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

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

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

2. The Legislature finds and declares that:

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

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

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

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

Assembly AAP committee amendments adopted December 4, 2023.
school building systems, construction should be achieved in as efficient a manner as possible while also ensuring that public funds spent on the construction of school facilities support a skilled workforce compensated at dignified wages, and a mechanism to assure proper maintenance of new facilities should be established and implemented, in order to reduce the overall cost of the program and to preserve this infrastructure investment.

(cf: P.L.2007, c.260, s.38)

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

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

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

"Capital maintenance project" means a school facilities project intended to extend the useful life of a school facility, including upgrades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems;

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

"Commissioner" means the Commissioner of Education;

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

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

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon
school bonds heretofore issued to fund or refund such obligations, and
upon municipal bonds and other obligations which the commissioner
approves as having been issued for such purposes. Debt service
pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),
(C.18A:58-33.2 et seq.) is excluded;
"Demonstration project" means a school facilities project selected
by the State Treasurer for construction by a redevelopment entity
pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);
"Development authority" means the New Jersey Schools
Development Authority established pursuant to section 3 of P.L.2007,
c.137 (C.52:18A-237);
"District" means a local or regional school district established
pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey
Statutes, a county special services school district established pursuant
to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a
county vocational school district established pursuant to article 3 of
chapter 54 of Title 18A of the New Jersey Statutes, and a district under
full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et
al.);
"District aid percentage" means the number expressed as a
percentage derived from dividing the district's equalization aid
calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as
of the date of the commissioner's determination of preliminary eligible
costs by the district's adequacy budget calculated pursuant to section 9
of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's
determination of preliminary eligible costs;
"Excess costs" means the additional costs, if any, which shall be
borne by the district, of a school facilities project which result from
design factors that are not required to meet the facilities efficiency
standards and not approved pursuant to paragraph (1) of subsection g.
of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as
community design features included in final eligible costs pursuant to
subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);
"Facilities efficiency standards" means the standards developed by
the commissioner pursuant to subsection h. of section 4 of P.L.2000,
c.72 (C.18A:7G-4);
"Final eligible costs" means for school facilities projects to be
constructed by the development authority, the final eligible costs of the
school facilities project as determined by the commissioner, in
consultation with the development authority, pursuant to section 5 of
P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final
eligible costs of the project as determined by the commissioner and
reviewed by the development authority which may include the cost of
community design features determined by the commissioner to be an
integral part of the school facility and which do not exceed the
facilities efficiency standards, and which were reviewed by the
development authority and approved by the State Treasurer pursuant to
section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than SDA districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5) for school facilities projects of charter schools and renaissance school projects physically located in SDA districts, final eligible costs as determined pursuant to subsection c. of section 5 of P.L.1974, c.80 (C.34:1B-1 et seq.); "Financing authority" means the New Jersey Economic Development Authority established pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);
"FTE" means a full-time equivalent student which shall be calculated as follows: each student in grades 1 through 12 shall be counted at 100% of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50% of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100% of the actual count of kindergarten students, and each preschool student who is enrolled in a full-day preschool program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at 100% of the actual count of preschool students. In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual count of these students in the district;
"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be
structurally or fiscally impractical to convert to other uses contained in
the facilities efficiency standards;

"‘Kit of Parts’ standardized school design elements” means the
prototypical design utilizing standardized Modern Building
Component Elements, Model Educational Specifications, and Model
Program Templates created by the development authority for the
efficient, adaptable, and scalable organization and configuration of
instructional, large group assembly, and other elements within a school
facilities project.[1]

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

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

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

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

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

"Maintenance” means expenditures which are approved for repairs
and replacements for the purpose of keeping a school facility open and
safe for use or in its original condition, including repairs and
replacements to a school facility's heating, lighting, ventilation,
security and other fixtures to keep the facility or fixtures in effective
working condition. Maintenance shall not include capital maintenance
or contracted custodial or janitorial services, expenditures for the
cleaning of a school facility or its fixtures, the care and upkeep of
grounds or parking lots, and the cleaning of, or repairs and
replacements to, movable furnishings or equipment, or other
expenditures which are not required to maintain the original condition
over the school facility’s useful life. Approved maintenance
expenditures shall be as determined by the commissioner pursuant to
regulations to be adopted by the commissioner pursuant to section 26
of P.L.2000, c.72 (C.18A:7G-26);

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

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

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

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

“Model Building Component Elements” means the development of
standardized prototypical model room layouts for instructional, large
group, and core component building elements;

“Model Educational Specifications” means the development of:

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

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

“Model Program Templates” means the development of
programmatic models that define the number and type of rooms and
spaces to be provided in a school facility;

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

"Other allowable costs” means the costs of temporary facilities,
site development, acquisition of land or other real property interests
necessary to effectuate the school facilities project, fees for the
services of design professionals, including architects, engineers,
construction managers and other design professionals, legal fees,
financing costs and the administrative costs of the development
authority and the financing authority or the district’s charter school,
or renaissance school project incurred in connection with the school
facilities project;

"Other facilities” means athletic stadiums, swimming pools, ice
rinks, any associated structures or related equipment tied to such
facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration;

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

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

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

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

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

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

"School facility" means and includes any structure, building, or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities. “School facility” shall also mean any structure, building, or facility used wholly or in part for educational purposes that is owned, or leased from a nonprofit entity or government agency, and operated by a charter school or renaissance school project and the facilities that physically support such structures, buildings, and facilities, for which the charter school or renaissance school project is
seeking the State share of funding pursuant to section 5 of P.L. 2000, c. 72 (C.18A:7G-1 et al.) (pending before the Legislature as this bill)] 1;

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project;

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

"Special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"State aid" means State municipal aid and State school aid;

"State debt service aid" means for school bonds issued for school facilities projects approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not to have a redevelopment entity construct the project or which elect not to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-15), the amount of State aid determined pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of participation issued for school facilities projects approved by the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10);

"State municipal aid" means business personal property tax replacement revenues, State urban aid and State revenue sharing, as these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or other similar forms of State aid payable to the local unit and to the extent permitted by federal law, federal moneys appropriated or apportioned to the municipality or county by the State;

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the development authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); [and ] 1 and 1 in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section 1; and in the case of a school facilities project of a charter school or renaissance school project physically located in an SDA
district, the State share as determined pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill)¹:

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

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

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

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

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

   (b) Beginning in the 2025-2026 school year and for each school year thereafter, a school district, as part of its comprehensive review conducted under the New Jersey Quality Single Accountability Continuum administered pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10), shall certify that it has included in its most recent long-range facilities plan a capital improvement plan for each public school within the district in accordance with the provisions of subparagraph (a) of this paragraph. Notwithstanding the provisions of this paragraph to the contrary, an SDA district shall not be required to complete a capital improvement plan for a school that is part of an SDA district school facilities project.
included in the most recent Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

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

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

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

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

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

g. Each district shall submit the long-range facilities plan to the planning board of the municipality or municipalities in which the district is situate for the planning board's review and findings and the incorporation of the plan's goals and objectives into the municipal master plan adopted by the municipality pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).
h. (1) The commissioner shall develop, for the March 2002 Report on the Cost of Providing a Thorough and Efficient Education issued by the commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for elementary, middle, and high schools consistent with the core curriculum school delivery assumptions in the report and sufficient for the achievement of the core curriculum content standards, including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. The area allowances per FTE student in each class of the district shall be derived from these facilities efficiency standards. The commissioner shall revise the facilities efficiency standards and the area cost allowance in accordance with such schedule as the commissioner deems necessary. The commissioner shall publish the revised facilities efficiency standards and the area cost allowance in the New Jersey Register and, within a reasonable period of time after 30 days following publication, shall file the revised facilities efficiency standards and the area cost allowance with the Office of Administrative Law for publication in the New Jersey Register and those standards shall become effective immediately upon filing. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards and the area cost allowance.

