
2 P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to
3 the contrary, the board of education of a district other than an SDA
4 district may enter into an agreement with a county improvement
5 authority to construct a school facilities project and to issue its
6 bonds to finance the local share of a project that is to be financed
7 pursuant to section 15 of P.L.2000, c.72 (18A:7G-15), or to finance
8 the total costs of a project that is not to be financed pursuant to
9 section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county
10 improvement authority issued to finance the total costs of a school
11 facilities project that is not to be financed pursuant to section 15 of
12 P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt
13 service aid in accordance with the formula established pursuant to
14 section 9 of P.L.2000, c.72 (C.18A:7G-9).

15 b. A district other than an SDA district may lease its lands or
16 facilities to the county improvement authority, which may construct
17 the school facilities project. Whenever a school facilities project is
18 constructed by a county improvement authority pursuant to the
19 provisions of this section, the improvement authority shall follow
20 the applicable public bidding procedures or requirements under the
21 “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., section 2
22 of P.L.2018, c.90 (C.18A:18A-60), or sections 34 through 41 of
23 P.L.2021, c.71 (C.18A:18A-61 through C.18A:18A-68).

24 c. The county improvement authority shall lease the school
25 facilities project to the county, which shall then lease it for nominal
26 consideration to the district for as long as the county improvement
27 authority bonds or refunding bonds are outstanding. Nothing in this
28 section shall be construed to authorize a county to require the
29 district to bear any portion of the cost of the debt service on the
30 county improvement authority bonds issued to fund the school
31 facilities project or any refunding bonds.

32 d. The county lease payments made to the county improvement
33 authority pursuant to subsection c. of this section shall not be
34 subject to any cap on appropriations or on spending or to any tax
35 levy cap. The county lease payments shall be sufficient to pay debt
36 service on the county improvement authority bonds issued to fund
37 the school facilities project, or any refunding bonds, that remains
38 after the application of any State debt service aid paid on those
39 bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The
40 county lease payments shall be payable over the life of the bonds.

41 e. When the bonds issued by a county improvement authority
42 are no longer outstanding, the leases and liens of the county and the
43 county improvement authority shall expire and the school facilities
44 project shall be solely vested in the school district. The school
45 district shall be responsible for the operation, maintenance, and
46 improvement of the school facility upon the completion of the
47 school facilities project.

1 ~~7.~~ 6.¹ Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended
2 to read as follows:

3 9. a. State debt service aid for capital investment in school
4 facilities for a district other than an SDA district which elects not to
5 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15),
6 shall be distributed upon a determination of preliminary eligible costs
7 by the commissioner, according to the following formula:

8 Aid is the sum of A for each issuance of school bonds issued for a
9 school facilities project approved by the commissioner after the
10 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

11 where

12 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

13 whenever AC/P would otherwise yield a number greater than one,

14 and where:

15 B is the district's debt service for the individual issuance for the
16 fiscal year;

17 AC is the preliminary eligible costs determined pursuant to section
18 7 of P.L.2000, c.72 (C.18A:7G-7);

19 P is the principal of the individual issuance plus any other funding
20 sources approved for the school facilities project;

21 DAP is the district's district aid percentage as defined pursuant to
22 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be
23 less than ~~40%~~ 40 percent¹, except that if the project's design
24 conforms to the standards of the model school design program
25 established by the development authority pursuant to paragraph (2) of
26 subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), the DAP
27 shall be increased by 15 percent¹. If the project's design incorporates
28 the implementation of energy efficiency improvements or the
29 installation of energy efficient features or equipment, the DAP shall be
30 increased by no more than five percent; and

31 M is a factor representing the degree to which a district has
32 fulfilled maintenance requirements for a school facilities project
33 determined pursuant to subsection b. of this section.

34 For county special services school districts, DAP shall be that of
35 the county vocational school district in the same county.

36 Notwithstanding the provisions of this subsection to the contrary,
37 DAP for a county vocational school district school facilities project
38 that is approved by the commissioner following the effective date of
39 P.L.2009, c.185 shall equal the greater of the district's district aid
40 percentage as defined pursuant to section 3 of P.L.2000, c.72
41 (C.18A:7G-3) or the percentage of the students in the county
42 vocational school district's resident enrollment who reside in SDA
43 districts; except that DAP shall not be less than ~~40%~~ 40 percent
44 or greater than ~~90%~~ 90 percent.

45 b. The maintenance factor (M) shall be 1.0 except when one of
46 the following conditions applies, in which case the maintenance factor
47 shall be as specified:

1 (1) Effective ten years from the date of the enactment of P.L.2000,
 2 c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for
 3 reconstruction, remodeling, alteration, modernization, renovation or
 4 repair, or for an addition to a school facility, shall be zero for all
 5 school facilities projects for which the district fails to demonstrate over
 6 the ten years preceding issuance a net investment in maintenance of
 7 the related school facility of at least **[2%]** two percent of the
 8 replacement cost of the school facility, determined pursuant to
 9 subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the
 10 area cost allowance of the year ten years preceding the year in which
 11 the school bonds are issued.

12 (2) For new construction, additions, and school facilities aided
 13 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
 14 supported by financing issued for projects approved by the
 15 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1
 16 et al.), beginning in the fourth year after occupancy of the school
 17 facility, the maintenance factor shall be reduced according to the
 18 following schedule for all school facilities projects for which the
 19 district fails to demonstrate in the prior fiscal year an investment in
 20 maintenance of the related school facility of at least two-tenths of
 21 **[1%]** one percent of the replacement cost of the school facility,
 22 determined pursuant to subsection b. of section 7 of P.L.2000, c.72
 23 (C.18A:7G-7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

28 (3) Within one year of the enactment of P.L.2000, c.72
 29 (C.18A:7G-1 et al.), the commissioner shall promulgate rules requiring
 30 districts to develop a long-range maintenance plan and specifying the
 31 expenditures that qualify as an appropriate investment in maintenance
 32 for the purposes of this subsection.

33 c. Any district which obtained approval from the commissioner
 34 since September 1, 1998 and prior to the effective date of P.L.2000,
 35 c.72 (C.18A:7G-1 et al.) of the educational specifications for a school
 36 facilities project or obtained approval from the Department of
 37 Community Affairs or the appropriately licensed municipal code
 38 official since September 1, 1998 of the final construction plans and
 39 specifications, and the district has issued debt, may elect to have the
 40 final eligible costs of the project determined pursuant to section 5 of
 41 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under this
 42 section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

43 Any district which received approval from the commissioner for a
 44 school facilities project at any time prior to the effective date of
 45 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than
 46 short term notes, may submit an application pursuant to section 5 of
 47 P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the
 48 project determined pursuant to that section and to have the New Jersey

1 Economic Development Authority construct the project; or, at its
2 discretion, the district may choose to receive debt service aid under
3 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10) or to
4 receive a grant under section 15 of P.L.2000, c.72 (C.18A:7G-15).

5 For the purposes of this subsection, the "issuance of debt" shall
6 include lease purchase agreements in excess of five years.

7 d. For school bonds issued for a school facilities project after the
8 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the
9 effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State debt
10 service aid shall be calculated in accordance with the provisions of this
11 section as the same read before the effective date of P.L.2008, c.39
12 (C.18A:7G-14.1 et al.).
13 (cf: P.L.2009, c.185, s.2)
14

15 **1**[8.] 7.¹ (New section) a. Notwithstanding any provision of
16 law to the contrary, when the board of education of a district
17 determines that it is not financing a school facilities project under
18 section 15 of P.L.2000, c.72 (C.18A:7G-15) and that it is necessary
19 to sell bonds to raise money for the total costs of a school facilities
20 project, the board of education may issue such bonds as are
21 necessary to fund the project without the approval of the voters of
22 the district, provided that before issuing the bonds:

23 (1) the board of education has entered into a written contract
24 with one or more municipalities, wherein the municipality shall
25 annually remit to the board of education not less than 60 percent of
26 the payments in lieu of taxes received by the municipality from one
27 or more designated properties, and the board of education shall
28 pledge all remittances to the full repayment of the bonds; and

29 (2) the bond issuance and contract has been approved by the
30 commissioner pursuant to subsection b. of this section.

31 b. (1) If a board of education elects to issue bonds pursuant to
32 this section, the board of education shall apply to the commissioner
33 for approval of the bond issuance. In addition to any other
34 information that the commissioner may deem appropriate, the
35 application shall include: a description of the school facilities
36 project; a certification of the amount to raised by the bonds; a
37 description of the anticipated annual debt service costs, including
38 the amounts to be supported by municipal remittances; and a copy
39 of the contract.

40 (2) Within 30 days of receiving the application, the
41 commissioner shall approve, conditionally approve, or reject the
42 application. If the application is conditionally approved, the
43 commissioner shall state, in writing, the revisions that shall be made
44 to the contract in order for the application to be approved. If the
45 commissioner does not approve, conditionally approve, or reject the
46 application within 30 days of the date of receipt, the commissioner
47 shall be deemed to have approved the application.

1 c. Any debt service on a bond issued by a school district
2 pursuant to this section that is not supported by municipal
3 remittances authorized under this section and is paid by the board of
4 education shall be eligible for State debt service aid in accordance
5 with the formula established under section 9 of P.L.2000, c.72
6 (C.18A:7G-9).

7 d. The commissioner, in consultation with the Local Finance
8 Board, shall promulgate, pursuant to "Administrative Procedure
9 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and
10 regulations as may be necessary to implement the provisions of this
11 section. At a minimum, the rules and regulations shall establish
12 requirements and procedures concerning the process by which
13 municipalities and districts may enter into contracts pursuant to this
14 section.

15
16 **[9.] 8.1** Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended
17 to read as follows:

18 13. a. The financing authority shall be responsible for the
19 issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-
20 14) and the development authority shall be responsible for the
21 planning, design, construction management, acquisition, construction,
22 and completion of school facilities projects. In the case of a capital
23 maintenance project, the development authority may, in its discretion,
24 authorize an SDA district to undertake the design, acquisition,
25 construction and all other appropriate actions necessary to complete
26 the capital maintenance project and shall enter into a grant agreement
27 with the district for the payment of the State share. The development
28 authority may also authorize an SDA district to undertake the design,
29 acquisition, construction and all other appropriate actions necessary to
30 complete any other school facilities project in accordance with the
31 procedures established pursuant to subsection e. of this section.

32 b. The financing authority shall undertake the financing of school
33 facilities projects pursuant to the provisions of this act. The financing
34 authority shall finance the State share of a school facilities project and
35 may, in its discretion and upon consultation with the district, finance
36 the local share of the project. In the event that the financing authority
37 finances only the State share of a project, the development authority
38 shall not commence acquisition or construction of the project until the
39 development authority receives the local share from the district.

40 c. In order to implement the arrangements established for school
41 facilities projects which are to be constructed by the development
42 authority and financed pursuant to this section, a district shall enter
43 into an agreement with the development authority and the
44 commissioner containing the terms and conditions determined by the
45 parties to be necessary to effectuate the project.

46 d. Upon completion by the development authority of a school
47 facilities project, the district shall enter into an agreement with the
48 development authority to provide for the maintenance of the project by

1 the district. In the event that the school facilities project is constructed
2 by a district, upon the completion of the project, the district shall
3 submit to the commissioner a plan to provide for the maintenance of
4 the project by the district. Any agreement or plan shall contain, in
5 addition to any other terms and provisions, a requirement for the
6 establishment of a maintenance reserve fund consistent with the
7 appropriation and withdrawal requirements for capital reserve
8 accounts established pursuant to section 57 of P.L.2000, c.72
9 (C.18A:7G-31), the funding levels of which shall be as set forth in
10 regulations adopted by the commissioner pursuant to section 26 of
11 P.L.2000, c.72 (C.18A:7G-26).

12 e. (1) Within one year of the effective date of P.L.2007, c.137
13 (C.52:18A-235 et al.), the commissioner, in consultation with the
14 development authority, shall adopt pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
16 regulations by which the commissioner shall determine whether an
17 SDA district is eligible to be considered by the development authority
18 to manage a school facilities project or projects. In making the
19 determination, the commissioner shall consider the district's fiscal
20 integrity and operations, the district's performance in each of the five
21 key components of school district effectiveness under the New Jersey
22 Quality Single Accountability Continuum (NJQSAC) in accordance
23 with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant
24 factors.

25 (2) Within one year of the effective date of P.L.2007, c.137
26 (C.52:18A-235 et al.), the development authority, in consultation with
27 the commissioner, shall adopt pursuant to the "Administrative
28 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
29 regulations by which the development authority shall determine the
30 capacity of an SDA district, deemed eligible by the commissioner
31 pursuant to paragraph (1) of this subsection, to manage a school
32 facilities project or projects identified by the development authority.
33 In making the determination, the development authority shall consider
34 the experience of the SDA district, the size, complexity, and cost of
35 the project, time constraints, and other relevant factors.

36 (3) The development authority, in consultation with the
37 commissioner, shall develop and implement training programs,
38 seminars, or symposia to provide technical assistance to SDA districts
39 deemed to lack the capacity to manage a school facility project or
40 projects; except that nothing herein shall be construed to require the
41 development authority or the commissioner to authorize an SDA
42 district to hire additional staff in order to achieve capacity.

43 (4) If the development authority determines to delegate a school
44 facilities project to an SDA district in accordance with paragraph (2)
45 of this subsection, the development authority, the commissioner, and
46 the district shall enter into a grant agreement. The grant agreement
47 shall, at a minimum, establish a timeline for the completion of the

1 school facilities project, which timeline shall be established based on
2 the scope of the work to be performed.

