

[Fourth Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4496**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

ADOPTED FEBRUARY 9, 2023

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman ROBERT J. KARABINCHAK**

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**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Senator ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblyman Atkins, Assemblywoman Reynolds-Jackson, Assemblymen  
Freiman and Stanley**

**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 Project Facilities Loan Program” in EDA.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on January 4, 2024, with amendments.

(Sponsorship Updated As Of: 1/8/2024)

1 AN ACT concerning the construction of school facilities projects,  
2 supplementing P.L.2000, c.72 (18A:7G-1 et al.) <sup>1</sup>**[and]** <sup>1</sup>  
3 chapter 18A of Title 18A of the New Jersey Statutes, <sup>2</sup>P.L.1995,  
4 c.426 (C.18A:36A-1 et seq.), <sup>3</sup>**[P.L.2011, c.176 (C.18A:36C-1 et**  
5 seq.)] <sup>3 2</sup> and <sup>1</sup>P.L.1974, c.80 (C.34:1B-1 et seq.), and<sup>1</sup> amending  
6 various parts of the statutory law.  
7

8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:  
10

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

13 2. The Legislature finds and declares that:

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

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

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

41 d. While providing that the educational infrastructure meets the  
42 requirements of a thorough and efficient education, the State must

**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:

<sup>1</sup>Assembly AAP committee amendments adopted December 4, 2023.

<sup>2</sup>Assembly floor amendments adopted December 7, 2023.

<sup>3</sup>Assembly AAP committee amendments adopted December 18, 2023.

<sup>4</sup>Senate SBA committee amendments adopted January 4, 2024.

1 also protect the interests of taxpayers who will bear the burden of  
2 this obligation. Design of school facilities should incorporate  
3 maximum operating efficiencies and new technologies to advance  
4 the energy efficiency of school facilities and the efficiency of other  
5 school building systems, construction should be achieved in as  
6 efficient a manner as possible while also ensuring that public funds  
7 spent on the construction of school facilities support a skilled  
8 workforce compensated at dignified wages, and a mechanism to  
9 assure proper maintenance of new facilities should be established  
10 and implemented, in order to reduce the overall cost of the program  
11 and to preserve this infrastructure investment.

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

13

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

16 3. As used in sections 1 through 30 and 57 through 71 of  
17 P.L.2000, c.72 (C.18A:7G-1 et al.) **[and]**, sections 14 through 17 of  
18 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections  
19 5,<sup>1</sup>**[6, 8]** 7<sup>1</sup>, <sup>1</sup>**[13]** 12<sup>1</sup>, <sup>2</sup>15,<sup>2</sup> and 19 through 21 of P.L. \_\_\_\_\_, c.  
20 (C. \_\_\_\_\_) (pending before the Legislature as this bill), unless the contex  
21 t clearly requires a different meaning:

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

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

34 <sup>1</sup>**[**"Charter school" means a school established pursuant to  
35 P.L.1995, c.426 (C.18A:36A-1 et seq.);**]**<sup>1</sup>

36 "Commissioner" means the Commissioner of Education;

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

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

46 "Debt service" means and includes payments of principal and  
47 interest upon school bonds issued to finance the acquisition of school  
48 sites and the purchase or construction of school facilities, additions to

1 school facilities, or the reconstruction, remodeling, alteration,  
2 modernization, renovation or repair of school facilities, including  
3 furnishings, equipment, architect fees and the costs of issuance of such  
4 obligations and shall include payments of principal and interest upon  
5 school bonds heretofore issued to fund or refund such obligations, and  
6 upon municipal bonds and other obligations which the commissioner  
7 approves as having been issued for such purposes. Debt service  
8 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),  
9 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177  
10 (C.18A:58-33.2 et seq.) is excluded;

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

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

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

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

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

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

42 "Final eligible costs" means for school facilities projects to be  
43 constructed by the development authority, the final eligible costs of the  
44 school facilities project as determined by the commissioner, in  
45 consultation with the development authority, pursuant to section 5 of  
46 P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final  
47 eligible costs of the project as determined by the commissioner and  
48 reviewed by the development authority which may include the cost of  
49 community design features determined by the commissioner to be an

1 integral part of the school facility and which do not exceed the  
2 facilities efficiency standards, and which were reviewed by the  
3 development authority and approved by the State Treasurer pursuant to  
4 section 6 of P.L.2000, c.72 (C.18A:7G-6); ~~and~~ <sup>1</sup>and<sup>1</sup> for districts  
5 other than SDA districts, final eligible costs as determined pursuant to  
6 paragraph (1) of subsection h. of section 5 of P.L.2000, c.72  
7 (C.18A:7G-5)<sup>1</sup>; and for school facilities projects of charter schools  
8 and renaissance school projects physically located in SDA districts,  
9 final eligible costs as determined pursuant to subsection c. of section 5  
10 of P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>;