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

Within a reasonable period of time after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the facilities efficiency standards developed for the 2000-2001, 2001-2002, and 2002-2003 school years in the New Jersey Register. Within a reasonable period of time after 30 days after publication in the New Jersey Register, the commissioner shall file the facilities efficiency standards with the Office of Administrative Law and
those standards shall become effective immediately upon filing with
the Office of Administrative Law. During the 30-day period the
commissioner shall provide an opportunity for public comment on
the proposed facilities efficiency standards.

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

i. Within 90 days of the commissioner's receipt of a long-range
facilities plan for review, the commissioner shall determine whether
the plan is fully and accurately completed and whether all
information necessary for a decision on the plan has been filed by
the district. If the commissioner determines that the plan is
complete, the commissioner shall promptly notify the district in
writing and shall have 60 days from the date of that notification to
determine whether to approve the plan or not. If the commissioner
determines that the plan is not complete, the commissioner shall
notify the district in writing. The district shall provide to the
commissioner whatever information the commissioner determines is
necessary to make the plan accurate and complete. The district
shall submit that information to the commissioner, and the
commissioner shall have 60 days from the date of receipt of
accurate and complete information to determine whether to approve
the plan or not.

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


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

m. By July 1, 2001, the commissioner shall study the Safe
Schools Design Guidelines, prepared by the Florida Center for
Community Design and Research, which address the issues of
school safety and security through the design of school facilities.
Based upon the commissioner's study, the commissioner shall issue
recommendations to districts on the appropriateness of including
the Safe Schools Design Guidelines in the design and construction
of school facilities projects.
(cf: P.L.2007, c.260, s.40)

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

5. a. The development authority shall undertake and the financing
authority shall finance the school facilities projects of SDA districts.
b. In the case of a district other than an SDA district, State
support for the project shall be determined pursuant to section 9 or
section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as
applicable.

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

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

(2) (a) In the case of an SDA district school facilities project,
based upon its educational priority ranking and the Statewide strategic
plan established pursuant to subsection m. of this section, the
commissioner may authorize the development authority to undertake
preconstruction activities which may include, but need not be limited
to, site identification, investigation, and acquisition, feasibility studies,
land-related design work, design work, site remediation, demolition,
and acquisition of temporary facilities. Upon receipt of the
authorization, the development authority may initiate the
preconstruction activities required to prepare the application for
commissioner approval of the school facilities project. Site remediation and demolition preconstruction activities undertaken by the development authority pursuant to this subparagraph shall be included as part of the project charter of the SDA district school facilities project, which project charter covers all other construction activities of the school facilities project.

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

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

d. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district’s long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project’s educational priority ranking and the Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of this section and whether the project conforms to the standards of the model school design program; and in the case of a district other than an SDA district the commissioner shall also review the project’s priority pursuant to paragraph (4) of subsection m. of this section. The commissioner shall make a decision on a district’s application within 90 days from the date the commissioner determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, the commissioner shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.
f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district’s long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1) in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district, the commissioner shall calculate the preliminary eligible costs to equal the estimated cost as determined by the development authority.

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

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

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

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

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

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities, including that the spaces are necessary to provide in-district programs and services for current disabled pupils who are being served in out-of-district placements or in-district programs and services for the projected disabled pupil population. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may:

(a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

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

(1) In the case of a district other than an SDA district, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10%.
The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

(2) In the case of an SDA district, the commissioner shall promptly prepare and submit to the development authority a preliminary project report which shall consist, at a minimum, of the following information:

i. Upon receipt by the development authority of the preliminary project report, the development authority, upon consultation with the district, shall prepare detailed plans and specifications and schedules which contain the development authority's estimated cost and schedule to complete the school facilities project. The development authority shall transmit to the commissioner its recommendations in regard to the project which shall, at a minimum, contain the detailed plans and specifications; whether the school facilities project can be completed within the preliminary eligible costs; and any other factors which the development authority determines should be considered by the commissioner.
(1) In the event that the development authority determines that the
school facilities project can be completed within the preliminary
eligible costs: the final eligible costs shall be deemed to equal the
preliminary eligible costs; the commissioner shall be deemed to have
given final approval to the project; and the preliminary project report
shall be deemed to be the final project report delivered to the
development authority pursuant to subsection j. of this section.

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

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

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

(c) If the additional costs are the result of factors that are within
the control of the district or are the result of design factors that are not
required to meet the facilities efficiency standards or approved
pursuant to paragraph (1) of subsection g. of this section, the
development authority shall recommend to the commissioner that the
preliminary eligible costs be accepted, whereupon the commissioner
shall: calculate the final eligible costs to equal the preliminary eligible
costs and specify the excess costs which are to be borne by the district;
give final approval to the school facilities project; and issue a final
project report to the development authority pursuant to subsection j. of
this section; provided that the commissioner may approve final eligible
costs which are in excess of the preliminary eligible costs if, in his
judgment, the action is necessary to meet the educational needs of the
district.
(d) For a school facilities project undertaken by the development
authority, the development authority shall be responsible for any costs
of construction, but only from the proceeds of bonds issued by the
financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and
P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount
originally projected by the development authority and approved for
financing by the development authority, provided that the excess is the
result of an underestimate of labor or materials costs by the
development authority. After receipt by the development authority of
the final project report, the district shall be responsible only for the
costs associated with changes, if any, made at the request of the district
to the scope of the school facilities project.
j. The development authority shall not commence the
construction of a school facilities project unless the commissioner
transmits to the development authority a final project report and the
district complies with the approval requirements for the local share, if
any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11). The
final project report shall contain all of the information contained in the
preliminary project report and, in addition, shall contain: the final
eligible costs; the excess costs, if any; the total costs which equals the
final eligible costs plus excess costs, if any; the State share; and the
local share.
k. For the SDA districts, the State share shall be [(100%)] 100
percent of the final eligible costs. Except as otherwise provided
pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other
districts, the State share shall be an amount equal to the district aid
percentage; except that the State share shall not be less than [(40%)] 40
percent of the final eligible costs.
If any district which is included in district factor group A or B,
other than an SDA district, is having difficulty financing the local
share of a school facilities project, the district may apply to the
commissioner to receive [(100%)] 100 percent State support for the
project and the commissioner may request the approval of the
Legislature to increase the State share of the project to [(100%)] 100
percent.
I. The local share for school facilities projects constructed by the
authority or a redevelopment entity shall equal the final eligible costs
plus any excess costs less the State share.
m. (1) Within 90 days of the effective date of P.L.2007, c.137
(C.52:18A-235 et al.), the commissioner shall develop an educational
facilities needs assessment for each SDA district. The assessment
shall be updated periodically by the commissioner in accordance with
the schedule the commissioner deems appropriate for the district;
except that each assessment shall at a minimum be updated within five
years of the development of the district's most recent prior educational
facilities needs assessment. The assessment shall be transmitted to the
required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

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

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

(i) a description of the project, which shall indicate whether the project will be new construction or renovation and whether the project will require the acquisition of land;

(ii) the total estimated project costs; and

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

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

(i) new construction projects;

(ii) projects located on land owned by the school district or other public entities; and
(iii) projects needed to replace school buildings that have been in use for 50 or more years.