3 (5) If the development authority determines to delegate a school
4 facilities project to an SDA district in accordance with paragraph (2)
5 of this subsection, the SDA district shall be deemed to be in
6 noncompliance with the grant agreement entered into pursuant to
7 paragraph (4) of this subsection if the district enters into a contract
8 with a contractor, subcontractor, or consultant which is debarred,
9 suspended, or disqualified from State ¹[or],¹ development authority ¹,
10 or federal government¹ contracting ¹at the time of the contract award¹
11 or with a firm which has not been prequalified by the development
12 authority. If the district enters into a contract with a debarred,
13 suspended, or disqualified contractor, subcontractor, or consultant,
14 then the grant agreement shall be rendered null and void.
15 ¹Notwithstanding the provisions of any law, rule, or regulation to the
16 contrary, an SDA district to which the development authority has
17 delegated management of a school facilities project may enter into a
18 contract for work with a person or firm that was previously debarred,
19 suspended, or disqualified from State, development authority, or
20 federal government contracting.¹

21 (cf: P.L.2007, c.260, s.44)

22

23 ¹**[10.]** 9.¹ Section 14 of P.L.2000, c.72 (C.18A:7G-14) is
24 amended to read as follows:

25 14. Notwithstanding any other provisions of law to the contrary:

26 a. The financing authority shall have the power, pursuant to the
27 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
28 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue
29 bonds and refunding bonds, incur indebtedness and borrow money
30 secured, in whole or in part, by moneys received pursuant to sections
31 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and
32 C.18A:7G-19) for the purposes of: financing all or a portion of the
33 costs of school facilities projects and any costs related to the issuance
34 thereof, including, but not limited to, the administrative, insurance,
35 operating and other expenses of the financing authority to undertake
36 the financing, and the development authority to undertake the
37 planning, design, and construction of school facilities projects; lending
38 moneys to local units to pay the costs of all or a portion of school
39 facilities projects and any costs related to the issuance thereof; funding
40 the grants to be made pursuant to section 15 of P.L.2000, c.72
41 (C.18A:7G-15); and financing the acquisition of school facilities
42 projects to permit the refinancing of debt by the district pursuant to
43 section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the
44 provisions of this section to the contrary, bonds and refunding bonds,
45 or any indebtedness or other borrowed moneys, secured, in whole or in
46 part, by moneys received pursuant to sections 17, 18, and 19 of
47 P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19)¹or,¹

1 pursuant to this section after the effective date of P.L. , c. (C.)
2 (pending before the Legislature as this bill) shall not be issued for the
3 purposes of financing costs related to the issuance of the bonds,
4 indebtedness, or other borrowed moneys including, but not limited to,
5 the administrative, 'non-project' insurance, operating and other
6 expenses of the financing authority to undertake the financing, and the
7 development authority to undertake the planning, design, and
8 construction of school facilities projects. Bonds, indebtedness, or other
9 borrowed moneys issued pursuant to this section shall also not be
10 issued for the purposes of financing any costs related to the issuance of
11 moneys lent to local units to pay the costs of all or a portion of school
12 facilities projects. The administrative, 'non-project' insurance,
13 operating, and other expenses of the financing authority related to
14 undertaking the financing of school facilities projects pursuant to this
15 section shall be supported by State appropriations. The administrative,
16 'non-project' insurance, operating, and other expenses of the
17 development authority to undertake the planning, design, and
18 construction of school facilities projects shall be funded by State
19 appropriations pursuant to paragraph (2) of subsection o. of section 4
20 of P.L.2007, c.137, (C.52:18A-238). Bonds and refunding bonds, or
21 any indebtedness or other borrowed moneys issued pursuant to this
22 section after the effective date of P.L. , c. (C.) (pending before
23 the Legislature as this bill) shall only be issued for the purposes of:
24 financing all or a portion of the costs of school facilities projects;
25 lending moneys to local units to pay the costs of all or a portion of
26 school facilities projects; funding the grants to be made pursuant to
27 section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the
28 acquisition of school facilities projects to permit the refinancing of
29 debt by the district pursuant to section 16 of P.L.2000, c.72
30 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or
31 other obligations issued by the financing authority as authorized
32 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:
33 \$100,000,000 for the State share of costs for county vocational school
34 district school facilities projects; \$6,000,000,000 for the State share of
35 costs for Abbott district school facilities projects; and \$2,500,000,000
36 for the State share of costs for school facilities projects in all other
37 districts. The aggregate principal amount of the bonds, notes or other
38 obligations issued by the financing authority as authorized pursuant to
39 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:
40 \$2,900,000,000 for the State share of costs of SDA district school
41 facilities projects; and \$1,000,000,000 for the State share of costs for
42 school facilities projects in all other districts, \$50,000,000 of which
43 shall be allocated for the State share of costs for county vocational
44 school district school facilities projects. This limitation shall not
45 include any bonds, notes or other obligations issued for refunding
46 purposes.

47 The financing authority may establish reserve funds to further
48 secure bonds and refunding bonds issued pursuant to this section and

1 may issue bonds to pay for the administrative, insurance and operating
2 costs of the financing authority and the development authority in
3 carrying out the provisions of this act. Notwithstanding the provisions
4 of this section to the contrary, the proceeds of bonds issued pursuant to
5 this section after the effective date of P.L. , c. (C.) (pending
6 before the Legislature as this bill) shall not pay for any costs related to
7 the issuance of the bonds, including the administrative, ¹non-project¹
8 insurance and operating costs of the financing authority and the
9 development authority in carrying out the provisions of P.L.2000, c.72
10 (C.18A:7G-1 et al.). Such costs of the financing authority shall be
11 supported by State appropriations. Such costs of the development
12 authority shall be funded by State appropriations pursuant to paragraph
13 (2) of subsection o. of section 4 of P.L.2007, c.137, (C.52:18A-238).
14 In addition to its bonds and refunding bonds, the financing authority
15 shall have the power to issue subordinated indebtedness, which shall
16 be subordinate in lien to the lien of any or all of its bonds or refunding
17 bonds as the financing authority may determine.

18 b. The financing authority shall issue the bonds or refunding
19 bonds in such manner as it shall determine in accordance with the
20 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
21 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);
22 provided that notwithstanding any other law to the contrary, no
23 resolution adopted by the financing authority authorizing the issuance
24 of bonds or refunding bonds pursuant to this section shall be adopted
25 or otherwise made effective without the approval in writing of the
26 State Treasurer; and refunding bonds issued to refund bonds issued
27 pursuant to this section shall be issued on such terms and conditions as
28 may be determined by the financing authority and the State Treasurer.
29 The financing authority may, in any resolution authorizing the
30 issuance of bonds or refunding bonds issued pursuant to this section,
31 pledge the contract with the State Treasurer provided for pursuant to
32 section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or
33 may pledge all or any part of the repayments of loans made to local
34 units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the
35 payment or redemption of the bonds or refunding bonds, and covenant
36 as to the use and disposition of money available to the financing
37 authority for payment of the bonds and refunding bonds. All costs
38 associated with the issuance of bonds and refunding bonds by the
39 financing authority for the purposes set forth in this act may be paid by
40 the financing authority from amounts it receives from the proceeds of
41 the bonds or refunding bonds, and from amounts it receives pursuant
42 to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
43 18 and C.18A:7G-19). The costs may include, but shall not be limited
44 to, any costs relating to the issuance of the bonds or refunding bonds,
45 administrative costs of the financing authority attributable to the
46 making and administering of loans and grants to fund school facilities
47 projects, and costs attributable to the agreements entered into pursuant
48 to subsection d. of this section. Notwithstanding the provisions of this

1 section to the contrary, the proceeds of bonds and refunding bonds that
2 are issued pursuant to this section after the effective date of P.L. , c.
3 (C.) (pending before the Legislature as this bill) shall not pay for
4 the administrative costs of the financing authority associated with the
5 issuance of the bonds and refunding bonds including, but not limited
6 to, administrative costs of the financing authority attributable to the
7 making and administering of loans and grants to fund school facilities
8 projects, and costs attributable to the agreements entered into pursuant
9 to subsection d. of this section. Such costs of the financing authority
10 shall be supported by State appropriations.

11 c. Each issue of bonds or refunding bonds of the financing
12 authority shall be special obligations of the financing authority payable
13 out of particular revenues, receipts or funds, subject only to any
14 agreements with the holders of bonds or refunding bonds, and may be
15 secured by other sources of revenue, including, but not limited to, one
16 or more of the following:

17 (1) Pledge of the revenues and other receipts to be derived from
18 the payment of local unit obligations and any other payment made to
19 the financing authority pursuant to agreements with any local unit, or a
20 pledge or assignment of any local unit obligations, and the rights and
21 interest of the financing authority therein;

22 (2) Pledge of rentals, receipts and other revenues to be derived
23 from leases or other contractual arrangements with any person or
24 entity, public or private, including one or more local units, or a pledge
25 or assignment of those leases or other contractual arrangements and
26 the rights and interests of the financing authority therein;

27 (3) Pledge of all moneys, funds, accounts, securities and other
28 funds, including the proceeds of the bonds;

29 (4) Pledge of the receipts to be derived from payments of State aid
30 to the financing authority pursuant to section 21 of P.L.2000, c.72
31 (C.18A:7G-21);

32 (5) Pledge of the contract or contracts with the State Treasurer
33 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

34 (6) Pledge of any sums remitted to the local unit by donation from
35 any person or entity, public or private, subject to the approval of the
36 State Treasurer;

37 (7) A mortgage on all or any part of the property, real or personal,
38 comprising a school facilities project then owned or thereafter to be
39 acquired, or a pledge or assignment of mortgages made to the
40 financing authority by any person or entity, public or private, including
41 one or more local units and rights and interests of the financing
42 authority therein; and

43 (8) The receipt of any grants, reimbursements or other payments
44 from the federal government.

45 d. The resolution authorizing the issuance of bonds or refunding
46 bonds pursuant to this section may also provide for the financing
47 authority to enter into any revolving credit agreement, agreement
48 establishing a line of credit or letter of credit, reimbursement

1 agreement, interest rate exchange agreement, currency exchange
2 agreement, interest rate floor or cap, options, puts or calls to hedge
3 payment, currency, rate, spread or similar exposure or similar
4 agreements, float agreements, forward agreements, insurance
5 contracts, surety bonds, commitments to purchase or sell bonds,
6 purchase or sale agreements, or commitments or other contracts or
7 agreements and other security agreements approved by the financing
8 authority in connection with the issuance of the bonds or refunding
9 bonds pursuant to this section. In addition, the financing authority
10 may, in anticipation of the issuance of the bonds or the receipt of
11 appropriations, grants, reimbursements or other funds, including,
12 without limitation, grants from the federal government for school
13 facilities projects, issue notes, the principal of or interest on which, or
14 both, shall be payable out of the proceeds of notes, bonds or other
15 obligations of the financing authority or appropriations, grants,
16 reimbursements or other funds or revenues of the financing authority.

17 e. The financing authority is authorized to engage, subject to the
18 approval of the State Treasurer and in such manner as the State
19 Treasurer shall determine, the services of financial advisors and
20 experts, placement agents, underwriters, appraisers, and other advisors,
21 consultants and agents as may be necessary to effectuate the financing
22 of school facilities projects.

23 f. Bonds and refunding bonds issued by the financing authority
24 pursuant to this section shall be special and limited obligations of the
25 financing authority payable from, and secured by, funds and moneys
26 determined by the financing authority in accordance with this section.
27 Notwithstanding any other provision of law or agreement to the
28 contrary, any bonds and refunding bonds issued by the financing
29 authority pursuant to this section shall not be secured by the same
30 property as bonds and refunding bonds issued by the financing
31 authority to finance projects other than school facilities projects.
32 Neither the members of the financing authority nor any other person
33 executing the bonds or refunding bonds shall be personally liable with
34 respect to payment of interest and principal on these bonds or
35 refunding bonds. Bonds or refunding bonds issued pursuant to this
36 section shall not be a debt or liability of the State or any agency or
37 instrumentality thereof, except as otherwise provided by this
38 subsection, either legal, moral or otherwise, and nothing contained in
39 this act shall be construed to authorize the financing authority to incur
40 any indebtedness on behalf of or in any way to obligate the State or
41 any political subdivision thereof, and all bonds and refunding bonds
42 issued by the financing authority shall contain a statement to that
43 effect on their face.

44 g. The State hereby pledges and covenants with the holders of any
45 bonds or refunding bonds issued pursuant to this act that it will not
46 limit or alter the rights or powers vested in the financing authority by
47 this act, nor limit or alter the rights or powers of the State Treasurer in
48 any manner which would jeopardize the interest of the holders or any

1 trustee of the holders, or inhibit or prevent performance or fulfillment
2 by the financing authority or the State Treasurer with respect to the
3 terms of any agreement made with the holders of the bonds or
4 refunding bonds or agreements made pursuant to subsection d. of this
5 section; except that the failure of the Legislature to appropriate
6 moneys for any purpose of this act shall not be deemed a violation of
7 this section.

8 h. The financing authority and the development authority may
9 charge to and collect from local units, districts, the State and any other
10 person, any fees and charges in connection with the financing
11 authority's or development authority's actions undertaken with respect
12 to school facilities projects, including, but not limited to, fees and
13 charges for the financing authority's administrative, organization,
14 insurance, operating and other expenses incident to the financing of
15 school facilities projects, and the development authority's
16 administrative, organization, insurance, operating, planning, design,
17 construction management, acquisition, construction, completion and
18 placing into service and maintenance of school facilities projects.
19 Notwithstanding any provision of this act to the contrary, no SDA
20 district shall be responsible for the payment of any fees and charges
21 related to the development authority's operating expenses.

22 i. Upon the issuance by the financing authority of bonds pursuant
23 to this section, other than refunding bonds, the net proceeds of the
24 bonds shall be transferred to the development authority. The
25 development authority shall establish ¹~~four~~ ¹three¹ funds in which
26 the net proceeds of the bonds issued pursuant to this section, and any
27 State appropriations for school facilities projects, shall be deposited.
28 The ¹~~four~~ ¹three¹ funds shall be as follows:

29 (1) the SDA District Project Fund, in which shall be deposited any
30 funds made available for the State share of costs for SDA district
31 school facilities projects, which funds shall include, but not be limited
32 to, the proceeds of bonds issued pursuant to subsection a. of this
33 section for the State share of costs for SDA district school facilities
34 projects, the proceeds of any general obligation or other bonds that
35 may be authorized for SDA district school facilities projects, and any
36 State appropriations for SDA district school facilities projects;

37 (2) the Regular Operating District Construction and Maintenance
38 Grants Fund, in which shall be deposited any funds made available for
39 the State share of costs for school facilities projects in districts other
40 than SDA districts, which funds shall include, but not be limited to, the
41 proceeds of bonds issued pursuant to subsection a. of this section for
42 the State share of costs for school facilities projects in districts other
43 than SDA districts, the proceeds of any general obligation or other
44 bonds that may be authorized for school facilities projects in districts
45 other than SDA districts, and any State appropriations for school
46 facilities projects in districts other than SDA districts; ¹and¹

47 (3) (a) the SDA District Emergent Project Fund, in which shall be
48 deposited any funds made available for emergent projects in SDA

1 districts under the “Emergent Condition Remediation Program”
2 established pursuant to section 20 of P.L. , c. (C.) (pending
3 before the Legislature as this bill), which funds shall include, but not
4 be limited to, the proceeds of bonds issued pursuant to subsection a. of
5 this section for the State share of costs for SDA district emergent
6 projects, the proceeds of any general obligation or other bonds that
7 may be authorized for SDA district emergent projects, and any State
8 appropriations for SDA district emergent projects;

9 (b) as used in this paragraph, “emergent project” means a school
10 facilities project or other capital project eligible for State funding that
11 would alleviate a condition that, if not corrected on an expedited basis,
12 would render a building or facility so potentially injurious or
13 hazardous that it causes an imminent peril to the health and safety of
14 students or staff ¹]; and

15 (4) the Charter School and Renaissance School Project
16 Construction and Maintenance Fund in which shall be deposited any
17 funds made available for school facilities projects of charter schools or
18 renaissance school projects located in SDA districts approved pursuant
19 to section 5 of P.L. , c. (C.) (pending before the Legislature as
20 this bill), which funds shall include, but not be limited to, the proceeds
21 of bonds issued pursuant to subsection a. of this section for the State
22 share of costs for school facilities projects of charter schools and
23 renaissance school projects physically located in SDA districts, the
24 proceeds of any general obligation bonds that may be authorized for
25 SDA district charter school or renaissance school project school
26 facilities projects or any State appropriations for SDA district charter
27 school or renaissance school project school facilities projects¹.

28 j. In the event that the annual appropriations act provides for
29 direct funding for school facilities projects, or in the event that a
30 separate act appropriates direct funding of school facilities projects
31 from the “New Jersey Debt Defeasance and Prevention Fund”
32 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no
33 less than ¹[50] 70¹ percent of the direct funding shall be appropriated
34 to the SDA District Project Fund and the SDA District Emergent
35 Project Fund. The remaining funds for school facilities projects shall
36 be ¹[utilized in a manner to be determined by the development
37 authority] disbursed to the Regular Operating District Construction
38 and Maintenance Grants Fund¹.

39 (cf: P.L.2008, c.39, s.4)

40

41 ¹[11.] 10.¹ Section 15 of P.L.2000, c.72 (C.18A:7G-15) is
42 amended to read as follows:

43 15. a. In the case of a district other than an SDA district, for any
44 project approved by the commissioner after the effective date of
45 [this act] P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect
46 to receive a one-time grant for the State share of the project in
47 accordance with the provisions of subsection b. of this section

1 rather than annual debt service aid under section 9 of P.L.2000, c.72
2 (C.18A:7G-9). The State share payable to the district shall equal
3 the product of the project's final eligible costs and the district aid
4 percentage or **[40%]** 40 percent, whichever is greater, except that if
5 the project's design conforms to the standards of the model school
6 design program established by the development authority pursuant
7 to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72
8 (C.18A:7G-4), the district aid percentage shall be increased by 15
9 percent above the amount calculated under section 3 of P.L.2000,
10 c.72 (C.18A:7G-3). If the project's design incorporates the
11 implementation of energy efficiency improvements or the
12 installation of energy efficient features or equipment, the district aid
13 percentage shall be increased by no more than five percent.

14 b. The commissioner shall establish a process for the annual
15 allocation of grant funding. Under that process, the commissioner
16 shall annually notify districts of the date on which the
17 commissioner shall begin to receive applications for grant funding.
18 A district shall have 90 days from that date to submit an application
19 to the commissioner. The commissioner shall make a decision on a
20 district's application within 90 days of the submission of all such
21 applications and shall allocate the grant funding in accordance with
22 the priority process established pursuant to paragraph (4) of
23 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

24 c. The development authority shall provide grant funding for
25 the State's share of the final eligible costs of a school facilities
26 project pursuant to an agreement between the district and the
27 development authority which shall, in addition to other terms and
28 conditions, set forth the terms of disbursement of the State share.
29 The funding of the State share shall not commence until the district
30 secures financing for the local share.
31 (cf: P.L.2008, c.39, s.5)

32
33 **¹[12.] 11.** Section 23 of P.L.2000, c.72 (C.18A:7G-23) is
34 amended to read as follows:

35 23. a. Not less than the prevailing wage rate determined by the
36 Commissioner of Labor and Workforce Development pursuant to
37 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be
38 paid to workers employed in the performance of construction
39 contracts in connection with any school facilities project that is
40 undertaken by the development authority, a redevelopment entity,
41 **[or]** a district, a charter school or renaissance school project, a
42 county improvement authority, or a private entity, when the private
43 entity is undertaking construction on a school facilities project
44 under a public-private partnership, and any contractor who violates
45 the provisions of this subsection shall be prohibited from
46 subsequently bidding on any State or district contract.

47 b. Registration fees collected pursuant to P.L.1999, c.238
48 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and

1 administrative costs of the Division of Workplace Standards, Office
2 of Wage and Hour Compliance, Public Contracts section and
3 Registration section within the Department of Labor and Workforce
4 Development.

5 (cf: P.L.2007, c.137, s.34)

6
7 ¹**【13.】** 12.¹ (New section) There is hereby created within the
8 development authority an Office of Contracting Accountability. The
9 office shall, in consultation with the Department of Labor and
10 Workforce Development, ensure the compliance in the payment of
11 no less than the prevailing wage rate determined by the
12 Commissioner of Labor and Workforce Development pursuant to
13 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), as well as
14 with all other applicable State wage and hour laws and regulations,
15 by contractors selected for a school facilities project undertaken by
16 the development authority or by an SDA district that has been
17 delegated management of the project by the development authority.
18 The office shall collect and review all certified payrolls for work on
19 school facilities projects undertaken by the development authority
20 or by an SDA district that has been delegated management of the
21 project by the development authority, and shall conduct at least one
22 worksite inspection per project on a quarterly basis. Violations of
23 State wage and hour law requirements shall be reflected in the
24 mandatory uniform performance evaluation of contractors, as
25 required pursuant to section 62 of P.L.2000, c.72 (C.18A:7G-36).
26 Violations of wage and hour requirements shall constitute grounds
27 for the development authority to revoke prequalification from a
28 contractor, which prequalification is granted pursuant to the process
29 established by the development authority pursuant to section 59 of
30 P.L.2000, c.72 (C.18A:7G-33).

31

32 ¹**【14.】** 13.¹ Section 57 of P.L.2000, c.72 (C.18A:7G-31) is
33 amended to read as follows:

34 57. a. Notwithstanding any provision of this act or any other
35 law or regulation to the contrary, a board of education or a board of
36 school estimate, as appropriate, may, through the adoption of a
37 board resolution, establish a capital reserve account. The account
38 shall be established and held in accordance with GAAP and shall be
39 subject to annual audit. The funds in the capital reserve account
40 shall be used to finance the district's long-range facilities plan
41 required pursuant to subsection a. of section 4 of **【this act】**
42 P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall
43 not exceed the total amount of local funds required to implement
44 the plan.

45 b. A board of education or a board of school estimate, as
46 appropriate, may appropriate funds in the district's annual budget
47 for the establishment of the capital reserve account pursuant to
48 subsection a. of this section or to supplement the funds in the

1 account as required to meet the needs of the long-range facilities
2 plan.

3 c. A board of education may, by resolution of the board:
4 transfer funds from the capital reserve account to the appropriate
5 line item account for the funding of capital projects as contained in
6 the district's long-range facilities plan; and transfer funds from the
7 capital reserve account to the debt service account for the purpose
8 of offsetting principal and interest payments for bonded projects
9 which are included in the district's long-range facilities plan.

10 d. A board of education may, by resolution of the board:
11 transfer funds from the capital reserve account to the appropriate
12 line item account for the funding of capital projects subject to a
13 public-private partnership agreement entered into pursuant to
14 section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds
15 from the capital reserve account to the debt service account for the
16 purpose of offsetting principal and interest payments for bonded
17 projects subject to a public-private partnership agreement entered
18 into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).
19 (cf: P.L.2004, c.73, s.5)
20

21 ¹~~[15.]~~ 14.¹ Section 60 of P.L.2000, c.72 (C.18A:7G-34) is
22 amended to read as follows:

23 60. a. The prequalification process shall include a requirement
24 that the contractor proposing to submit bids on a school facilities
25 project submit a statement under oath on a form designated by the
26 development authority. The form shall fully describe and establish the
27 financial ability, responsibility, plant and equipment, organization,
28 ownership, relationships and prior experience of the prospective bidder
29 and any other pertinent and material facts as may be deemed necessary
30 by the development authority. The submission shall include:

31 (1) A certified, audited financial statement or compilation of
32 financial statements or other documentation of financial status
33 acceptable to the development authority;

34 (2) Proof of any contractor or trade license required by law for any
35 trade or specialty area in which the contractor is seeking
36 prequalification and a statement as to whether any contractor or trade
37 license has been revoked;

38 (3) A statement as to bonding capacity, which shall be from a
39 surety authorized to issue bid, performance and payment bonds in the
40 State of New Jersey in accordance with N.J.S.2A:44-143 through
41 N.J.S.2A:44-147 to the contractor, and shall indicate aggregate
42 bonding limits;

43 (4) A list of the names and titles of all individuals who own 10%
44 or more of any class of stock in the corporation or are a 10% or more
45 partner in the firm. If any of the aforementioned stockholders or
46 partners is itself a corporation, or a partnership, that entity shall also
47 provide the information specified herein;

1 (5) Disclosure of any judgments, convictions or criminal
2 indictments for any conduct constituting a crime under local, State or
3 federal law¹. The prospective bidder shall also disclose whether, in
4 the past five years, the following have been convicted of a criminal
5 offense under local, State, or federal law: the contractor; the
6 contractor's corporate directors or officers; any employee of the
7 contractor serving in a supervisory capacity or who is empowered to
8 make discretionary decisions with respect to bids or public works
9 contracts; or any individual who owns five percent or more of any
10 class of stock in the corporation or is a five percent or more partner in
11 the firm. Failure to disclose a conviction of a criminal offense
12 pursuant to this paragraph shall constitute cause for the denial or
13 revocation of a contractor's prequalification status¹;

14 (6) Disclosure of any unsatisfied judgments, injunctions or liens
15 obtained by a governmental agency including, but not limited to,
16 judgments based on taxes owed and fines and penalties assessed by
17 any government agency;

18 (7) Disclosure of any determination for violations of federal, State
19 or local laws, rules or regulations, including health laws,
20 unemployment insurance or workers' compensation coverage or claim
21 requirements, the "Employee Retirement Income Security Act of
22 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,
23 environmental laws, safety laws, licensing laws, tax laws and antitrust
24 laws;

25 (8) Disclosure of any federal, State or local debarments, non-
26 responsibility findings or denials of prequalification;

27 (9) Disclosure of any bankruptcy filings or proceedings;

28 (10) A statement as to past performance, which shall give an
29 accurate and complete record of work completed in the past five years
30 by the contractor giving the names of the projects, type of work,
31 location, contract price, bid and final contract amount paid and the
32 names of the owner and of the architect or engineer in charge for the
33 owner. This statement shall also disclose any labor problems
34 experienced, any failure to complete a contract on schedule, any
35 penalties, judgments, orders or liens imposed by reason of any contract
36 undertaken within the five-year period and whether the contractor has
37 been defaulted for cause on any project as determined by an
38 unappealed or nonappealable decision. This statement shall also
39 indicate the status of any litigation pending against the potential
40 bidder. The contractor shall be required to attach to this statement all
41 performance evaluations in his possession for any work performed by
42 the contractor on any public or private projects;

43 (11) A statement as to organization, which shall demonstrate the
44 adequacy of such organization to undertake a school facilities project.
45 This statement shall include the resumes of the management and
46 professional staff;

47 (12) A statement setting forth the contractor's equipment inventory
48 and technical resources; and

1 (13) A statement on staffing capabilities, including labor sources,
2 staffing plans, turnover rates, and any use of registered apprenticeship
3 programs and journeyman training programs.

4 b. After the receipt of the submission provided for in subsection
5 a. of this section, the development authority may verify information
6 provided in the contractor's submission, including applicable license
7 and certificate requirements, federal or State debarments and
8 violations of law. The development authority may also conduct
9 random inquiries or surveys of the contractor's prior customers.

10 c. Based upon the submission provided for in subsection a. of this
11 section the development authority shall assign a contractor the
12 following classification and limits for the purpose of determining the
13 types of projects for which a contractor is entitled to bid:

14 (1) a trade or work classification; and

15 (2) an aggregate rating limit.

16 To effectuate these requirements of the prequalification process,
17 the development authority shall develop rules and regulations for
18 assigning classifications and aggregate limits.

19 d. The classification shall be made and an immediate notice
20 thereof shall be sent to the contractor by registered or certified mail or
21 other legally valid methods.

22 e. The development authority shall establish procedures to permit
23 contractors to challenge a classification made pursuant to this section.

24 f. The prequalification submission shall include an affidavit
25 which acknowledges receipt of information regarding the appropriate
26 federal Bureau of Apprenticeship and Training apprenticeship laws
27 and regulations as adopted by the State and information regarding the
28 county apprenticeship coordinators and the federal Bureau of
29 Apprenticeship and Training.

30 g. The development authority shall maintain a registry of all
31 contractors prequalified to bid on school facilities projects. The
32 registry shall include the classification of the bidder and aggregate
33 building limit. The development authority shall maintain an updated
34 version of the registry available on the Internet website of the
35 authority.

36 (cf: P.L.2007, c.137, s.39)

37
38 ¹15. (New section) a. As part of the application process
39 established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for
40 the prequalification of a contractor that desires to bid on school
41 facilities projects, the development authority shall seek certification
42 from the Department of Labor and Workforce Development and the
43 Department of the Treasury that the contractor is in substantial good
44 standing with the respective department or has entered into an
45 agreement with the respective department that includes a practical
46 corrective action plan for the contractor.

47 b. As part of the application process established under section
48 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a

1 contractor that desires to bid on school facilities projects, the
2 development authority shall undertake a moral integrity review,
3 which shall include a criminal history record check, judgment
4 search, and lien search of:

- 5 (1) the contractor;
6 (2) the contractor's corporate directors or officers;
7 (3) any employee of the contractor who serves in a supervisory
8 capacity or that is empowered to make discretionary decisions with
9 respect to bids or contracts for public works contracts; or
10 (4) any individual who owns five percent or more of any class
11 of stock in the corporation or is a five percent or more partner in the
12 firm.

13 c. The development authority shall not approve the application
14 of a contractor for prequalification to bid on a school facilities
15 projects if the contractor has been convicted of a criminal offense
16 under local, State, or federal law or if, at the time of the application,
17 the contractor is disbarred, suspended, or disqualified from State,
18 development authority, or federal government contracting.

19 d. The development authority shall not approve the application
20 of a contractor for prequalification to bid on school facilities
21 projects if the contractor is prohibited from contracting with any
22 public body pursuant to subsection d. of section 1 of P.L.2019,
23 c.366 (C.34:1A-1.16).¹

24
25 16. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to
26 read as follows:

27 61. a. A contractor's prequalification classification shall be
28 valid for 24 months. A contractor shall be reclassified after the 24-
29 month period in order to remain eligible to bid on school facilities
30 projects.

31 b. Any material changes relevant to the prequalification
32 process shall be reported by the contractor to the development
33 authority in writing within 10 days. Based on the information
34 provided, the development authority may change the classification
35 or revoke prequalification for cause. The development authority
36 may revoke a contractor's prequalification if the contractor fails to
37 report material changes relevant to the prequalification process
38 within 10 days.

39 (cf: P.L.2007, c.137, s.40)

40
41 17. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to
42 read as follows:

43 62. a. A mandatory uniform performance evaluation shall be
44 conducted on all school facilities projects undertaken by the
45 development authority. The evaluation shall, at a minimum, include
46 cost, schedule adherence and quality.

47 b. A contractor shall be notified of a performance evaluation.
48 The contractor shall be afforded an opportunity to respond to an

1 adverse evaluation. Following the opportunity for the contractor to
2 respond to an adverse evaluation, the development authority may
3 revoke a contractor's prequalification to bid on school facilities
4 projects ¹, provided that the contractor had a below average score
5 according to the development authority's scoring criteria for the
6 mandatory uniform evaluation conducted pursuant to subsection a. of
7 this section¹.

8 c. The contractor performance evaluations shall be utilized in
9 reviewing bid submissions.
10 (cf: P.L.2007, c.137, s.41)

11
12 18. Section 63 of P.L.2000, c.72 (C.18A:7G-37) is amended to
13 read as follows:

14 63. a. A prequalified contractor seeking to bid school facilities
15 projects, and any subcontractors required to be named under
16 P.L.2000, c.72 (C.18A:7G-1 et al.) shall, as a condition of bidding,
17 submit a sworn contractor certification regarding qualifications and
18 credentials.