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

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

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

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

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

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

q. The development authority shall determine the cause of any costs of construction which exceed the amount originally projected by the development authority and approved for financing by the financing authority.
r. (Deleted by amendment, P.L.2007, c.137).
s. (Deleted by amendment, P.L.2007, c.137).
(cf: P.L.2009, c.185, s.1)

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

b. (1) The development authority, in consultation with the Department of Education, shall annually review the applications for school facilities projects submitted pursuant to subsection a. of this section and, upon such review, create a Statewide charter school and renaissance school project facilities strategic plan to be used in the sequencing of school facilities projects of charter schools and renaissance school projects in SDA districts. The Statewide charter school and renaissance school project facilities strategic plan shall include a Statewide educational priority ranking of the school facilities projects based upon the development authority’s determination of critical need, the criteria and methodology of which shall be established by the development authority pursuant to regulations promulgated by the development authority pursuant to subsection h. of this section. At a minimum, the criteria and methodology established by the development authority for the determination of critical need shall prioritize, in order from highest to lowest priority:

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

(i) essential building systems upgrades including, but not limited to, finishing work and the repair or replacement of structural, mechanical, heating and cooling, electrical, and plumbing systems;
(ii) building skin including, but not limited to, the repair or replacement of roofs, windows, and masonry;
(iii) improvements or other modifications and alterations needed to address appropriate building code issues;
(iv) upgrades required for a school facility to meet the standards of the “Americans with Disabilities Act of 1990” (42 U.S.C. s.12101 et seq.);
(v) hazardous material abatement and required refinishing work, which hazardous material may include, but not be limited to, radon, lead, and asbestos;
(vi) security and communications systems upgrades;
(vii) technology infrastructure upgrades;
(viii) site drainage related to the remediation of an existing issue and not in conjunction with new construction;
(ix) the upgrade or replacement of existing elementary and secondary school playgrounds to meet lifecycle, safety, or consumer product safety codes;
(x) the renovation, or new construction, of early childhood classrooms;
(xi) projects necessary to address special population needs for program expansion and educational adequacy;
(xii) existing site upgrades, including upgrades to sidewalks, paving, fencing, and security lighting, but excluding upgrades to athletic fields and tracks; and
(xiii) renovation or new construction of capacity-generating classrooms to address overcrowding or substandard conditions;
(b) new construction projects; and
(c) major renovation and rehabilitation projects that seek to expand the capacity of a charter school or renaissance school project facility used for education purposes.

(2) In the event that a school facilities project for which a charter school or renaissance school project is seeking State support pursuant to this section is requested for a leased facility in which the charter school or renaissance school project is a lessee, the applicant charter school or renaissance school project shall submit the lease agreement or lease agreement addendum. The lease agreement or lease agreement addendum shall demonstrate that the lessor of the facility is a non-profit entity or government agency and that the term of the lease is no less than 10 years, inclusive of all lease renewal options. A charter school or renaissance school project shall not receive State support pursuant to this section in the event that the school facilities project for which the charter school or renaissance school project is seeking funds is requested for a leased facility in which the lessor is a for-profit entity.

(3) In the event that a school facilities project for which a charter school or renaissance school project is seeking State support pursuant to this section is requested for a leased facility in which the charter school or renaissance school project is not the only...
lessee, the charter school or renaissance school project shall not seek State support for, and final eligible costs approved pursuant to subsection c. of this section shall not include, any costs related to the improvement, alteration, modernization, renovation, reconstruction, maintenance, or capital maintenance of all or any part of the shared spaces of the facility, which shared spaces shall include, but need not be limited to, elevators, stairs, roofs, and common areas.

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

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

e. The development authority shall require, as a condition of providing the State share of funds for a school facilities project approved pursuant to this section that includes school facilities owned by the charter school or renaissance school project, that, notwithstanding the provisions of section 7 of P.L.2013, c.149 (C.18A:36C-16) or of any other law, rule, or regulation to the contrary, the fee simple title of the facility shall revert to the State, except that the board of education of the district in which the charter school or renaissance school project is located shall have the
right of first refusal of the school facilities project prior to the reversion to the State. The provisions of this subsection shall apply in the following instances:

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

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

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

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

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

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

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

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

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

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

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

e. When the bonds issued by a county improvement authority are no longer outstanding, the leases and liens of the county and the county improvement authority shall expire and the school facilities project shall be solely vested in the school district. The school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.
Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to read as follows:

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

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

$$A = B \times \frac{AC}{P} \times DAP \times M$$

whenever $\frac{AC}{P}$ would otherwise yield a number greater than one, and where:

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

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

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

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

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

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

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

b. The maintenance factor (M) shall be 1.0 except when one of the following conditions applies, in which case the maintenance factor shall be as specified:
Effective ten years from the date of the enactment of P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for reconstruction, remodeling, alteration, modernization, renovation or repair, or for an addition to a school facility, shall be zero for all school facilities projects for which the district fails to demonstrate over the ten years preceding issuance a net investment in maintenance of the related school facility of at least \[2\%\] two percent of the replacement cost of the school facility, determined pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the area cost allowance of the year ten years preceding the year in which the school bonds are issued.

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

<table>
<thead>
<tr>
<th>Maintenance Percentage</th>
<th>Maintenance Factor (M)</th>
</tr>
</thead>
<tbody>
<tr>
<td>.199% - .151%</td>
<td>75%</td>
</tr>
<tr>
<td>.150% - .100%</td>
<td>50%</td>
</tr>
<tr>
<td>Less than .100%</td>
<td>Zero</td>
</tr>
</tbody>
</table>

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

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

Any district which received approval from the commissioner for a school facilities project at any time prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than short term notes, may submit an application pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the project determined pursuant to that section and to have the New Jersey
Economic Development Authority construct the project; or, at its
discretion, the district may choose to receive debt service aid under
this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10) or to
For the purposes of this subsection, the "issuance of debt" shall
include lease purchase agreements in excess of five years.

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

[8.] 2

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

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

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

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

(2) Within 30 days of receiving the application, the
commissioner shall approve, conditionally approve, or reject the
application. If the application is conditionally approved, the
commissioner shall state, in writing, the revisions that shall be made
to the contract in order for the application to be approved. If the
commissioner does not approve, conditionally approve, or reject the
application within 30 days of the date of receipt, the commissioner
shall be deemed to have approved the application.
c. Any debt service on a bond issued by a school district pursuant to this section that is not supported by municipal remittances authorized under this section and is paid by the board of education shall be eligible for State debt service aid in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

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

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

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

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

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

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

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

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

(4) If the development authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the development authority, the commissioner, and the district shall enter into a grant agreement. The grant agreement shall, at a minimum, establish a timeline for the completion of the
school facilities project, which timeline shall be established based on
the scope of the work to be performed.