19 b. In the contractor certification form, a principal owner or
20 officer of the company shall certify that the firm has the following
21 qualifications and credentials:

22 (1) A current, valid certificate of registration issued pursuant to
23 "The Public Works Contractor Registration Act," P.L.1999, c.238
24 (C.34:11-56.48 et seq.), a copy of which shall be attached to the
25 certification form, if applicable;

26 (2) A current, valid "Certificate of Authority to perform work in
27 New Jersey" issued by the Department of the Treasury, a copy of
28 which shall be attached to the certification form;

29 (3) Any current, valid contractor or trade license required under
30 applicable New Jersey law for any trade or specialty area in which
31 the firm seeks to perform work, a copy of which shall be attached to
32 the certification;

33 (4) During the term of construction of the school facilities
34 project, the contractor will have in place a suitable quality control
35 and quality insurance program and an appropriate safety and health
36 plan; and

37 (5) Workers' compensation insurance and liability policies that
38 sufficiently cover the contractor's workforce based on the number
39 of workers and craft trades it employs.

40 c. The contractor certification form shall further require that a
41 principal owner or officer of the company certify that, at the time
42 that the firm is bidding a project, the amount of its bid proposal and
43 the value of all of its outstanding incomplete contracts does not
44 exceed the firm's existing aggregate rating limit.

45 (cf: P.L.2000, c.72, s.63)

46
47 19. (New section) a. The development authority and an SDA
48 district to which the development authority has delegated management

1 of a school facilities project, as well as any contractor or consultant
2 retained thereby, shall not enter into a contract for work with any
3 person or firm that ¹**【has been】** is currently¹ debarred, suspended, or
4 disqualified from State, development authority, or federal government
5 contracting.

6 b. The development authority and any SDA district to which the
7 development authority has delegated management of a school facilities
8 project shall insert in all contracts with all contracted parties, and all
9 contractors and consultants shall insert into all of their contracts with
10 all subcontractors and subconsultants, a clause stating that the
11 contracted party, its subcontractors or subconsultants may be debarred,
12 suspended or disqualified from contracting or working, or both, on the
13 approved school facilities project if the contracted party commits any
14 of the acts listed in N.J.A.C.17:19-4.1 or any other applicable
15 regulation issued by the development authority.

16 c. ¹(1)¹ The development authority or the SDA district to which
17 the development authority has delegated management of a school
18 facilities project shall include in its bid specification for any work or
19 services on an approved school facilities project that all bidders submit
20 a sworn statement by the bidder, or an officer or partner of the bidder,
21 indicating whether the bidder is, at the time of the bid, included on the
22 State Treasurer's, the development authority's or the federal
23 government's list of debarred, suspended or disqualified bidders as a
24 result of action taken by any state or federal agency, as the case may
25 be. Bid specifications for the approved school facilities project shall
26 state that the district shall immediately notify the development
27 authority in writing whenever it appears that a bidder is on the State
28 Treasurer's, the development authority's, or the federal government's
29 list.

30 ¹(2)¹ The inclusion of the bidder on any of the lists ¹enumerated
31 in paragraph (1) of this subsection¹ shall constitute cause for the
32 immediate termination of any contract for a school facilities project,
33 ¹**【and】** provided, however, that the development authority or SDA
34 district to which the development authority has delegated management
35 of a school facilities project is able to replace the bidder without
36 significantly impacting the cost and delivery date of the project. The
37 inclusion of the bidder on any of the lists enumerated in paragraph (1)
38 of this subsection¹ shall ¹also¹ result in the development authority's
39 immediate suspension of the bidder from contracting or engaging in
40 work or services on a school facilities project ¹during the period of the
41 bidder's debarment, suspension, or disqualification¹.

42
43 20. (New section) a. There is hereby created within the
44 development authority an Emergent Condition Remediation Program
45 to provide for the financing of emergent projects in the public schools
46 of SDA districts, which public schools shall not include charter
47 schools or renaissance school projects physically located in the SDA

1 districts. Emergent projects financed under the program shall be
2 funded by moneys from the SDA District Emergent Project Fund
3 established pursuant to paragraph (3) of subsection i. of section 14 of
4 P.L.2000, c.72 (C.18A:7G-14).

5 b. Under the Emergent Condition Remediation Program
6 established pursuant to subsection a. of this section, the development
7 authority shall create a process whereby contractors prequalified by
8 the development authority to bid on school facilities projects apply to
9 be a part of a pool of contractors available to address emergent
10 conditions in SDA districts under a standing retainer agreement
11 subject to the development authority's project labor agreement. The
12 prequalified contractors that are part of the pool of contractors
13 established pursuant to this subsection shall be available for any
14 emergent project in any SDA district. Nothing in this subsection shall
15 be construed as requiring the retainer of prequalified contractors for
16 specific emergent projects.

17 ¹c. As used in this section, "emergent project" means a school
18 facilities project or other capital project eligible for State funding that
19 would alleviate a condition that, if not corrected on an expedited basis,
20 would render a building or facility so potentially injurious or
21 hazardous that it causes an imminent peril to the health and safety of
22 students or staff.¹

23

24 21. (New section) Notwithstanding the provisions of any law,
25 rule, or regulation to the contrary, an SDA district to which the
26 development authority has delegated management of a school
27 facilities project shall not enter into a cooperative pricing system or
28 agreement for construction services on school facilities projects.

29

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

31 18A:18A-4. a. Every contract for the provision or performance
32 of any goods or services, the cost of which in the aggregate exceeds
33 the bid threshold, shall be awarded only by resolution of the board
34 of education to the lowest responsible bidder after public
35 advertising for bids and bidding therefor, except as is provided
36 otherwise in this chapter or specifically by any other law.

37 The board of education may, by resolution approved by a
38 majority of the board of education and subject to subsections b. and
39 c. of this section, disqualify a bidder who would otherwise be
40 determined to be the lowest responsible bidder, if the board of
41 education finds that:

42 (1) any board **[**or, in the case of a contract for a school facilities
43 project, the New Jersey Economic Development Authority,**]** of
44 education has had prior negative experience with the bidder within
45 the past 10 years, as reported in a contractor evaluation submitted
46 pursuant to N.J.S. 18A:18A-15 **[**or in a school facilities project
47 performance evaluation submitted pursuant to regulations of the

1 Department of the Treasury or section 62 of P.L.2000, c.72
2 (C.18A:7G-36), as appropriate. **】** ; or

3 (2) in the case of a contract for a school facilities project as
4 defined in section 3 of P.L.2000, c.72 (C.18A:7G-3), there has been
5 at least one instance of prior negative experience with the bidder by
6 any board of education, or by the New Jersey Economic
7 Development Authority or the New Jersey Schools Development
8 Authority, or any combination thereof, as reported in a contractor
9 evaluation submitted pursuant to N.J.S.18A:18A-15, a school
10 facilities project performance evaluation, or in a mandatory uniform
11 performance evaluation conducted pursuant to section 62 of
12 P.L.2000, c.72 (C.18A:7G-36), as appropriate.

13 b. As used in this section, "prior negative experience" means
14 any of the following:

15 (1) the bidder has been found, through either court adjudication,
16 arbitration, mediation, or other contractually stipulated alternate
17 dispute resolution mechanism, to have: failed to provide or perform
18 goods or services; or failed to complete the contract in a timely
19 manner; or otherwise performed unsatisfactorily under a prior
20 contract with a board of education or, in the case of a school
21 facilities project, with the New Jersey Economic Development
22 Authority or the New Jersey Schools Development Authority;

23 (2) the bidder defaulted on a contract, thereby requiring a board
24 of education or, in the case of a school facilities project, the New
25 Jersey Economic Development Authority or the New Jersey Schools
26 Development Authority, to utilize the services of another contractor
27 to provide the goods or perform the services or to correct or
28 complete the contract;

29 (3) the bidder defaulted on a contract, thereby requiring a board
30 of education or, in the case of a school facilities project, the New
31 Jersey Economic Development Authority or the New Jersey Schools
32 Development Authority, to look to the bidder's surety for
33 completion of the contract or tender of the costs of completion;
34 **【or】**

35 (4) the bidder is debarred or suspended from contracting with
36 any of the agencies or departments of the executive branch of the
37 State of New Jersey at the time of the contract award, whether or
38 not the action was based on experience with a board of education
39 or, in the case of a school facilities project, with the New Jersey
40 Economic Development Authority **【.** or the New Jersey Schools
41 Development Authority;

42 (5) the bidder's prequalification to bid on a school facilities
43 project, which prequalification was granted pursuant to the process
44 established by the development authority under section 59 of
45 P.L.2000, c.72 (C.18A:7G-33), has been revoked by the New Jersey
46 Schools Development Authority;

47 (6) the bidder has been suspended from contracting or engaging
48 in work or services on a school facilities project; or

1 (7) the bidder's prequalification to submit bids on a school
2 facilities project has been revoked pursuant to subsection b. of
3 section 61 of P.L.2000, c.72 (C.18A:7G-35) or subsection b. of
4 section 62 of P.L.2000, c.72 (C.18A:7G-36).

5 c. The following conditions apply if the board of education is
6 contemplating a disqualification based on prior negative experience:

7 (1) The existence of any of the indicators of prior negative
8 experience set forth in this section shall not require that a bidder be
9 disqualified. In each instance, the decision to disqualify shall be
10 made within the discretion of the board of education and shall be
11 rendered in the best interests of the board of education.

12 (2) All mitigating factors shall be considered in determining the
13 seriousness of the prior negative experience and in deciding
14 whether disqualification is warranted.

15 (3) The bidder shall be furnished by the board of education with
16 a written notice (a) stating that a disqualification is being
17 considered; (b) setting forth the reason for the disqualification; and
18 (c) indicating that the bidder shall be accorded an opportunity for a
19 hearing before the board of education if the bidder so requests
20 within a stated period of time. At the hearing, the bidder shall show
21 good cause why the bidder should not be disqualified by presenting
22 documents and testimony. If the board of education determines that
23 good cause has not been shown by the bidder, it may vote to find
24 the bidder lacking in responsibility and, thus, disqualified.

25 (4) Disqualification shall be for a reasonable, defined period of
26 time which shall not exceed five years.

27 (5) A disqualification, other than a disqualification pursuant to
28 which a board of education is prohibited by law from entering into a
29 contract with a bidder, may be voided or the period thereof may be
30 reduced, in the discretion of the board of education, upon the
31 submission of a good faith application under oath, supported by
32 documentary evidence, setting forth substantial and appropriate
33 grounds for the granting of relief, such as reversal of a judgment, or
34 actual change of ownership, management or control of the bidder.

35 (6) An opportunity for a hearing need not be offered to a bidder
36 whose disqualification is based on its suspension or debarment by
37 an agency or department of the executive branch of the State of
38 New Jersey. The term of such a disqualification shall be concurrent
39 with the term of the suspension or debarment by the State agency or
40 department.

41 d. The purchase of text books and materials that exceed the bid
42 threshold and are approved by a board of education pursuant to
43 N.J.S.18A:34-1 shall not require the further adoption of a resolution
44 for purchase.

45 (cf: P.L.2002, c.90, s.1)

46
47 23. (New section) a. Within 120 days of the effective date of
48 P.L. , c. (C.) (pending before the Legislature as this bill),

1 the Commissioner of Education, in consultation with the New
2 Jersey Schools Development Authority, shall, pursuant to the
3 Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
4 seq.), promulgate regulations for school districts concerning the
5 incorporation of construction contract provisions that encourage the
6 completion of construction projects on schedule.

7 b. At a minimum, the regulations shall include sample
8 provisions that school districts may include in future issuances of
9 construction contracts. In addition to any other considerations that
10 the commissioner may deem appropriate, the regulations shall
11 prescribe:

12 (1) industry-leading penalties for the late delivery of projects by
13 contractors; and

14 (2) incentives for contractors who deliver projects on time and
15 under budget.

16

17 24. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to
18 read as follows:

19 2. a. As used in this section:

20 "Authority" means the New Jersey Economic Development
21 Authority established pursuant to section 4 of P.L.1974, c.80
22 (C.34:1B-4).

23 "Bundling" means the use of a solicitation for multiple projects
24 in one single contract, through a public-private partnership project
25 delivery method, the result of which restricts competition.

26 "Project" shall have the same meaning as provided in section 3
27 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and
28 shall include any infrastructure or facility used or to be used by the
29 public or in support of a public purpose or activity.

30 "Public-private partnership agreement" means an agreement
31 entered into by a school district and a private entity pursuant to this
32 section for the purpose of permitting a private entity to assume full
33 financial and administrative responsibility for the development,
34 construction, reconstruction, repair, alteration, improvement,
35 extension, operation, and maintenance of a school facilities project
36 of, or for the benefit of, the school district.

37 "School district" shall have the same meaning as provided in
38 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local
39 school district, regional school district, or county special services
40 school district or county vocational school established and
41 operating under the provisions of Title 18A of the New Jersey
42 Statutes that can demonstrate to the satisfaction of the
43 Commissioner of Education and the Chief Executive Officer of the
44 Schools Development Authority that a school facility is necessary
45 due to overcrowding or is in need of replacement. The term "school
46 district" shall include a charter school established under P.L.1995,
47 c.426 (C.18A:36A-1 et seq.)

1 b. (1) A school district may enter into a contract with a private
2 entity, subject to subsection f. of this section, to be referred to as a
3 public-private partnership agreement, that permits the private entity
4 to assume full financial and administrative responsibility for a
5 project of, or for the benefit of, the school district~~],~~ provided that
6 the project is financed in whole by the private entity~~]~~, except that a
7 school district may, by resolution, draw against its capital reserve
8 account in order to finance a portion of a project for which a school
9 district and private entity enter into a public-private partnership
10 agreement pursuant to the provisions of this section.

11 (2) A public-private partnership agreement may include an
12 agreement under which a school district and a private entity enter
13 into a lease of a revenue-producing public building, structure, or
14 facility in exchange for up-front or structured financing by the
15 private entity for the project. Under the lease agreement, the
16 private entity shall be responsible for the management, operation,
17 and maintenance of the building, structure, or facility. The private
18 entity shall receive some or all, as per the agreement, of the revenue
19 generated by the building, structure, or facility, and shall operate
20 the building, structure, or facility in accordance with school district
21 standards. At the end of the lease term, subsequent revenue
22 generated by the building, structure, or facility, along with
23 management, operation, and maintenance responsibility, shall revert
24 to the school district. A lease agreement entered into pursuant to
25 this section shall be limited in duration to a term of not more than
26 30 years. A lease agreement shall be subject to all applicable
27 provisions of current law governing leases by a school district not
28 inconsistent with the provisions of this section.

29 (3) Bundling of projects shall be prohibited under this section.

30 c. (1) A private entity that assumes financial and
31 administrative responsibility for a project pursuant to this section
32 shall not be subject to, unless otherwise set forth herein, the
33 procurement and contracting requirements of all statutes applicable
34 to the school district at which the project is completed, including,
35 but not limited to, the "Public School Contracts Law,"
36 N.J.S.18A:18A-1 et seq.

37 (2) For the purposes of facilitating the financing of a project
38 pursuant to this section, a public entity may become the owner or
39 lessee of the project or the lessee of the land, or both, may become
40 the lessee of a building, structure, or facility to which the school
41 district holds title, may issue indebtedness in accordance with the
42 public entity's enabling legislation and, notwithstanding any
43 provision of law to the contrary, shall be empowered to enter into
44 contracts with a private entity and its affiliates without being
45 subject to the procurement and contracting requirements of any
46 statute applicable to the public entity provided that the private
47 entity has been selected by the school district pursuant to a
48 solicitation of proposals or qualifications from at least two private

1 entities. For the purposes of this subsection, a public entity shall
2 include the New Jersey Economic Development Authority, and any
3 project undertaken pursuant to this section of which the authority
4 becomes the owner or lessee, or which is situated on land of which
5 the authority becomes the lessee, shall be deemed a "project" under
6 "The New Jersey Economic Development Authority Act," P.L.1974,
7 c.80 (C.34:1B-1 et seq.).

8 (3) Prior to the commencement of work on a project, the private
9 entity shall establish a construction account and appoint a third-
10 party financial institution, who shall be prequalified by the State
11 Treasurer to act as a collateral agent and manage the construction
12 account. The construction account shall include the funding,
13 financial instruments, or both, that shall be used to fully capitalize
14 and fund the project, and the collateral agent shall maintain a full
15 accounting of the funds and instruments in the account. The funds
16 and instruments in the construction account shall be held in trust for
17 the benefit of the contractor, construction manager, and design-
18 build team involved in the project. The funds and instruments in
19 the construction account shall not be the property of the private
20 entity unless all amounts due to the construction account
21 beneficiaries are paid in full. The construction account shall not be
22 designated for more than one project.

23 d. Each worker employed in the construction, rehabilitation, or
24 building maintenance services of facilities by a private entity that
25 has entered into a public-private partnership agreement with a
26 school district pursuant to this section shall be paid not less than the
27 prevailing wage rate for the worker's craft or trade as determined by
28 the Commissioner of Labor and Workforce Development pursuant
29 to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
30 (C.34:11-56.58 et seq.).

31 e. (1) All building construction projects under a public-private
32 partnership agreement entered into pursuant to this section shall
33 contain a project labor agreement. The project labor agreement
34 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et
35 seq.), and shall be in a manner that to the greatest extent possible
36 enhances employment opportunities for individuals residing in the
37 county of the project's location. The general contractor,
38 construction manager, design-build team, or subcontractor for a
39 construction project proposed in accordance with this paragraph
40 shall be registered pursuant to the provisions of P.L.1999, c.238
41 (C.34:11-56.48 et seq.), and shall be classified by the Division of
42 Property Management and Construction, or shall be prequalified by
43 the Department of Transportation, as appropriate, to perform work
44 on a public-private partnership project.

45 (2) All projects proposed in accordance with this section shall
46 be submitted to the State Treasurer, in consultation with the
47 Department of Education, Schools Development Authority, and the
48 New Jersey Economic Development Authority for a review and

1 approval in accordance with subsection f. of this section prior to the
2 execution of the public-private partnership agreement and, when
3 practicable, are encouraged to adhere to the Leadership in Energy
4 and Environmental Design Green Building Rating System as
5 adopted by the United States Green Building Council, the Green
6 Globes Program adopted by the Green Building Initiative, or a
7 comparable nationally recognized, accepted, and appropriate
8 sustainable development rating system.

9 (3) The general contractor, construction manager, or design-
10 build team shall be required to post a performance bond to ensure
11 the completion of the project and a payment bond guaranteeing
12 prompt payment of moneys due in accordance with and conforming
13 to the requirements of N.J.S.2A:44-143 et seq.

14 (4) Prior to being submitted to the State Treasurer for review
15 and approval, all projects proposed in accordance with this section
16 shall be subject to a public hearing, the record of which shall have
17 been kept open for a period of seven days following the conclusion
18 of the hearing, after the ranking of proposals takes place pursuant to
19 paragraph (5) of subsection j. of this section. The school district
20 shall provide notice of the public hearing no less than 14 days prior
21 to the date of the hearing. The notice shall prominently state the
22 purpose and nature of the proposed project, and shall be published
23 on the official Internet website of the school district and in at least
24 one or more newspapers with Statewide circulation.

25 (5) Prior to entering into a public -private partnership, the
26 school district must determine: (i) the benefits to be realized by the
27 project, (ii) the cost of the project if it is developed by the public
28 sector supported by comparisons to comparable projects, (iii) the
29 maximum public contribution that the school district will allow
30 under the public -private partnership, (iv) a comparison of the
31 financial and non-financial benefits of the public-private
32 partnership compared to other options including the public sector
33 option, (v) a list of risks, liabilities and responsibilities to be
34 transferred to the private entity and those to be retained by the
35 school district, and (vi) if the project has a high, medium or low
36 level of project delivery risk and how the public is protected from
37 these risks.

38 (6) Prior to entering into a public- private partnership, the
39 school district at a public hearing shall find that the project is in the
40 best interest of the public by finding that (i) it will cost less than the
41 public sector option, or if it costs more there are factors that warrant
42 the additional expense, (ii) there is a public need for the project and
43 the project is consistent with existing long-term plans, (iii) there are
44 specific significant benefits to the project, (iv) there are specific
45 significant benefits to using the public-private partnership instead
46 of other options including No-Build, (v) the private development
47 will result in timely and efficient development and operation, and
48 (vi) the risks, liabilities and responsibilities transferred to the

1 private entity provide sufficient benefits to warrant not using other
2 means of procurement.

3 f. (1) All projects proposed in accordance with this section
4 shall be submitted to the State Treasurer for review and approval,
5 which shall be conducted in consultation with the Commissioner of
6 the Department of Education and the Chief Executive Officer of the
7 Schools Development Authority. The Commissioner of the
8 Department of Education shall determine if a project is subject to
9 voter approval pursuant to N.J.S.18A:24-10. If a project is subject
10 to voter approval, such approval is required prior to progressing
11 thru the procurement process. The projects are encouraged, when
12 practicable, to adhere to the green building manual prepared by the
13 Commissioner of Community Affairs pursuant to section 1 of
14 P.L.2007, c.132 (C.52:27D-130.6).

15 (2) All projects proposed in accordance with this section that
16 have a transportation component or impact the transportation
17 infrastructure shall be submitted to the Department of
18 Transportation. The State Treasurer shall consult with the
19 Department of Transportation in making its final determination.

20 (3) (a) In order for an application to be complete and considered
21 by the State Treasurer, the application shall include, but not be
22 limited to: (i) a full description of the proposed public-private
23 partnership agreement between the school district and the private
24 developer, including all information obtained by and findings of the
25 school district pursuant to paragraphs (4) and (5) of subsection (e)
26 of this section; (ii) a full description of the project, including a
27 description of any agreement for the lease of a revenue-producing
28 facility related to the project; (iii) the estimated costs and financial
29 documentation for the project showing the underlying financial
30 models and assumptions that determined the estimated costs. The
31 financial documentation must include at least three different
32 projected estimated costs showing scenarios in which materially
33 different economic circumstances are assumed and an explanation
34 for how the estimated costs were determined based on the three
35 scenarios; (iv) a timetable for completion of the construction of the
36 project; (v) an analysis of all available funding options for the
37 project, including an analysis of the financial viability and
38 advisability of such project, along with evidence of the public
39 benefit in advancing the project as a public-private partnership; (vi)
40 a record of the public hearing held pursuant to paragraph (4) of
41 subsection e. of this section, which shall have been kept open for a
42 period of seven days following the conclusion of the hearing; (vii)
43 any other requirements that the State Treasurer deems appropriate
44 or necessary. The application shall also include a resolution by the
45 school district's governing body of its intent to enter into a public-
46 private partnership agreement pursuant to this section.

47 (b) As part of the estimated costs and financial documentation
48 for the project, the application shall contain a long-range

1 maintenance plan and a long-range maintenance bond and shall
2 specify the expenditures that qualify as an appropriate investment in
3 maintenance. The long-range maintenance plan shall be approved
4 by the State Treasurer pursuant to regulations promulgated by the
5 State Treasurer that reflect national building maintenance standards
6 and other appropriate building maintenance benchmarks.

7 (4) The State Treasurer, in consultation with the authority, the
8 Commissioner of the Department of Education, and the Chief
9 Executive Officer of the Schools Development Authority, shall
10 review all completed applications, and request additional
11 information as is needed to make a complete assessment of the
12 project. No public-private partnership agreement shall be executed
13 until approval has been granted by the State Treasurer. Prior to a
14 final decision by the State Treasurer on the application, the
15 authority, the Department of Education, and the Schools
16 Development Authority shall be afforded the opportunity to provide
17 comments on the application that they deem appropriate, and the
18 State Treasurer shall consider any comments submitted by the
19 authority, the Department of Education, and the Schools
20 Development Authority with respect to the application. The State
21 Treasurer will find that: (i) the school district's assumptions
22 regarding the project's scope, its benefits, its risks and the cost of
23 the public sector option were fully and reasonably developed (ii) the
24 design of the project is feasible; (iii) the experience and
25 qualifications of the private entity; (iv) the financial plan is sound;
26 (v) the long-range maintenance plan is adequate to protect the
27 investment; (vi) the project is in the best interest of the public,
28 using the criteria in paragraph (6) of subsection e. of this section;
29 (vii) a resolution by the school district's governing body of its intent
30 to enter into a public-private partnership agreement for the project
31 has been received; and (viii) the term sheet for any proposed
32 procurement contains all necessary elements.

33 (5) The State Treasurer, in consultation with the Commissioner
34 of the Department of Education and Chief Executive Officer of the
35 Schools Development Authority, may promulgate any rules and
36 regulations necessary to implement this subsection, including, but
37 not limited to, provisions for fees to cover administrative costs, and
38 for the determination of minimum school district standards for the
39 operation of the project, and for the qualification for professional
40 services, construction contracting, and other relevant qualifications.

41 g. A project with an expenditure of under \$50 million
42 developed under a public-private partnership agreement shall
43 include a requirement that precludes contractors from engaging in
44 the project if the contractor has contributed to the private entity's
45 financing of the project in an amount of more than 10% of the
46 project's financing costs.

47 h. The power of eminent domain shall not be delegated to any
48 private entity under the provisions of P.L.2018, c.90 (C.40A:11-52

1 et al.); however, a school district may dedicate any property
2 interest, including improvements, and tangible personal property of
3 the school district for public use in a qualifying project if the school
4 district finds that so doing will serve the public purpose of the
5 project by minimizing the cost of the project to the school district or
6 reducing the delivery time of a project.

7 i. Any public-private partnership agreement, if appropriate,
8 shall include provisions affirming that the agreement and any work
9 performed under the agreement are subject to the provisions of the
10 "Construction Industry Independent Contractor Act," P.L.2007,
11 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement
12 will also include, at a minimum: (i) the term of the agreement, (ii)
13 the total project cost, (iii) a completion date guarantee, (iv) a
14 provision for damages if the private entity fails to meet the
15 completion date, and (v) a maximum rate of return to the private
16 entity and a provision for the distribution of excess earnings to the
17 local government unit or to the private party for debt reduction.

18 j. (1) A private entity seeking to enter into a public-private
19 partnership agreement with the school district shall be qualified by
20 the school district as part of the procurement process, provided such
21 process ensures that the private entity and its subcontractors and
22 consultants, where relevant, meet at least the minimum
23 qualifications standards promulgated by the State Treasurer, in
24 consultation with the New Jersey Economic Development
25 Authority, Department of Education, Schools Development
26 Authority, and such other school district standards for qualification
27 for professional services, construction contracting, and other
28 qualifications applicable to the project, prior to submitting a
29 proposal under the procurement process.

30 (2) A request for qualifications for a public-private partnership
31 agreement shall be advertised at least 45 days prior to the
32 anticipated date of receipt. The advertisement of the request for
33 qualifications shall be published on the official Internet website of
34 the school district and at least one or more newspapers with
35 Statewide circulation.

36 (3) After the school district determines the qualified respondents
37 utilizing, at minimum, the qualification standards promulgated by
38 the State Treasurer, the school district shall issue a request for
39 proposals to each qualified respondent no less than 45 days prior to
40 the date established for submission of the proposals. The request
41 for proposals shall include relevant technical submissions,
42 documents, and the evaluation criteria to be used in the selection of
43 the designated respondent. The evaluation criteria shall be, at
44 minimum, criteria promulgated by the State Treasurer, in
45 consultation with the New Jersey Economic Development
46 Authority, Department of Education, and Schools Development
47 Authority.

1 (4) The school district may accept unsolicited proposals from
2 private entities for public-private partnership agreements. If the
3 school district receives an unsolicited proposal and determines that
4 it meets the standards of this section, the school district shall
5 publish a notice of the receipt of the proposal on the Internet site of
6 the school district and through advertisement in at least one or more
7 newspapers with Statewide circulation. The school district shall
8 also provide notice of the proposal at its next scheduled public
9 meeting and to the State Treasurer. To qualify as an unsolicited
10 proposal, the unsolicited proposal must at a minimum include a
11 description of the public-private project, the estimated construction
12 and life-cycle costs, a timeline for development, proposed plan of
13 financing, including projected revenues, public or private, debt,
14 equity investment, description of how the project meets needs
15 identified in existing plans, the permits and approvals needed to
16 develop the project from local, state and federal agencies and a
17 projected schedule for obtaining such permits and approvals, a
18 statement of risks, liabilities and responsibilities to be assumed by
19 the private entity. The notice shall provide that the school district
20 will accept, for 120 days after the initial date of publication,
21 proposals meeting the standards of this section from other private
22 entities for eligible projects that satisfy the same basic purpose and
23 need. A copy of the notice shall be mailed to each municipal and
24 county local government body in the geographic area affected by
25 the proposal.

26 (5) After the proposal or proposals have been received, and any
27 public notification period has expired, the school district shall rank
28 the proposals in order of preference. In ranking the proposals, the
29 school district shall rely upon, at minimum, the evaluation criteria
30 promulgated by the State Treasurer, in consultation with the New
31 Jersey Economic Development Authority, Department of Education,
32 and Schools Development Authority. In addition, the local school
33 district may consider factors that include, but may not be limited to,
34 professional qualifications, general business terms, innovative
35 engineering, architectural services, or cost-reduction terms, finance
36 plans, and the need for school district funds to deliver the project
37 and discharge the agreement. The private entity selected shall
38 comply with all laws and regulations required by the State
39 government entity, including but not limited to section 1 of
40 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,
41 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2),
42 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-
43 51 et al.), Executive Order No. 117 of 2008, Executive Order No.
44 118 of 2008, Executive Order No. 189, prior to executing the public
45 private partnership agreement. If only one proposal is received, the
46 school district shall negotiate in good faith and, if not satisfied with
47 the results of the negotiations, the school district may, at its sole
48 discretion, terminate negotiations.

1 (6) The school district may require, upon receipt of one or more
2 proposals, that the private entity assume responsibility for all costs
3 incurred by the school district before execution of the public-private
4 partnership agreement, including costs of retaining independent
5 experts to review, analyze, and advise the school district with
6 respect to the proposal.

7 (7) The school district shall set aside one percent of each project
8 and remit it the Public-Private Partnership Review fund established
9 pursuant to section 8 of P.L.2018, c.90 (C.52:18A-260), for
10 purposes of plan review and analysis required under the bill.

11 (8) Nothing in this section shall be construed as or deemed a
12 waiver of the sovereign immunity of the State, the local government
13 unit or an affected locality or public entity or any officer or
14 employee thereof with respect to the participation in or approval of
15 all or any part of the public-private project.