(5) If the development authority determines to delegate a school
facilities project to an SDA district in accordance with paragraph (2)
of this subsection, the SDA district shall be deemed to be in
noncompliance with the grant agreement entered into pursuant to
paragraph (4) of this subsection if the district enters into a contract
with a contractor, subcontractor, or consultant which is debarred,
suspended, or disqualified from State or development authority,
or federal government contracting at the time of the contract award.
or with a firm which has not been prequalified by the development
authority. If the district enters into a contract with a debarred,
suspended, or disqualified contractor, subcontractor, or consultant,
then the grant agreement shall be rendered null and void.

Notwithstanding the provisions of any law, rule, or regulation to the
contrary, an SDA district to which the development authority has
delegated management of a school facilities project may enter into a
contract for work with a person or firm that was previously debarred,
suspended, or disqualified from State, development authority, or
federal government contracting.

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

14. Notwithstanding any other provisions of law to the contrary:
   a. The financing authority shall have the power, pursuant to the
      (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue
      bonds and refunding bonds, incur indebtedness and borrow money
      secured, in whole or in part, by moneys received pursuant to sections
      17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and
      C.18A:7G-19) for the purposes of: financing all or a portion of the
costs of school facilities projects and any costs related to the issuance
thereof, including, but not limited to, the administrative, insurance,
operating and other expenses of the financing authority to undertake
the financing, and the development authority to undertake the
planning, design, and construction of school facilities projects; lending
moneys to local units to pay the costs of all or a portion of school
facilities projects and any costs related to the issuance thereof; funding
the grants to be made pursuant to section 15 of P.L.2000, c.72
(C.18A:7G-15); and financing the acquisition of school facilities
projects to permit the refinancing of debt by the district pursuant to
section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the
provisions of this section to the contrary, bonds and refunding bonds,
or any indebtedness or other borrowed moneys, secured, in whole or in
part, by moneys received pursuant to sections 17, 18, and 19 of
P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19) or,
pursuant to this section after the effective date of P.L. , c. (C. )
(pending before the Legislature as this bill) shall not be issued for the
purposes of financing costs related to the issuance of the bonds,
indebtedness, or other borrowed moneys including, but not limited to,
the administrative, "non-project" insurance, operating and other
expenses of the financing authority to undertake the financing, and the
development authority to undertake the planning, design, and
construction of school facilities projects. Bonds, indebtedness, or other
borrowed moneys issued pursuant to this section shall also not be
issued for the purposes of financing any costs related to the issuance of
moneys lent to local units to pay the costs of all or a portion of school
facilities projects. The administrative, "non-project" insurance,
operating, and other expenses of the financing authority related to
undertaking the financing of school facilities projects pursuant to this
section shall be supported by State appropriations. The administrative,
"non-project" insurance, operating, and other expenses of the
development authority to undertake the planning, design, and
construction of school facilities projects shall be funded by State
appropriations pursuant to paragraph (2) of subsection o. of section 4
of P.L.2007, c.137, (C.52:18A-238). Bonds and refunding bonds, or
any indebtedness or other borrowed moneys issued pursuant to this
section after the effective date of P.L. , c. (C. ) (pending before
the Legislature as this bill) shall only be issued for the purposes of:
financing all or a portion of the costs of school facilities projects;
lending moneys to local units to pay the costs of all or a portion of
school facilities projects; funding the grants to be made pursuant to
section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the
acquisition of school facilities projects to permit the refinancing of
debt by the district pursuant to section 16 of P.L.2000, c.72
(C.18A:7G-16). The aggregate principal amount of the bonds, notes or
other obligations issued by the financing authority as authorized
pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:
$100,000,000 for the State share of costs for county vocational school
district school facilities projects; $6,000,000,000 for the State share of
costs for Abbott district school facilities projects; and $2,500,000,000
for the State share of costs for school facilities projects in all other
districts. The aggregate principal amount of the bonds, notes or other
obligations issued by the financing authority as authorized pursuant to
P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:
$2,900,000,000 for the State share of costs of SDA district school
facilities projects; and $1,000,000,000 for the State share of costs for
school facilities projects in all other districts, $50,000,000 of which
shall be allocated for the State share of costs for county vocational
school district school facilities projects. This limitation shall not
include any bonds, notes or other obligations issued for refunding
purposes.

The financing authority may establish reserve funds to further
secure bonds and refunding bonds issued pursuant to this section and
may issue bonds to pay for the administrative, insurance and operating costs of the financing authority and the development authority in carrying out the provisions of this act. Notwithstanding the provisions of this section to the contrary, the proceeds of bonds issued pursuant to this section after the effective date of P.L. 2000, c.72 (C.18A:7G-1 et al.). Such costs of the financing authority shall be supported by State appropriations. Such costs of the development authority shall be funded by State appropriations pursuant to paragraph (2) of subsection a. of section 4 of P.L.2007, c.137, (C.52:18A-238).

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer.

The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section. Notwithstanding the provisions of this
section to the contrary, the proceeds of bonds and refunding bonds that
are issued pursuant to this section after the effective date of P.L. . c.
(C._ ) (pending before the Legislature as this bill) shall not pay for
the administrative costs of the financing authority associated with the
issuance of the bonds and refunding bonds including, but not limited
to, administrative costs of the financing authority attributable to the
making and administering of loans and grants to fund school facilities
projects, and costs attributable to the agreements entered into pursuant
to subsection d. of this section. Such costs of the financing authority
shall be supported by State appropriations.

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

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

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

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

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

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

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

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

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

d. The resolution authorizing the issuance of bonds or refunding
bonds pursuant to this section may also provide for the financing
authority to enter into any revolving credit agreement, agreement
establishing a line of credit or letter of credit, reimbursement
agreement, interest rate exchange agreement, currency exchange
agreement, interest rate floor or cap, options, puts or calls to hedge
payment, currency, rate, spread or similar exposure or similar
agreements, float agreements, forward agreements, insurance
contracts, surety bonds, commitments to purchase or sell bonds,
purchase or sale agreements, or commitments or other contracts or
agreements and other security agreements approved by the financing
authority in connection with the issuance of the bonds or refunding
bonds pursuant to this section. In addition, the financing authority
may, in anticipation of the issuance of the bonds or the receipt of
appropriations, grants, reimbursements or other funds, including,
without limitation, grants from the federal government for school
facilities projects, issue notes, the principal of or interest on which, or
both, shall be payable out of the proceeds of notes, bonds or other
obligations of the financing authority or appropriations, grants,
reimbursements or other funds or revenues of the financing authority.

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

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

g. The State hereby pledges and covenants with the holders of any
bonds or refunding bonds issued pursuant to this act that it will not
limit or alter the rights or powers vested in the financing authority by
this act, nor limit or alter the rights or powers of the State Treasurer in
any manner which would jeopardize the interest of the holders or any
trustee of the holders, or inhibit or prevent performance or fulfillment
by the financing authority or the State Treasurer with respect to the
terms of any agreement made with the holders of the bonds or
refunding bonds or agreements made pursuant to subsection d. of this
section; except that the failure of the Legislature to appropriate
moneys for any purpose of this act shall not be deemed a violation of
this section.

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

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

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

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

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

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

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

In the event that the annual appropriations act provides for direct funding for school facilities projects, or in the event that a separate act appropriates direct funding of school facilities projects from the “New Jersey Debt Defeasance and Prevention Fund” established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no less than 70% of the direct funding shall be appropriated to the SDA District Project Fund and the SDA District Emergent Project Fund. The remaining funds for school facilities projects shall be utilized in a manner to be determined by the development authority disbursed to the Regular Operating District Construction and Maintenance Grants Fund.

11. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project in accordance with the provisions of subsection b. of this section.

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

15. a. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of this act, the district may elect to receive a one-time grant for the State share of the project in accordance with the provisions of subsection b. of this section.
rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and the district aid percentage or 40 percent, whichever is greater, except that if the project’s design conforms to the standards of the model school design program established by the development authority pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), the district aid percentage shall be increased by 15 percent above the amount calculated under section 3 of P.L.2000, c.72 (C.18A:7G-3). If the project’s design incorporates the implementation of energy efficiency improvements or the installation of energy efficient features or equipment, the district aid percentage shall be increased by no more than five percent.

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

c. The development authority shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the development authority which shall, in addition to other terms and conditions, set forth the terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

(cf: P.L.2008, c.39, s.5)

12. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to read as follows:

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

b. Registration fees collected pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and
administrative costs of the Division of Workplace Standards, Office
of Wage and Hour Compliance, Public Contracts section and
Registration section within the Department of Labor and Workforce
Development.
(cf: P.L.2007, c.137, s.34)

13. (New section) There is hereby created within the
development authority an Office of Contracting Accountability. The
office shall, in consultation with the Department of Labor and
Workforce Development, ensure the compliance in the payment of
no less than the prevailing wage rate determined by the
Commissioner of Labor and Workforce Development pursuant to
the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), as well as
with all other applicable State wage and hour laws and regulations,
by contractors selected for a school facilities project undertaken by
the development authority or by an SDA district that has been
delegated management of the project by the development authority.
The office shall collect and review all certified payrolls for work on
school facilities projects undertaken by the development authority
or by an SDA district that has been delegated management of the
project by the development authority, and shall conduct at least one
worksite inspection per project on a quarterly basis. Violations of
State wage and hour law requirements shall be reflected in the
mandatory uniform performance evaluation of contractors, as
Violations of wage and hour requirements shall constitute
grounds for the development authority to revoke prequalification from a
contractor, which prequalification is granted pursuant to the process
established by the development authority pursuant to section 59 of

13. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is
amended to read as follows:
57. a. Notwithstanding any provision of this act or any other
law or regulation to the contrary, a board of education or a board of
school estimate, as appropriate, may, through the adoption of a
board resolution, establish a capital reserve account. The account
shall be established and held in accordance with GAAP and shall be
subject to annual audit. The funds in the capital reserve account
shall be used to finance the district's long-range facilities plan
required pursuant to subsection a. of section 4 of [this act]
P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall
not exceed the total amount of local funds required to implement
the plan.
b. A board of education or a board of school estimate, as
appropriate, may appropriate funds in the district's annual budget
for the establishment of the capital reserve account pursuant to
subsection a. of this section or to supplement the funds in the
account as required to meet the needs of the long-range facilities plan.

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

d. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects subject to a public-private partnership agreement entered into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects subject to a public-private partnership agreement entered into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).

(cf: P.L.2004, c.73, s.5)

15. Amendment: Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to read as follows:

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

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

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

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

(4) A list of the names and titles of all individuals who own 10% or more of any class of stock in the corporation or are a 10% or more partner in the firm. If any of the aforementioned stockholders or partners is itself a corporation, or a partnership, that entity shall also provide the information specified herein;
(5) Disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law. The prospective bidder shall also disclose whether, in the past five years, the following have been convicted of a criminal offense under local, State, or federal law: the contractor; the contractor’s corporate directors or officers; any employee of the contractor serving in a supervisory capacity or who is empowered to make discretionary decisions with respect to bids or public works contracts; or any individual who owns five percent or more of any class of stock in the corporation or is a five percent or more partner in the firm. Failure to disclose a conviction of a criminal offense pursuant to this paragraph shall constitute cause for the denial or revocation of a contractor’s prequalification status;

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

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

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

(9) Disclosure of any bankruptcy filings or proceedings;

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

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

(12) A statement setting forth the contractor's equipment inventory and technical resources; and
(13) A statement on staffing capabilities, including labor sources, staffing plans, turnover rates, and any use of registered apprenticeship programs and journeyman training programs.

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

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

(1) a trade or work classification; and

(2) an aggregate rating limit.

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

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

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

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

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

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

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

b. As part of the application process established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a
contractor that desires to bid on school facilities projects, the
development authority shall undertake a moral integrity review,
which shall include a criminal history record check, judgment
search, and lien search of:
   (1) the contractor;
   (2) the contractor’s corporate directors or officers;
   (3) any employee of the contractor who serves in a supervisory
capacity or that is empowered to make discretionary decisions with
respect to bids or contracts for public works contracts; or
   (4) any individual who owns five percent or more of any class
of stock in the corporation or is a five percent or more partner in the
firm.
   c. The development authority shall not approve the application
   of a contractor for prequalification to bid on a school facilities
   projects if the contractor has been convicted of a criminal offense
under local, State, or federal law or if, at the time of the application,
the contractor is disbarred, suspended, or disqualified from State,
development authority, or federal government contracting.
   d. The development authority shall not approve the application
   of a contractor for prequalification to bid on school facilities
   projects if the contractor is prohibited from contracting with any
public body pursuant to subsection d. of section 1 of P.L.2019,
c.366 (C.34:1A-1.16).

16. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to
read as follows:
   61. a. A contractor’s prequalification classification shall be
valid for 24 months. A contractor shall be reclassified after the 24-
month period in order to remain eligible to bid on school facilities
projects.
   b. Any material changes relevant to the prequalification
process shall be reported by the contractor to the development
authority in writing within 10 days. Based on the information
provided, the development authority may change the classification
or revoke prequalification for cause. The development authority
may revoke a contractor’s prequalification if the contractor fails to
report material changes relevant to the prequalification process
within 10 days.
   (cf: P.L.2007, c.137, s.40)

17. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to
read as follows:
   62. a. A mandatory uniform performance evaluation shall be
conducted on all school facilities projects undertaken by the
development authority. The evaluation shall, at a minimum, include
cost, schedule adherence and quality.
   b. A contractor shall be notified of a performance evaluation.
The contractor shall be afforded an opportunity to respond to an
adverse evaluation. Following the opportunity for the contractor to respond to an adverse evaluation, the development authority may revoke a contractor’s prequalification to bid on school facilities projects, provided that the contractor had a below average score according to the development authority’s scoring criteria for the mandatory uniform evaluation conducted pursuant to subsection a. of this section:

c. The contractor performance evaluations shall be utilized in reviewing bid submissions.

(cf: P.L.2007, c.137, s.41)

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

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

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

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

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

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

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

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

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

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

19. (New section) a. The development authority and an SDA district to which the development authority has delegated management
of a school facilities project, as well as any contractor or consultant retained thereby, shall not enter into a contract for work with any person or firm that has been debarred, suspended, or disqualified from State, development authority, or federal government contracting.

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

c. The development authority or the SDA district to which the development authority has delegated management of a school facilities project shall include in its bid specification for any work or services on an approved school facilities project that all bidders submit a sworn statement by the bidder, or an officer or partner of the bidder, indicating whether the bidder is, at the time of the bid, included on the State Treasurer’s, the development authority’s or the federal government’s list of debarred, suspended or disqualified bidders as a result of action taken by any state or federal agency, as the case may be. Bid specifications for the approved school facilities project shall state that the district shall immediately notify the development authority in writing whenever it appears that a bidder is on the State Treasurer’s, the development authority’s, or the federal government’s list.