16 (cf: P.L.2018, c.90, s.2)

17

18 25. N.J.S.18A:21-4 is amended to read as follows:

19 18A:21-4. A board of education may in any school year draw
20 against its capital reserve account, up to the amount of the balance
21 therein, to the extent that the withdrawal is anticipated as a revenue
22 in the school budget for the then current school year or approved by
23 the commissioner for good cause; provided, that no money drawn
24 from the account may be used for current expenses of the general
25 fund or debt service payments but shall be used exclusively for
26 capital expenses of the general fund or capital projects fund when
27 expressly authorized as part of a referendum, except as provided for
28 in section 2 of P.L.2018, c.90 (C.18A:18A-60).

29 (cf: P.L.1996, c.138, s.52)

30

31 ¹[26. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended
32 to read as follows:

33 10. A charter school may be located in part of an existing public
34 school building, in space provided on a public work site, in a public
35 building, or any other suitable location. In the case of a nonpublic
36 school that converts to a charter school pursuant to the provisions of
37 section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school
38 may be located in the same school building in which the nonpublic
39 school was located. The facility shall be exempt from public school
40 facility regulations except those pertaining to the health or safety of
41 the pupils, unless the facility is part of a school facilities project
42 that is undertaken by the New Jersey Schools Development
43 Authority pursuant to section 5 of P.L. , c. (C.) (pending
44 before the Legislature as this bill). A charter school shall not
45 construct a facility with public funds other than federal funds.
46 Notwithstanding the provisions of this section to the contrary, a
47 charter school physically located in an SDA district may construct a
48 facility with public funds other than federal funds and be subject to

1 the provisions of the "Public School Contracts Law,"
2 N.J.S.18A:18A-1 et seq., provided that the public funds are
3 provided for a school facilities project approved pursuant to the
4 provisions of section 5 of P.L. , c. (C.) (pending before the
5 Legislature as this bill).

6 (cf: P.L.2011, c.140, s.3)]¹

7

8 ¹[27. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to
9 read as follows:

10 7. a. Notwithstanding that a renaissance school project shall be
11 constructed, controlled, operated, and managed by a nonprofit
12 entity, except that the New Jersey Schools Development Authority
13 may undertake a school facilities project on behalf of a renaissance
14 school project pursuant to section 5 of P.L. , c. (C.)
15 (pending before the Legislature as this bill), and not the local board
16 of education, it shall be a public school. However nothing contained
17 herein shall restrict a for-profit entity from constructing a
18 renaissance school project, or a renaissance school project from
19 being located on land owned by a for-profit entity. Further, the
20 renaissance school project shall be authorized to retain any business
21 entity, however formed, whose primary purpose is the staffing,
22 operation, and management of elementary schools, middle schools,
23 or high schools in the United States, except as it relates to
24 instructional services.

25 b. The costs of a renaissance school project including, but not
26 limited to, the costs of land acquisition, site remediation, site
27 development, design, construction, and any other costs required to
28 place into service the school facility or facilities constituting the
29 renaissance school project shall be at the sole expense of the
30 nonprofit entity, except that a renaissance school project physically
31 located in an SDA district may receive funds for the State share of a
32 school facilities project pursuant to the provisions of section 5 of
33 P.L. , c. (C.) (pending before the Legislature as this bill).
34 The nonprofit entity may use State funds to pay for a lease, debt
35 service, or mortgage for any facility constructed or otherwise
36 acquired.

37 c. Notwithstanding the provisions of the "Educational Facilities
38 Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et
39 al.), or any other law or regulation to the contrary, there shall be no
40 State share for the costs of a renaissance school project, except that
41 a renaissance school project physically located in an SDA district
42 may receive funds for the State share of a school facilities project
43 approved pursuant to the provisions of section 5 of P.L. ,
44 c. (C.) (pending before the Legislature as this bill).

45 d. Notwithstanding the provisions of the "Public School
46 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or
47 regulation to the contrary, the nonprofit entity or any entity acting
48 in cooperation with a renaissance school project shall not be subject

1 to public bidding for goods and services, and any contracts entered
2 into by the nonprofit entity shall not be deemed public contracts or
3 public works; except that any contract entered into by the nonprofit
4 entity or any entity acting in cooperation with a renaissance school
5 project shall be deemed a public work for the purposes of the "New
6 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et
7 seq.), and subject to the applicable provisions of that act.

8 e. The renaissance school district in which a renaissance school
9 project is located shall pay to the nonprofit entity in 12 equal
10 monthly installments an amount per pupil equal to 95% of the
11 district's per pupil expenditure. In addition the 12 monthly
12 installments shall include the security categorical aid attributable to
13 the student, a percentage of the district's special education
14 categorical aid equal to the percentage of the district's special
15 education students enrolled in the renaissance school project, and if
16 applicable 100% of preschool education aid. The district shall also
17 pay directly to the renaissance school project any federal funds
18 attributable to the student.

19 f. Renaissance school projects shall be required to meet the
20 same testing and academic performance standards established by
21 law and regulation for public school students, and shall meet any
22 additional testing and academic performance standards established
23 by the nonprofit entity and approved by the commissioner.

24 g. The nonprofit entity shall have complete discretion in
25 naming the renaissance school project. The nonprofit entity may
26 not realize a net profit from its operation of a renaissance school
27 project. A private or parochial school shall not be eligible for
28 renaissance school project status.

29 h. A nonprofit entity shall operate a renaissance school project
30 in accordance with the contract entered into pursuant to section 6 of
31 this act, the provisions of this act, and the laws and regulations that
32 govern charter schools which are not inconsistent with this act.

33 (cf: P.L.2014, c.61, s.3)]¹

34

35 ¹[28.] 26.¹ Section 12 of P.L.1991, c.431 (C.40A:20-12) is
36 amended to read as follows:

37 12. The rehabilitation or improvements made in the development
38 or redevelopment of a redevelopment area or area appurtenant thereto
39 or for a redevelopment relocation housing project, pursuant to
40 P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation
41 for a limited period as hereinafter provided. When housing is to be
42 constructed, acquired or rehabilitated by an urban renewal entity, the
43 land upon which that housing is situated shall be exempt from taxation
44 for a limited period as hereinafter provided. The exemption shall be
45 allowed when the clerk of the municipality wherein the property is
46 situated shall certify to the municipal tax assessor that a financial
47 agreement with an urban renewal entity for the development or the
48 redevelopment of the property, or the provision of a redevelopment

1 relocation housing project, or the provision of a low and moderate
2 income housing project has been entered into and is in effect as
3 required by P.L.1991, c.431 (C.40A:20-1 et seq.).

4 Delivery by the municipal clerk to the municipal tax assessor of a
5 certified copy of the ordinance of the governing body approving the
6 tax exemption and financial agreement with the urban renewal entity
7 shall constitute the required certification. For each exemption granted
8 pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification
9 as required hereunder, the tax assessor shall implement the exemption
10 and continue to enforce that exemption without further certification by
11 the clerk until the expiration of the entitlement to exemption by the
12 terms of the financial agreement or until the tax assessor has been duly
13 notified by the clerk that the exemption has been terminated.

14 Within 10 calendar days following the later of the effective date of
15 an ordinance following its final adoption by the governing body
16 approving the tax exemption or the execution of the financial
17 agreement by the urban renewal entity, the municipal clerk shall
18 transmit a certified copy of the ordinance and financial agreement to
19 the chief financial officer of the county and to the county counsel for
20 informational purposes.

21 Whenever an exemption status changes during a tax year, the
22 procedure for the apportionment of the taxes for the year shall be the
23 same as in the case of other changes in tax exemption status during the
24 tax year. Tax exemptions granted pursuant to P.L.2003, c.125
25 (C.40A:12A-4.1 et al.) represent long term financial agreements
26 between the municipality and the urban renewal entity and as such
27 constitute a single continuing exemption from local property taxation
28 for the duration of the financial agreement. The validity of a financial
29 agreement or any exemption granted pursuant thereto may be
30 challenged only by filing an action in lieu of prerogative writ within 20
31 days from the publication of a notice of the adoption of an ordinance
32 by the governing body granting the exemption and approving the
33 financial agreement. Such notice shall be published in a newspaper of
34 general circulation in the municipality and in a newspaper of general
35 circulation in the county if different from the municipal newspaper.

36 a. The financial agreement shall specify the duration of the
37 exemption for urban renewal entities in accordance with the
38 parameters of either paragraph (1) or paragraph (2) of this subsection:

39 (1) the financial agreement may specify a duration of not more
40 than 30 years from the completion of the entire project, or unit of the
41 project if the project is undertaken in units, or not more than 35 years
42 from the execution of the financial agreement between the
43 municipality and the urban renewal entity; or

44 (2) for each project undertaken pursuant to a redevelopment
45 agreement which allows the redeveloper to undertake two or more
46 projects sequentially, the financial agreement may specify a duration
47 of not more than 30 years from the completion of a project, or unit of
48 the project if the project is undertaken in units, or not more than 50

1 years from the execution of the first financial agreement implementing
2 a project under the redevelopment agreement. As used in this
3 subsection, "redevelopment agreement" means an agreement entered
4 into pursuant to subsection f. of section 8 of P.L.1992, c.79
5 (C.40A:12A-8) between a municipality or redevelopment entity and a
6 redeveloper.

7 A financial agreement may provide for an exemption period of less
8 than 30 years from the completion of the entire project, less than 35
9 years from the execution of the financial agreement, or less than 50
10 years from the execution of the first financial agreement implementing
11 a project under the redevelopment agreement. Nothing in this
12 subsection shall be construed as requiring a financial agreement for a
13 project undertaken pursuant to a redevelopment agreement which
14 allows the redeveloper to undertake two or more projects sequentially
15 to specify a duration within the parameters of paragraph (2) of this
16 subsection.

17 b. During the term of any exemption, in lieu of any taxes to be
18 paid on the buildings and improvements of the project and, to the
19 extent authorized pursuant to this section, on the land, the urban
20 renewal entity shall make payment to the municipality of an annual
21 service charge, which shall remit a portion of that revenue to the
22 county as provided hereinafter. In addition, the municipality may
23 assess an administrative fee, not to exceed two percent of the annual
24 service charge, for the processing of the application. The annual
25 service charge for municipal services supplied to the project to be paid
26 by the urban renewal entity for any period of exemption, shall be
27 determined as follows:

28 (1) An annual amount equal to a percentage determined pursuant
29 to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of
30 the annual gross revenue from each unit of the project, if the project is
31 undertaken in units, or from the total project, if the project is not
32 undertaken in units. The percentage of the annual gross revenue shall
33 not be more than 15% in the case of a low and moderate income
34 housing project, nor less than 10% in the case of all other projects.

35 At the option of the municipality, or where because of the nature of
36 the development, ownership, use or occupancy of the project or any
37 unit thereof, if the project is to be undertaken in units, the total annual
38 gross rental or gross shelter rent or annual gross revenue cannot be
39 reasonably ascertained, the governing body shall provide in the
40 financial agreement that the annual service charge shall be a sum equal
41 to a percentage determined pursuant to this subsection and section 11
42 of P.L.1991, c.431 (C.40A:20-11), of the total project cost or total
43 project unit cost determined pursuant to P.L.1991, c.431 (C.40A:20-1
44 et seq.) calculated from the first day of the month following the
45 substantial completion of the project or any unit thereof, if the project
46 is undertaken in units. The percentage of the total project cost or total
47 project unit cost shall not be more than 2% in the case of a low and

1 moderate income housing project, and shall not be less than 2% in the
2 case of all other projects.

3 (2) In either case, the financial agreement shall establish a
4 schedule of annual service charges to be paid over the term of the
5 exemption period, which shall be in stages as follows:

6 (a) For the first stage of the exemption period, which shall
7 commence with the date of completion of the unit or of the project, as
8 the case may be, and continue for a time of not less than six years nor
9 more than 15 years, as specified in the financial agreement, the urban
10 renewal entity shall pay the municipality an annual service charge for
11 municipal services supplied to the project in an annual amount equal to
12 the amount determined pursuant to paragraph (1) of this subsection
13 and section 11 of P.L.1991, c.431 (C.40A:20-11). For the remainder
14 of the period of the exemption, if any, the annual service charge shall
15 be determined as follows:

16 (b) For the second stage of the exemption period, which shall not
17 be less than one year nor more than six years, as specified in the
18 financial agreement, an amount equal to either the amount determined
19 pursuant to paragraph (1) of this subsection and section 11 of
20 P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of taxes
21 otherwise due on the value of the land and improvements, whichever
22 shall be greater;

23 (c) For the third stage of the exemption period, which shall not be
24 less than one year nor more than six years, as specified in the financial
25 agreement, an amount equal to either the amount determined pursuant
26 to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
27 (C.40A:20-11), or 40% of the amount of taxes otherwise due on the
28 value of the land and improvements, whichever shall be greater;

29 (d) For the fourth stage of the exemption period, which shall not be
30 less than one year nor more than six years, as specified in the financial
31 agreement, an amount equal to either the amount determined pursuant
32 to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
33 (C.40A:20-11), or 60% of the amount of taxes otherwise due on the
34 value of the land and improvements, whichever shall be greater; and

35 (e) For the final stage of the exemption period, the duration of
36 which shall not be less than one year and shall be specified in the
37 financial agreement, an amount equal to either the amount determined
38 pursuant to paragraph (1) of this subsection and section 11 of
39 P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of taxes
40 otherwise due on the value of the land and improvements, whichever
41 shall be greater.

42 If the financial agreement provides for an exemption period of less
43 than 30 years from the completion of the entire project, less than 35
44 years from the execution of the financial agreement, or less than 50
45 years from the execution of the first financial agreement implementing
46 a project under the redevelopment agreement, the financial agreement
47 shall set forth a schedule of annual service charges for the exemption

1 period which shall be based upon the minimum service charges and
2 staged adjustments set forth in this section.

3 The annual service charge shall be paid to the municipality on a
4 quarterly basis in a manner consistent with the municipality's tax
5 collection schedule.

6 Each municipality which enters into a financial agreement on or
7 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall
8 remit ¹~~5~~ five¹ percent of the annual service charge collected by the
9 municipality to the county in accordance with the provisions of
10 R.S.54:4-74. If the municipality enters into a contract with a board of
11 education pursuant to section ¹~~8~~ 7¹ of P.L. , c. (C.)
12 (pending before the Legislature as this bill), the municipality shall also
13 remit to the board of education such amounts as may be required under
14 the contract.

15 Against the annual service charge the urban renewal entity shall be
16 entitled to credit for the amount, without interest, of the real estate
17 taxes on land paid by it in the last four preceding quarterly
18 installments.

19 Notwithstanding the provisions of this section or of the financial
20 agreement, the minimum annual service charge shall be the amount of
21 the total taxes levied against all real property in the area covered by
22 the project in the last full tax year in which the area was subject to
23 taxation, and the minimum annual service charge shall be paid in each
24 year in which the annual service charge calculated pursuant to this
25 section or the financial agreement would be less than the minimum
26 annual service charge.

27 c. All exemptions granted pursuant to the provisions of P.L.1991,
28 c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the
29 financial agreement.