The inclusion of the bidder on any of the lists enumerated in paragraph (1) of this subsection shall constitute cause for the immediate termination of any contract for a school facilities project, provided, however, that the development authority or SDA district to which the development authority has delegated management of a school facilities project is able to replace the bidder without significantly impacting the cost and delivery date of the project. The inclusion of the bidder on any of the lists enumerated in paragraph (1) of this subsection shall also result in the development authority’s immediate suspension of the bidder from contracting or engaging in work or services on a school facilities project during the period of the bidder’s debarment, suspension, or disqualification.

20. (New section) a. There is hereby created within the development authority an Emergent Condition Remediation Program to provide for the financing of emergent projects in the public schools of SDA districts, which public schools shall not include charter schools or renaissance school projects physically located in the SDA
districts. Emergent projects financed under the program shall be funded by moneys from the SDA District Emergent Project Fund established pursuant to paragraph (3) of subsection i. of section 14 of P.L.2000, c.72 (C.18A:7G-14).

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

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

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

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

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

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

1. any board [or, in the case of a contract for a school facilities project, the New Jersey Economic Development Authority.] of education has had prior negative experience with the bidder within the past 10 years, as reported in a contractor evaluation submitted pursuant to N.J.S. 18A:18A-15 [or in a school facilities project performance evaluation submitted pursuant to regulations of the]
Department of the Treasury or section 62 of P.L.2000, c.72 (C.18A:7G-36), as appropriate.; or

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

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

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

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

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

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

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

(6) the bidder has been suspended from contracting or engaging in work or services on a school facilities project; or
(7) the bidder’s prequalification to submit bids on a school facilities project has been revoked pursuant to subsection b. of section 61 of P.L.2000, c.72 (C.18A:7G-35) or subsection b. of section 62 of P.L.2000, c.72 (C.18A:7G-36).

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

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

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

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

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

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

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

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

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

23. (New section) a. Within 120 days of the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill),
the Commissioner of Education, in consultation with the New Jersey Schools Development Authority, shall, pursuant to the Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate regulations for school districts concerning the incorporation of construction contract provisions that encourage the completion of construction projects on schedule.

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

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

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

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

2. a. As used in this section:

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

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

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

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

   "School district" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local school district, regional school district, or county special services school district or county vocational school established and operating under the provisions of Title 18A of the New Jersey Statutes that can demonstrate to the satisfaction of the Commissioner of Education and the Chief Executive Officer of the Schools Development Authority that a school facility is necessary due to overcrowding or is in need of replacement. The term "school district” shall include a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.)
b. (1) A school district may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for a project of, or for the benefit of, the school district, provided that the project is financed in whole by the private entity, except that a school district may, by resolution, draw against its capital reserve account in order to finance a portion of a project for which a school district and private entity enter into a public-private partnership agreement pursuant to the provisions of this section.

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

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

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

(2) For the purposes of facilitating the financing of a project pursuant to this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a building, structure, or facility to which the school district holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the school district pursuant to a solicitation of proposals or qualifications from at least two private
entities. For the purposes of this subsection, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

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

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

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

(2) All projects proposed in accordance with this section shall be submitted to the State Treasurer, in consultation with the Department of Education, Schools Development Authority, and the New Jersey Economic Development Authority for a review and
approval in accordance with subsection f. of this section prior to the
execution of the public-private partnership agreement and, when
practicable, are encouraged to adhere to the Leadership in Energy
and Environmental Design Green Building Rating System as
adopted by the United States Green Building Council, the Green
Globes Program adopted by the Green Building Initiative, or a
comparable nationally recognized, accepted, and appropriate
sustainable development rating system.

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

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

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

(6) Prior to entering into a public-private partnership, the
school district at a public hearing shall find that the project is in the
best interest of the public by finding that (i) it will cost less than the
public sector option, or if it costs more there are factors that warrant
the additional expense; (ii) there is a public need for the project and
the project is consistent with existing long-term plans, (iii) there are
specific significant benefits to the project, (iv) there are specific
significant benefits to using the public-private partnership instead
of other options including No-Build, (v) the private development
will result in timely and efficient development and operation, and
(vi) the risks, liabilities and responsibilities transferred to the
private entity provide sufficient benefits to warrant not using other means of procurement.

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

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

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

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range
maintenance plan and a long-range maintenance bond and shall specify the expenditures that qualify as an appropriate investment in maintenance. The long-range maintenance plan shall be approved by the State Treasurer pursuant to regulations promulgated by the State Treasurer that reflect national building maintenance standards and other appropriate building maintenance benchmarks.

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

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

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

h. The power of eminent domain shall not be delegated to any private entity under the provisions of P.L.2018, c.90 (C.40A:11-52
et al.); however, a school district may dedicate any property interest, including improvements, and tangible personal property of the school district for public use in a qualifying project if the school district finds that so doing will serve the public purpose of the project by minimizing the cost of the project to the school district or reducing the delivery time of a project.

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

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

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

(3) After the school district determines the qualified respondents utilizing, at minimum, the qualification standards promulgated by the State Treasurer, the school district shall issue a request for proposals to each qualified respondent no less than 45 days prior to the date established for submission of the proposals. The request for proposals shall include relevant technical submissions, documents, and the evaluation criteria to be used in the selection of the designated respondent. The evaluation criteria shall be, at minimum, criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, and Schools Development Authority.
(4) The school district may accept unsolicited proposals from private entities for public-private partnership agreements. If the school district receives an unsolicited proposal and determines that it meets the standards of this section, the school district shall publish a notice of the receipt of the proposal on the Internet site of the school district and through advertisement in at least one or more newspapers with Statewide circulation. The school district shall also provide notice of the proposal at its next scheduled public meeting and to the State Treasurer. To qualify as an unsolicited proposal, the unsolicited proposal must at a minimum include a description of the public-private project, the estimated construction and life-cycle costs, a timeline for development, proposed plan of financing, including projected revenues, public or private, debt, equity investment, description of how the project meets needs identified in existing plans, the permits and approvals needed to develop the project from local, state and federal agencies and a projected schedule for obtaining such permits and approvals, a statement of risks, liabilities and responsibilities to be assumed by the private entity. The notice shall provide that the school district will accept, for 120 days after the initial date of publication, proposals meeting the standards of this section from other private entities for eligible projects that satisfy the same basic purpose and need. A copy of the notice shall be mailed to each municipal and county local government body in the geographic area affected by the proposal.

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

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

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

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

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

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

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

10. A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. In the case of a nonpublic school that converts to a charter school pursuant to the provisions of section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school may be located in the same school building in which the nonpublic school was located. The facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the pupils, unless the facility is part of a school facilities project that is undertaken by the New Jersey Schools Development Authority pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill). A charter school shall not construct a facility with public funds other than federal funds. Notwithstanding the provisions of this section to the contrary, a charter school physically located in an SDA district may construct a facility with public funds other than federal funds and be subject to
the provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., provided that the public funds are provided for a school facilities project approved pursuant to the provisions of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(cf: P.L.2011, c.140, s.3)

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

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

b. The costs of a renaissance school project including, but not limited to, the costs of land acquisition, site remediation, site development, design, construction, and any other costs required to place into service the school facility or facilities constituting the renaissance school project shall be at the sole expense of the nonprofit entity, except that a renaissance school project physically located in an SDA district may receive funds for the State share of a school facilities project pursuant to the provisions of section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill).