30 Upon the termination of the exemption granted pursuant to the
31 provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all
32 affected parcels, land and all improvements made thereto shall be
33 assessed and subject to taxation as are other taxable properties in the
34 municipality. After the date of termination, all restrictions and
35 limitations upon the urban renewal entity shall terminate and be at an
36 end upon the entity's rendering its final accounting to and with the
37 municipality.

38 (cf: P.L.2018, c.97, s.17)

39

40 ¹~~29.~~ 27.¹ Section 3 of P.L.2007, c.137 (C.52:18A-237) is
41 amended to read as follows:

42 3. a. There is established in, but not of, the Department of the
43 Treasury a public body corporate and politic, with corporate
44 succession, to be known as the "New Jersey Schools Development
45 Authority." The development authority shall constitute an
46 instrumentality of the State exercising public and essential
47 governmental functions, and the exercise by the development authority

1 of the powers conferred by this act shall be deemed and held to be an
2 essential governmental function of the State.

3 b. The development authority shall consist of the Commissioner
4 of Education, the Commissioner of the Department of Community
5 Affairs, the executive director of the Economic Development
6 Authority, and the State Treasurer, who shall serve as ex officio
7 members; and ¹~~11~~ ¹² public members appointed by the Governor
8 with the advice and consent of the Senate. At least one of the public
9 members shall have knowledge or expertise in the area of law
10 enforcement and the remaining public members shall have knowledge
11 or expertise in real estate development, construction management,
12 finance, architectural or building design, ¹education,¹ or any other
13 related field. In addition, the development authority shall consist of
14 two public members, one appointed by the Senate President and one
15 appointed by the Speaker of the General Assembly, which members
16 shall have knowledge or expertise in real estate development,
17 construction management, finance, architectural or building design,
18 ¹education,¹ or any other related field.

19 c. Each public member shall serve for a term of five years and
20 shall hold office for the term of the member's appointment and until
21 the member's successor shall have been appointed and qualified. A
22 member shall be eligible for reappointment. Any vacancy in the
23 membership occurring other than by expiration of term shall be filled
24 in the same manner as the original appointment but for the unexpired
25 term only.

26 In the case of the first 11 public members appointed by the
27 Governor pursuant to subsection b. of this section, three shall serve for
28 a term of two years, three shall serve for a term of three years, three
29 shall serve for a term of four years, and two shall serve for a term of
30 five years.

31 d. (1) Each member appointed by the Governor may be removed
32 from office by the Governor, for cause, after a public hearing, and may
33 be suspended by the Governor pending the completion of such
34 hearing. Each member before entering upon ~~his~~ the member's duties
35 shall take and subscribe an oath to perform the duties of the office
36 faithfully, impartially and justly to the best of ~~his~~ the member's
37 ability. A record of such oath shall be filed in the Office of the
38 Secretary of State.

39 (2) Each member appointed by the Senate President and Speaker of
40 the General Assembly may be removed from office by the Senate
41 President or Speaker as applicable, for cause, after a public hearing,
42 and may be suspended by the Senate President or Speaker as
43 applicable pending the completion of the hearing. Each member before
44 entering upon the member's duties shall take and subscribe an oath to
45 perform the duties of the office faithfully, impartially and justly to the
46 best of the member's ability. A record of the oath shall be filed in the
47 Office of the Secretary of State.

1 e. A chairperson shall be appointed by the Governor from the
2 public members. The members of the development authority shall
3 elect from their remaining number a vice-chairperson, a secretary, and
4 a treasurer thereof. The development authority shall employ an
5 executive director who shall be its chief executive officer. The powers
6 of the development authority shall be vested in the members thereof in
7 office from time to time and ~~eight~~ ¹~~nine~~ 10 members of the
8 development authority shall constitute a quorum at any meeting
9 thereof. Action may be taken and motions and resolutions adopted by
10 the development authority at any meeting thereof by the affirmative
11 vote of at least ~~eight~~ ¹~~nine~~ 10 members of the development
12 authority. No vacancy in the membership of the development
13 authority shall impair the right of a quorum of the members to exercise
14 all the powers and perform all the duties of the development authority.

15 f. Each member of the development authority shall execute a
16 bond to be conditioned upon the faithful performance of the duties of
17 such member in such form and amount as may be prescribed by the
18 Director of the Division of Budget and Accounting in the Department
19 of the Treasury. Such bonds shall be filed in the Office of the
20 Secretary of State. At all times thereafter the members and treasurer
21 of the development authority shall maintain such bonds in full force
22 and effect. All costs of such bonds shall be borne by the development
23 authority.

24 g. The members of the development authority shall serve without
25 compensation, but the development authority may reimburse its
26 members for actual expenses necessarily incurred in the discharge of
27 their duties. Notwithstanding the provisions of any other law to the
28 contrary, no officer or employee of the State shall be deemed to have
29 forfeited or shall forfeit any office or employment or any benefits or
30 emoluments thereof by reason of the acceptance of the office of ex
31 officio member of the development authority or any services therein.

32 h. Each ex officio member of the development authority may
33 designate an officer or employee of the member's department to
34 represent the member at meetings of the development authority, and
35 each such designee may lawfully vote and otherwise act on behalf of
36 the member for whom the person constitutes the designee. Any such
37 designation shall be in writing delivered to the development authority
38 and shall continue in effect until revoked or amended by writing
39 delivered to the development authority.

40 i. The development authority shall appoint from among its
41 members an audit committee and such other committees as it deems
42 necessary or conducive to the efficient management and operation of
43 the development authority.

44 j. The development authority may be dissolved by act of the
45 Legislature on condition that the development authority has no debts
46 or obligations outstanding or that provision has been made for the
47 payment or retirement of such debts or obligations. Upon any such

1 dissolution of the development authority, all property, funds and assets
2 thereof shall be vested in the State.

3 k. A true copy of the minutes of every meeting of the
4 development authority shall be forthwith delivered by and under the
5 certification of the secretary thereof to the Governor. No action taken
6 at the meeting by the development authority shall have force or effect
7 until 10 days, Saturdays, Sundays, and public holidays excepted, after
8 the copy of the minutes shall have been so delivered, unless during
9 such 10-day period the Governor shall approve the same in which case
10 the action shall become effective upon such approval. If, in that 10-day
11 period, the Governor returns a copy of the minutes with veto of any
12 action taken by the development authority or any member thereof at
13 the meeting, the action shall be null and void and of no effect.

14 l. The development authority shall cause an audit of its books and
15 accounts to be made at least once in each year by certified public
16 accountants and cause a copy thereof to be filed with the Secretary of
17 State, the Director of the Division of Budget and Accounting in the
18 Department of the Treasury, and the State Auditor.

19 m. The development authority shall submit to the Governor, the
20 Joint Budget Oversight Committee, the President of the Senate and the
21 Speaker of the General Assembly a biannual report pursuant to the
22 provisions of section 24 of P.L.2000, c.72 (C.18A:7G-24).

23 n. The Director of the Division of Budget and Accounting in the
24 Department of the Treasury and the director's legally authorized
25 representatives are authorized and empowered from time to time to
26 examine the accounts, books and records of the development authority
27 including its receipts, disbursements, contracts, funds, investments and
28 any other matters relating thereto and to its financial standing.

29 o. No member, officer, employee or agent of the development
30 authority shall be interested, either directly or indirectly, in any school
31 facilities project, or in any contract, sale, purchase, lease or transfer of
32 real or personal property to which the development authority is a
33 party.¹

34 (cf: P.L.2007, c.137, s.3)

35

36 ¹~~30.~~ 28.¹ Section 4 of P.L.2007, c.137 (C.52:18A-238) is
37 amended to read as follows:

38 4. The development authority shall have the following powers:

39 a. To adopt bylaws for the regulation of its affairs and the
40 conduct of its business;

41 b. To adopt and have a seal and to alter the same at pleasure;

42 c. To sue and be sued;

43 d. To acquire in the name of the development authority by
44 purchase or otherwise, on such terms and conditions and such manner
45 as it may deem proper, or by the exercise of the power of eminent
46 domain in the manner provided by the "Eminent Domain Act of 1971,"
47 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or

- 1 other property which it may determine is reasonably necessary for any
2 school facilities project;
- 3 e. To enter into contracts with a person upon such terms and
4 conditions as the development authority shall determine to be
5 reasonable, including, but not limited to, for the planning, design,
6 construction, reconstruction, improvement, equipping, furnishing,
7 operation and maintenance of a school facilities project and the
8 reimbursement thereof, and to pay or compromise any claims arising
9 therefrom;
- 10 f. To sell, convey or lease to any person all or any portion of its
11 property, for such consideration and upon such terms as the
12 development authority may determine to be reasonable;
- 13 g. To mortgage, pledge or assign or otherwise encumber all or
14 any portion of any property or revenues, whenever it shall find such
15 action to be in furtherance of the purposes of P.L.2000, c.72
16 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 17 h. To grant options to purchase or renew a lease for any of its
18 property on such terms as the development authority may determine to
19 be reasonable;
- 20 i. To contract for and to accept any gifts or grants or loans of
21 funds or property or financial or other aid in any form from the United
22 States of America or any agency or instrumentality thereof, or from the
23 State or any agency, instrumentality or political subdivision thereof, or
24 from any other source and to comply, subject to the provisions of
25 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
26 235 et al.), with the terms and conditions thereof;
- 27 j. In connection with any application for assistance under
28 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235
29 et al.) or commitments therefor, to require and collect such fees and
30 charges as the development authority shall determine to be reasonable;
- 31 k. To adopt, amend and repeal regulations to carry out the
32 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137
33 (C.52:18A-235 et al.);
- 34 l. To acquire, purchase, manage and operate, hold and dispose of
35 real and personal property or interests therein, take assignments of
36 rentals and leases and make and enter into all contracts, leases,
37 agreements and arrangements necessary or incidental to the
38 performance of its duties;
- 39 m. To purchase, acquire and take assignments of notes, mortgages
40 and other forms of security and evidences of indebtedness;
- 41 n. To purchase, acquire, attach, seize, accept or take title to any
42 property by conveyance or by foreclosure, and sell, lease, manage or
43 operate any property for a use specified in P.L.2000, c.72 (C.18A:7G-
44 1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 45 o. (1) To employ consulting engineers, architects, attorneys, real
46 estate counselors, appraisers, and such other consultants and
47 employees as may be required in the judgment of the development
48 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et

1 al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their
2 compensation from funds available to the development authority
3 therefor, all without regard to the provisions of Title 11A of the New
4 Jersey Statutes, provided, however, that an affirmative vote of the
5 development authority shall be required in the hiring, termination, and
6 disciplining of '【employees】 the management team'¹ of the
7 development authority, '【as well as in the transfer of any employees
8 of the development authority among different subunits of the
9 development authority】 which shall include the Chief Executive
10 Officer, the Vice President and Chief Financial Officer, and the Vice
11 President of Corporate Governance'¹;

12 (2) Notwithstanding the provisions of P.L.2007, c.137 (C.52:18A-
13 235 et al.) or any other law, rule, or regulation to the contrary, the
14 operations of the development authority shall be funded annually
15 through State appropriations. The Legislature shall annually
16 appropriate such sums as are necessary to finance the operations of the
17 development authority, as authorized under this subsection.

18 p. To do and perform any acts and things authorized by P.L.2000,
19 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.)
20 under, through or by means of its own officers, agents and employees,
21 or by contract with any person;

22 q. To procure insurance against any losses in connection with its
23 property, operations or assets in such amounts and from such insurers
24 as it deems desirable;

25 r. To do any and all things necessary or convenient to carry out
26 its purposes and exercise the powers given and granted in P.L.2000,
27 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

28 s. To construct, reconstruct, rehabilitate, improve, alter, equip,
29 maintain or repair or provide for the construction, reconstruction,
30 improvement, alteration, equipping or maintenance or repair of any
31 property and lot, award and enter into construction contracts, purchase
32 orders and other contracts with respect thereto, upon such terms and
33 conditions as the development authority shall determine to be
34 reasonable, including, but not limited to, reimbursement for the
35 planning, designing, construction, reconstruction, improvement,
36 equipping, furnishing, operation and maintenance of any such property
37 and the settlement of any claims arising therefrom;

38 t. To undertake school facilities projects and to enter into
39 agreements or contracts, execute instruments, and do and perform all
40 acts or things necessary, convenient or desirable for the purposes of
41 the development authority to carry out any power expressly provided
42 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137
43 (C.52:18A-235 et al.), including, but not limited to, entering into
44 contracts with the State Treasurer, the New Jersey Economic
45 Development Authority, the Commissioner of Education, districts, and
46 any other entity which may be required in order to carry out the
47 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137
48 (C.52:18A-235 et al.);

1 u. To enter into leases, rentals or other disposition of a real
2 property interest in and of any school facilities project to or from any
3 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007,
4 c.137 (C.52:18A-235 et al.);

5 v. To make and contract to make loans or leases to local units to
6 finance the cost of school facilities projects and to acquire and contract
7 to acquire bonds, notes or other obligations issued or to be issued by
8 local units to evidence the loans or leases, all in accordance with the
9 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137
10 (C.52:18A-235 et al.);

11 w. To charge to and collect from local units, the State, and any
12 other person, any fees and charges in connection with the development
13 authority's actions undertaken with respect to school facilities projects
14 including, but not limited to, fees and charges for the development
15 authority's administrative, organization, insurance, operating and other
16 expenses incident to the planning, design, construction and placing
17 into service and maintenance of school facilities projects.
18 (cf: P.L.2007, c.137, s.4)

19

20 ¹29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to
21 read as follows:

22 3. a. If a contracting unit determines in its discretion that the
23 design-build approach meets their needs better than the traditional
24 design-bid-build approach established under New Jersey public
25 procurement statutes for the project or projects under consideration,
26 it shall be the public policy of this State to permit that contracting
27 unit to enter into design-build contracts as defined in section 2 of
28 P.L.2021, c.71 (C.52:35B-2), provided the following conditions are
29 met:

30 (1) The contracting unit shall, prior to issuing solicitations,
31 publish procedures consistent with regulations promulgated by the
32 contracting unit, where applicable for the solicitation and award of
33 design-build contracts, and shall adhere to sections 2 through 9 of
34 P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9) and those
35 procedures; and

36 (2) The contracting unit shall, for each public project or projects
37 under sections 2 through 9 of P.L.2021, c.71 (C.52:35B-2 through
38 C.52:35B-9), make a determination based on the timeliness of the
39 project or projects that it is in the best interest of the public to enter
40 into a design-build contract to complete the public project or
41 projects.

42 b. All workers employed in a design-build construction project
43 shall be paid the prevailing wage determined by the Commissioner
44 of Labor pursuant to the provisions of the "New Jersey Prevailing
45 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

46 c. Except where the contracting unit is the Department of
47 Transportation, all design-build construction projects shall be
48 encouraged to adhere to the Leadership in Energy and

1 Environmental Design Green Building Rating System as adopted by
2 the United States Green Building Council, the Green Globes
3 Program adopted by the Green Building Initiative, or a comparable
4 nationally recognized, accepted, and appropriate sustainable
5 development system.

6 d. Notwithstanding the provisions of sections 2 through 9 of
7 P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9) to the contrary, an
8 independent State transportation authority which already has an
9 established prequalification, project rating, or proposal process for
10 design-build contracts as of the effective date of P.L.2021, c.71
11 (C.52:35B-1 et al.) may continue to award design-build contracts
12 pursuant to that process.