The nonprofit entity may use State funds to pay for a lease, debt service, or mortgage for any facility constructed or otherwise acquired.

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

d. Notwithstanding the provisions of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or regulation to the contrary, the nonprofit entity or any entity acting in cooperation with a renaissance school project shall not be subject
to public bidding for goods and services, and any contracts entered
into by the nonprofit entity shall not be deemed public contracts or
public works; except that any contract entered into by the nonprofit
entity or any entity acting in cooperation with a renaissance school
project shall be deemed a public work for the purposes of the "New
seq.), and subject to the applicable provisions of that act.

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

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

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

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

(cf: P.L.2014, c.61, s.3)

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

12. The rehabilitation or improvements made in the development
or redevelopment of a redevelopment area or area appurtenant thereto
or for a redevelopment relocation housing project, pursuant to
P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation
for a limited period as hereinafter provided. When housing is to be
constructed, acquired or rehabilitated by an urban renewal entity, the
land upon which that housing is situated shall be exempt from taxation
for a limited period as hereinafter provided. The exemption shall be
allowed when the clerk of the municipality wherein the property is
situated shall certify to the municipal tax assessor that a financial
agreement with an urban renewal entity for the development or the
redevelopment of the property, or the provision of a redevelopment
relocation housing project, or the provision of a low and moderate
income housing project has been entered into and is in effect as
required by P.L.1991, c.431 (C.40A:20-1 et seq.).

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

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

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

a. The financial agreement shall specify the duration of the
exemption for urban renewal entities in accordance with the
parameters of either paragraph (1) or paragraph (2) of this subsection:
(1) the financial agreement may specify a duration of not more
than 30 years from the completion of the entire project, or unit of the
project if the project is undertaken in units, or not more than 35 years
from the execution of the financial agreement between the
municipality and the urban renewal entity; or

(2) for each project undertaken pursuant to a redevelopment
agreement which allows the redeveloper to undertake two or more
projects sequentially, the financial agreement may specify a duration
of not more than 30 years from the completion of a project, or unit of
the project if the project is undertaken in units, or not more than 50
years from the execution of the first financial agreement implementing
a project under the redevelopment agreement. As used in this
subsection, "redevelopment agreement" means an agreement entered
into pursuant to subsection f. of section 8 of P.L.1992, c.79
(C.40A:12A-8) between a municipality or redevelopment entity and a
redeveloper.

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

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

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

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

(2) In either case, the financial agreement shall establish a
schedule of annual service charges to be paid over the term of the
exemption period, which shall be in stages as follows:
   (a) For the first stage of the exemption period, which shall
commence with the date of completion of the unit or of the project, as
the case may be, and continue for a time of not less than six years nor
more than 15 years, as specified in the financial agreement, the urban
municipal entity shall pay the municipality an annual service charge for
municipal services supplied to the project in an annual amount equal to
the amount determined pursuant to paragraph (1) of this subsection
of the period of the exemption, if any, the annual service charge shall
be determined as follows:
   (b) For the second stage of the exemption period, which shall not
be less than one year nor more than six years, as specified in the
financial agreement, an amount equal to either the amount determined
pursuant to paragraph (1) of this subsection and section 11 of
P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of taxes
otherwise due on the value of the land and improvements, whichever
shall be greater;
   (c) For the third stage of the exemption period, which shall not be
less than one year nor more than six years, as specified in the financial
agreement, an amount equal to either the amount determined pursuant
to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
(C.40A:20-11), or 40% of the amount of taxes otherwise due on the
value of the land and improvements, whichever shall be greater;
   (d) For the fourth stage of the exemption period, which shall not be
less than one year nor more than six years, as specified in the financial
agreement, an amount equal to either the amount determined pursuant
to paragraph (1) of this subsection and section 11 of P.L.1991, c.431
(C.40A:20-11), or 60% of the amount of taxes otherwise due on the
value of the land and improvements, whichever shall be greater; and
   (e) For the final stage of the exemption period, the duration of
which shall not be less than one year and shall be specified in the
financial agreement, an amount equal to either the amount determined
pursuant to paragraph (1) of this subsection and section 11 of
P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of taxes
otherwise due on the value of the land and improvements, whichever
shall be greater.

If the financial agreement provides for an exemption period of less
than 30 years from the completion of the entire project, less than 35
years from the execution of the financial agreement, or less than 50
years from the execution of the first financial agreement implementing
a project under the redevelopment agreement, the financial agreement
shall set forth a schedule of annual service charges for the exemption
period which shall be based upon the minimum service charges and
staged adjustments set forth in this section.

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

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

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

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

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

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

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

\[29.\] 27\(^\text{1}\) Section 3 of P.L.2007, c.137 (C.52:18A-237) is
amended to read as follows:

3. a. There is established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate
succession, to be known as the "New Jersey Schools Development Authority." The development authority shall constitute an
instrumentality of the State exercising public and essential
governmental functions, and the exercise by the development authority
of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

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

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

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

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

(2) Each member appointed by the Senate President and Speaker of the General Assembly may be removed from office by the Senate President or Speaker as applicable, for cause, after a public hearing, and may be suspended by the Senate President or Speaker as applicable pending the completion of the hearing. Each member before entering upon the member’s duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member’s ability. A record of the oath shall be filed in the Office of the Secretary of State.
e. A chairperson shall be appointed by the Governor from the public members. The members of the development authority shall elect from their remaining number a vice-chairperson, a secretary, and a treasurer thereof. The development authority shall employ an executive director who shall be its chief executive officer. The powers of the development authority shall be vested in the members thereof in office from time to time and [eight] [nine] 10 members of the development authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the development authority at any meeting thereof by the affirmative vote of at least [eight] [nine] 10 members of the development authority. No vacancy in the membership of the development authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the development authority.

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

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

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

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

j. The development authority may be dissolved by act of the Legislature on condition that the development authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such
dissolution of the development authority, all property, funds and assets
thereof shall be vested in the State.

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

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

m. The development authority shall submit to the Governor, the
Joint Budget Oversight Committee, the President of the Senate and the
Speaker of the General Assembly a biannual report pursuant to the

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

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

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

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

4. The development authority shall have the following powers:
   a. To adopt bylaws for the regulation of its affairs and the
      conduct of its business;
   b. To adopt and have a seal and to alter the same at pleasure;
   c. To sue and be sued;
   d. To acquire in the name of the development authority by
      purchase or otherwise, on such terms and conditions and such manner
      as it may deem proper, or by the exercise of the power of eminent
domain in the manner provided by the "Eminent Domain Act of 1971,"
P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
other property which it may determine is reasonably necessary for any

school facilities project;

e. To enter into contracts with a person upon such terms and
conditions as the development authority shall determine to be
reasonable, including, but not limited to, for the planning, design,
construction, reconstruction, improvement, equipping, furnishing,
operation and maintenance of a school facilities project and the
reimbursement thereof, and to pay or compromise any claims arising
therefrom;

f. To sell, convey or lease to any person all or any portion of its
property, for such consideration and upon such terms as the
development authority may determine to be reasonable;

g. To mortgage, pledge or assign or otherwise encumber all or
any portion of any property or revenues, whenever it shall find such
action to be in furtherance of the purposes of P.L.2000, c.72