13 e. Notwithstanding the provisions of any other law, rule, or
14 regulation to the contrary, in the event that a government entity that
15 enters a contract pursuant to P.L.2007, c.137 (C.52:18A:-235 et
16 seq.) already has an established prequalification, project rating, or
17 proposal process for design-build contracts as of the effective date
18 of P.L.2021, c.71 (C.52:35B-1 et al.), that entity may continue to
19 award design-build contracts pursuant to that process.¹

20 (cf: P.L.2021, c.71, s.3)

21

22 ¹30. (New section) As used in sections 31 through 34 of P.L. ____,
23 c. (C. ____) (pending before the Legislature as this bill):

24 “Authority” means the New Jersey Economic Development
25 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

26 “Charter school” means a school established pursuant to
27 P.L.1995, c.426 (C.18A:36A-1 et seq.).

28 “Charter school development corporation” means a non-profit
29 corporation established pursuant to Title 15 of the Revised Statutes,
30 Title 15A of the New Jersey Statutes, any other law of this State, or
31 is otherwise qualified to do business in New Jersey and has a
32 primary purpose of providing operational, development,
33 fundraising, real estate, or other supporting services to charter
34 schools or renaissance school projects, or other non-profit entity
35 with experience undertaking facilities construction, development,
36 rehabilitation, leasing and financing, and acquisition of real estate
37 for community development or charter schools.

38 “Community Development Financial Institution” means an entity
39 designated and certified by the United States Department of the
40 Treasury as a Community Development Financial Institution
41 pursuant to 12 C.F.R. Part 1805.

42 “Department” means the Department of Education.

43 “Eligible borrower” means a non-profit charter school, non-profit
44 renaissance school project, community development financial
45 institution, charter school development corporation, eligible lender,
46 a non-profit entity with expertise in charter school lending that can
47 leverage the loan, and any other entity designated an eligible
48 borrower by the authority. Eligible borrower shall not include a

1 charter school or renaissance school project that is operated by a
2 for-profit management company.

3 “Eligible lender” means any lawfully constituted nonprofit
4 mortgage lender.

5 “Loan fund” means the “Charter School and Renaissance School
6 Project Facilities Loan Fund” established pursuant to section 33 of
7 P.L. , c. (C.) (pending before the Legislature as this bill).

8 “Loan program” means the “Charter School and Renaissance
9 School Project Facilities Loan Program” established pursuant to
10 section 31 of P.L. , c. (C.) (pending before the Legislature
11 as this bill).

12 “Renaissance school project” has the same meaning as defined in
13 section 3 of P.L.2011, c.176 (C.18A:36C-3).

14 “School facility” means any structure, building, or facility used
15 wholly or in part for educational purposes that is owned or leased
16 from a nonprofit entity, its wholly owned subsidiary, or government
17 agency, and operated by a charter school or renaissance school
18 project.

19 “School facilities project” means the planning, acquisition of
20 new land or building in the municipality in which the charter school
21 or renaissance school project’s charter has permitted them to
22 operate, demolition, construction, improvement, alteration,
23 modernization, renovation, reconstruction, or capital maintenance
24 of all or any part of a school facility or of any other personal
25 property necessary for, or ancillary to, any school facility, and shall
26 include fixtures, furnishings, and equipment, and shall also include,
27 but is not limited to, refinancing short term bridge funding to
28 commence construction, site acquisition, site development, services
29 of design professionals, such as engineers and architects,
30 construction management, legal services, financing costs, and
31 administrative costs and expenses incurred in connection with the
32 project.

33 “SDA district” is a district that received education opportunity
34 aid or preschool expansion aid in the 2007-2008 school year.¹

35
36 ¹31. (New section) Notwithstanding the provisions of section
37 10 of P.L.1995, c.426 (C.18A:36A-10), section 7 of P.L.2011, c.176
38 (C.18A:36C-7), or any other law, rule, or regulation to the contrary:

39 a. a charter school, renaissance school project, or any other
40 eligible borrower authorized to undertake a school facilities project
41 pursuant to sections 30 through 34 of P.L. , c. (C.)
42 (pending before the Legislature as this bill) shall be subject to the
43 public bidding requirements provided pursuant to the “Public
44 School Contracts Law,” N.J.S.18A:18A-1 et seq.:

45 b. a charter school, renaissance school project, or any other
46 eligible borrower may accept public funds in the form of a loan for
47 a school facilities project pursuant to the provisions of sections 30

1 through 34 of P.L. , c. (C.) (pending before the Legislature
2 as this bill);

3 c. a charter school board of trustees may incur debt for a period
4 greater than 12 months provided that the debt incurred is used in
5 connection with a school facilities project pursuant to the provisions
6 of sections 30 through 34 of P.L. , c. (C.) (pending before
7 the legislature as this bill); and

8 d. a school facilities project funded by a loan pursuant to the
9 provisions of sections 30 through 34 of P.L. , c. (C.)
10 (pending before the Legislature as this bill) shall adhere to all
11 public school facilities regulations pertaining to the health and
12 safety of pupils.

13 e. Nothing in sections 30 through 34 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall be construed to
15 prohibit an eligible borrower who receives a loan pursuant to those
16 provisions from simultaneously seeking or accepting private
17 funding to support the undertaking of a school facilities project of a
18 charter school or renaissance school project.¹

19
20 ¹32. (New section) a. The authority shall establish and
21 administer a loan program to be known as the “Charter School and
22 Renaissance School Project Facilities Loan Program” to provide
23 eligible borrowers with a loan including, but not limited to,
24 subordinate loans, to undertake or facilitate school facilities projects
25 for non-profit charter schools and non-profit renaissance school
26 projects located in an SDA district.

27 b. (1) The authority, in consultation with the department, shall
28 annually review the applications for school facilities projects
29 submitted pursuant to subsection c. of this section and may approve
30 applications for loans on a quarterly basis. The authority shall
31 consider the critical need of a school facilities project in making a
32 determination on a submitted application. At a minimum, the
33 criteria and methodology for determining critical need shall
34 prioritize, in order from highest to lowest priority:

35 (a) school facilities projects that address critical operational
36 building needs related to health and safety issues and program
37 mandates, which projects shall include, in order from highest to
38 lowest priority:

39 (i) essential building systems upgrades, including finishing
40 work and the repair or replacement of structural, mechanical,
41 heating and cooling, electrical, and plumbing systems;

42 (ii) building skin, including the repair or replacement of roofs,
43 windows, and masonry;

44 (iii) improvements or other modifications and alterations needed
45 to address appropriate building code issues;

46 (iv) upgrades required for a school facility to meet the standards
47 of the “Americans with Disabilities Act of 1990” (42 U.S.C.
48 s.12101 et seq.);

1 (v) hazardous material abatement and required refinishing work,
2 which hazardous material may include radon, lead, and asbestos;

3 (vi) security and communication systems upgrades;

4 (vii) technology infrastructure upgrades, which shall not include
5 technology equipment with a useful life of less than five years; and

6 (viii) site drainage related to the remediation of an existing issue
7 and not in conjunction with new construction;

8 (b) new construction projects of a charter school or renaissance
9 school project offering programs within grade levels permitted by
10 the school's charter and within the municipality in which the charter
11 school or renaissance school project's charter has permitted them to
12 operate; and

13 (c) major renovation and rehabilitation projects that seek to
14 expand the capacity of a charter school or renaissance school
15 project facility used for educational purposes of a charter school or
16 renaissance school project that operates grade levels permitted
17 within the school's charter and within the municipality in which the
18 charter school or renaissance school project's charter has permitted
19 them to operate.

20 (2) In the event that a school facilities project for which an
21 eligible borrower is seeking a loan pursuant to this section is
22 requested for a leased facility in which the charter school or
23 renaissance school project is the sole lessee, the eligible borrower
24 shall submit the lease agreement or lease agreement addendum as
25 part of the application. The lease agreement or lease agreement
26 addendum shall demonstrate that the lessor of the facility is a non-
27 profit entity or government agency and that the term of the lease is
28 no less than 10 years, inclusive of all lease renewal options. An
29 eligible borrower shall not receive a loan pursuant to this section in
30 the event that the school facilities project for which the eligible
31 borrower is seeking funds is requested for a leased facility in which
32 the lessor is a for-profit entity.

33 (3) In the event that a school facilities project for which an
34 eligible borrower is seeking a loan pursuant to this section is
35 requested for a leased facility in which the charter school or
36 renaissance school project is not the only lessee, the eligible
37 borrower shall not seek a loan for any costs related to the
38 improvement, alteration, modernization, renovation, reconstruction,
39 maintenance, or capital maintenance of all or any part of the shared
40 spaces of the facility, which shared spaces shall include elevators,
41 stairs, roofs, and common areas.

42 c. An eligible borrower seeking a loan for a school facilities
43 project pursuant to the provisions of this section shall apply to the
44 authority and department in a form and manner prescribed by the
45 authority in consultation with the department. In the case of a
46 charter school or renaissance school project established after the
47 effective date of P.L. , c. (C.) (pending before the
48 Legislature as this bill), the authority shall not approve a loan for a

1 school facilities project until after the charter school's first renewal
2 pursuant to section 17 of P.L.1995, c.426 (C.18A:36A-17) or after
3 the renaissance school project's first renewal under section 10 of
4 P.L.2011, c.176 (C.18A:36C-10) or of a charter school or
5 renaissance school project placed on probationary status by the
6 Commissioner of Education. In addition to any other information
7 the authority and department deem appropriate, the application shall
8 require the eligible borrower to submit a detailed plan of the
9 anticipated use of loan proceeds, full project costs, and all sources
10 of funding.

11 d. (1) The authority and department may approve applications
12 for loans on a quarterly basis, subject to the availability of funds in
13 the loan fund established pursuant to section 33 of P.L. ,
14 c. (C.) (pending before the Legislature as this bill). Upon
15 approval of the application, the authority shall provide loans that
16 are the lower of one-half of the Triple A Bond Rate available on the
17 date of loan approval or 1.75 percent to eligible borrowers seeking
18 to undertake school facilities projects for charter schools and
19 renaissance school projects located in SDA districts. The terms of
20 the loan and the repayment schedule shall be established by the
21 authority.

22 (2) All loan repayments, and interest thereon, shall be deposited
23 by the authority in the loan fund established pursuant to section 33
24 of P.L. , c. (C.) (pending before the Legislature as this
25 bill), for use in the manner provided for in this section.

26 e. The authority shall require, as a condition of a loan for a
27 school facilities project pursuant to the provisions of sections 30
28 through 34 of P.L. , c. (C.) (pending before the Legislature
29 as this bill) on a school facility owned by the charter school or
30 renaissance school project, that, notwithstanding the provisions of
31 section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule
32 or regulation to the contrary, in the event the authorization to
33 operate a charter school or renaissance school project is terminated
34 or expires for any reason, and no substitute or replacement owner or
35 operator for that charter school or renaissance school project has
36 been approved prior to the termination or expiration date, the title to
37 the charter school or renaissance school project shall revert to the
38 board of education of the district in which the charter school or
39 renaissance school project is located or the State for consideration
40 in an amount calculated as follows:

41 (1) if the principal and interest due on any outstanding debt used
42 to finance a school facilities project pursuant to the provisions of
43 sections 30 through 34 of P.L. , c. (C.) (pending before the
44 Legislature as this bill) of a charter school or renaissance school
45 project is equal to or greater than the fair market value of the
46 charter school or renaissance school project, as determined by a
47 certified appraiser agreed to by the board of education of the district
48 in which the charter school or renaissance school project is located

1 and the owner of the charter school or renaissance school project,
2 the board of education of the district in which the charter school or
3 renaissance school project is located or the State shall assume any
4 outstanding debt used to finance the school facilities project of the
5 charter school or renaissance school project, and thereafter the
6 board of education of the district in which the charter school or
7 renaissance school project is located or the State shall be legally
8 obligated for the payment thereof; or

9 (2) if the fair market value of the charter school or renaissance
10 school project is greater than the amount of the principal and
11 interest due on the outstanding debt used to finance a school
12 facilities project pursuant to the provisions of sections 30 through
13 34 of P.L. , c. (C.) (pending before the Legislature as this
14 bill) of a charter school or renaissance school project, the board of
15 education of the school district in which the charter school or
16 renaissance school project is located or the State shall pay to the
17 owner of the charter school or renaissance school project the fair
18 market value of the charter school or renaissance project, provided
19 that, to the extent that any debt used to finance the school facilities
20 project pursuant to the provisions of sections 30 through 34
21 of P.L. , c. (C.) (pending before the Legislature as this bill)
22 of a charter school or renaissance school project, is then
23 outstanding, the owner of the charter school or renaissance school
24 project shall utilize the funds received from the board of education
25 of the district in which the charter school or renaissance school is
26 located or the State pursuant to this paragraph to retire the
27 outstanding debt.

28 f. The authority, in consultation with the department, shall
29 promulgate within 180 days following the date of enactment of
30 P.L. , c. (C.) (pending before the Legislature as this bill),
31 pursuant to the “Administrative Procedures Act,” P.L.1968, c.410
32 (C.52:14B-1 et seq.), such rules and regulations as may be
33 necessary to implement the provisions of this section, which rules
34 and regulations shall at a minimum establish:

35 (1) the process for review and approval of charter school and
36 renaissance school project school facilities projects; and

37 (2) the process for the reversion to the board of education of the
38 district in which the charter school or renaissance school project is
39 located or the State of a school facilities project pursuant to
40 subsection e. of this section, which shall be consistent with the
41 requirements of section 7 of P.L.2013, c.149 (C.18A:36C-16).

42 g. Not less than the prevailing wage rate determined by the
43 Commissioner of Labor and Workforce Development pursuant to
44 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be
45 paid to workers employed in the performance of construction
46 contracts in connection with any charter school or renaissance
47 school project school facilities project undertaken pursuant to

1 sections 30 through 34 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

3 h. The authority shall not approve a second or subsequent loan
4 pursuant to the provisions of the loan program to an eligible
5 borrower who is in arrears or default of a prior loan issued pursuant
6 to the provisions of the loan program.¹

7
8 ¹33. (New section) a. The authority shall establish and
9 maintain the “Charter School and Renaissance School Project
10 Facilities Loan Fund,” which shall be a non-lapsing, revolving fund
11 that shall serve as the repository of all monies used to support the
12 loan program.

13 b. All loans provided under section 31 of P.L. , c. (C.)
14 (pending before the Legislature as this bill) shall be issued from
15 monies held in the loan fund. All monies received by the authority
16 from the repayment of loans and the interest thereon shall be
17 deposited into the loan fund.¹

18
19 ¹34. (New section) The Legislature shall annually appropriate
20 to the New Jersey Economic Development Authority for deposit
21 into the “Charter School and Renaissance School Project Facilities
22 Loan Fund” such funds as are necessary for the implementation of
23 sections 30 through 33 of P.L. , c. (C.) (pending before the
24 Legislature as this bill) until such time as the loan program becomes
25 self-sustaining. The New Jersey Economic Development Authority
26 may also utilize such other funds, including federal funds, as
27 available, for deposit into the “Charter School and Renaissance
28 School Project Facilities Loan Fund.”¹

29
30 ¹**[31.]** 35.¹ This act shall take effect immediately.