h. To grant options to purchase or renew a lease for any of its
property on such terms as the development authority may determine to
be reasonable;

i. To contract for and to accept any gifts or grants or loans of
funds or property or financial or other aid in any form from the United
States of America or any agency or instrumentality thereof, or from the
State or any agency, instrumentality or political subdivision thereof, or
from any other source and to comply, subject to the provisions of
235 et al.), with the terms and conditions thereof;

j. In connection with any application for assistance under
et al.) or commitments therefor, to require and collect such fees and
charges as the development authority shall determine to be reasonable;

k. To adopt, amend and repeal regulations to carry out the
(C.52:18A-235 et al.);

l. To acquire, purchase, manage and operate, hold and dispose of
real and personal property or interests therein, take assignments of
rentals and leases and make and enter into all contracts, leases,
agreements and arrangements necessary or incidental to the
performance of its duties;

m. To purchase, acquire and take assignments of notes, mortgages
and other forms of security and evidences of indebtedness;

n. To purchase, acquire, attach, seize, accept or take title to any
property by conveyance or by foreclosure, and sell, lease, manage or
operate any property for a use specified in P.L.2000, c.72 (C.18A:7G-

o. (1) To employ consulting engineers, architects, attorneys, real
estate counselors, appraisers, and such other consultants and
employees as may be required in the judgment of the development
authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et
al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their compensation from funds available to the development authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes, provided, however, that an affirmative vote of the development authority shall be required in the hiring, termination, and disciplining of the management team of the development authority, as well as in the transfer of any employees of the development authority among different subunits of the development authority which shall include the Chief Executive Officer, the Vice President and Chief Financial Officer, and the Vice President of Corporate Governance:

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


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

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

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

t. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the development authority to carry out any power expressly provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to, entering into contracts with the State Treasurer, the New Jersey Economic Development Authority, the Commissioner of Education, districts, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.);
u. To enter into leases, rentals or other disposition of a real
property interest in and of any school facilities project to or from any
local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007,
c.137 (C.52:18A-235 et al.);
v. To make and contract to make loans or leases to local units to
finance the cost of school facilities projects and to acquire and contract
to acquire bonds, notes or other obligations issued or to be issued by
local units to evidence the loans or leases, all in accordance with the
(C.52:18A-235 et al.);
w. To charge to and collect from local units, the State, and any
other person, any fees and charges in connection with the development
authority's actions undertaken with respect to school facilities projects
including, but not limited to, fees and charges for the development
authority's administrative, organization, insurance, operating and other
expenses incident to the planning, design, construction and placing
into service and maintenance of school facilities projects.
(cf: P.L.2007, c.137, s.4)

29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to
read as follows:
3. a. If a contracting unit determines in its discretion that the
design-build approach meets their needs better than the traditional
design-bid-build approach established under New Jersey public
procurement statutes for the project or projects under consideration,
it shall be the public policy of this State to permit that contracting
unit to enter into design-build contracts as defined in section 2 of
P.L.2021, c.71 (C.52:35B-2), provided the following conditions are
met:
(1) The contracting unit shall, prior to issuing solicitations,
publish procedures consistent with regulations promulgated by the
contracting unit, where applicable for the solicitation and award of
design-build contracts, and shall adhere to sections 2 through 9 of
P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9) and those
procedures; and
(2) The contracting unit shall, for each public project or projects
under sections 2 through 9 of P.L.2021, c.71 (C.52:35B-2 through
C.52:35B-9), make a determination based on the timeliness of the
project or projects that it is in the best interest of the public to enter
into a design-build contract to complete the public project or
projects.
b. All workers employed in a design-build construction project
shall be paid the prevailing wage determined by the Commissioner
of Labor pursuant to the provisions of the "New Jersey Prevailing
c. Except where the contracting unit is the Department of
Transportation, all design-build construction projects shall be
encouraged to adhere to the Leadership in Energy and
Environmental Design Green Building Rating System as adopted by the United States Green Building Council, the Green Globes Program adopted by the Green Building Initiative, or a comparable nationally recognized, accepted, and appropriate sustainable development system.

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

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

¹ cf: P.L.2021, c.71, s.3

30.  (New section)  As used in sections 31 through 34 of P.L. ,

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

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

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

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

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

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

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

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

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

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

b. a charter school, renaissance school project, or any other eligible borrower may accept public funds in the form of a loan for a school facilities project pursuant to the provisions of sections 30
through 34 of P.L. , c. (C. ) (pending before the Legislature as this bill);

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

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

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

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

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

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

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

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

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

(iv) upgrades required for a school facility to meet the standards of the “Americans with Disabilities Act of 1990” (42 U.S.C. s.12101 et seq.):
(v) hazardous material abatement and required refinishing work, which hazardous material may include radon, lead, and asbestos;

(vi) security and communication systems upgrades;

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

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

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

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

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

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

c. An eligible borrower seeking a loan for a school facilities project pursuant to the provisions of this section shall apply to the authority and department in a form and manner prescribed by the authority in consultation with the department. In the case of a charter school or renaissance school project established after the effective date of P.L.  , c. (C. ) (pending before the Legislature as this bill), the authority shall not approve a loan for a
school facilities project until after the charter school’s first renewal pursuant to section 17 of P.L.1995, c.426 (C.18A:36A-17) or after the renaissance school project’s first renewal under section 10 of P.L.2011, c.176 (C.18A:36C-10) or of a charter school or renaissance school project placed on probationary status by the Commissioner of Education. In addition to any other information the authority and department deem appropriate, the application shall require the eligible borrower to submit a detailed plan of the anticipated use of loan proceeds, full project costs, and all sources of funding.

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

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

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

(1) if the principal and interest due on any outstanding debt used to finance a school facilities project pursuant to the provisions of sections 30 through 34 of P.L. c. (C. ) (pending before the Legislature as this bill) of a charter school or renaissance school project is equal to or greater than the fair market value of the charter school or renaissance school project, as determined by a certified appraiser agreed to by the board of education of the district in which the charter school or renaissance school project is located
and the owner of the charter school or renaissance school project, the board of education of the district in which the charter school or renaissance school project is located or the State shall assume any outstanding debt used to finance the school facilities project of the charter school or renaissance school project, and thereafter the board of education of the district in which the charter school or renaissance school project is located or the State shall be legally obligated for the payment thereof; or

(2) if the fair market value of the charter school or renaissance school project is greater than the amount of the principal and interest due on the outstanding debt used to finance a school facilities project pursuant to the provisions of sections 30 through 34 of P.L. , c. (C. ) (pending before the Legislature as this bill) of a charter school or renaissance school project, the board of education of the school district in which the charter school or renaissance school project is located or the State shall pay to the owner of the charter school or renaissance school project the fair market value of the charter school or renaissance project, provided that, to the extent that any debt used to finance the school facilities project pursuant to the provisions of sections 30 through 34 of P.L. , c. (C. ) (pending before the Legislature as this bill) of a charter school or renaissance school project, is then outstanding, the owner of the charter school or renaissance school project shall utilize the funds received from the board of education of the district in which the charter school or renaissance school is located or the State pursuant to this paragraph to retire the outstanding debt.

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

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

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

g. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any charter school or renaissance school project school facilities project undertaken pursuant to
sections 30 through 34 of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

³³¹[31.] ³⁵.¹ This act shall take effect immediately.