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

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

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

1 other existing spaces that the district can demonstrate would be  
2 structurally or fiscally impractical to convert to other uses contained in  
3 the facilities efficiency standards;

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

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

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

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

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

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

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

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

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

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

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

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

20 “Model Building Component Elements” means the development of  
21 standardized prototypical model room layouts for instructional, large  
22 group, and core component building elements<sup>1</sup> [.] ;<sup>1</sup>

23 “Model Educational Specifications” means the development of:

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

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

30 “Model Program Templates” means the development of  
31 programmatic models that define the number and type of rooms and  
32 spaces to be provided in a school facility<sup>1</sup> [.] ;<sup>1</sup>

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

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

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

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

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

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

23 <sup>1</sup>["Renaissance school project" means a school established  
24 pursuant to P.L.2011, c.176 (C.18A:36C-1 et seq.);]<sup>1</sup>

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

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

39 "School facility" means and includes any structure, building, or  
40 facility used wholly or in part for educational purposes by a district  
41 and facilities that physically support such structures, buildings and  
42 facilities, such as district wastewater treatment facilities, power  
43 generating facilities, and steam generating facilities, but shall exclude  
44 other facilities<sup>1</sup>. "School facility" shall also mean any structure,  
45 building, or facility used wholly or in part for educational purposes  
46 that is owned, or leased from a nonprofit entity or government agency,  
47 and operated by a charter school or renaissance school project and the  
48 facilities that physically support such structures, buildings, and



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

1 school or renaissance school project physically located in an SDA  
2 district, the State share as determined pursuant to section 5 of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill)]<sup>1</sup>;

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

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

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

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

30 <sup>4</sup>**[(2)** (a) Every long-range facilities plan submitted to the  
31 commissioner after the effective date of P.L. , c. (C. ) (pending  
32 before the Legislature as this bill), including any amendment thereto,  
33 shall include a capital improvement plan for each public school within  
34 the district. At a minimum, the capital improvement plan shall  
35 indicate the <sup>2</sup>**[enrollment projections,]**<sup>2</sup> building capacities <sup>2</sup>**[,]**<sup>2</sup> and  
36 health and safety conditions of each public school within the district,  
37 as well as the school facilities needs of each school.

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

- 1 Statewide strategic plan developed pursuant to paragraphs (2) and (3)  
2 of subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).】<sup>4</sup>
- 3 b. Notwithstanding any other law or regulation to the contrary, an  
4 application for a school facilities project pursuant to section 5 of  
5 P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the district  
6 has filed a long-range facilities plan that is consistent with the  
7 application and the plan has been approved by the commissioner;  
8 except that prior to October 1, 2000, the commissioner may approve  
9 an application if the project is necessary to protect the health or safety  
10 of occupants of the school facility, or is related to required early  
11 childhood education programs, or is related to a school facility in  
12 which the functional capacity is less than **【90%】** 90 percent of the  
13 facilities efficiency standards based on current school enrollment, or  
14 the district received bids on the school facilities project prior to the  
15 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district  
16 demonstrates that further delay will negatively affect the cost of the  
17 project.
- 18 c. An amendment to a long-range facilities plan may be submitted  
19 at any time to the commissioner for review and determination on the  
20 approval or disapproval of the amendment.
- 21 d. Each long-range facilities plan shall include a cohort survival  
22 methodology or other methodology approved by the commissioner,  
23 accompanied by a certification by a qualified demographer retained by  
24 the district that serves as the basis for identifying the capacity and  
25 program needs detailed in the long-range facilities plan.
- 26 e. The long-range facilities plan shall include an educational  
27 adequacy inventory of all existing school facilities in the district  
28 including the adequacy of school facilities to educate within the  
29 district the existing and projected number of pupils with disabilities,  
30 the identification of all deficiencies in the district's current inventory  
31 of school facilities, which includes the identification of those  
32 deficiencies that involve emergent health and safety concerns, and the  
33 district's proposed plan for future construction and renovation. The  
34 long-range facilities plan submissions shall conform to the guidelines,  
35 criteria and format prescribed by the commissioner.
- 36 f. Each district shall determine the number of "unhoused  
37 students" for the ensuing five-year period calculated pursuant to the  
38 provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).
- 39 g. Each district shall submit the long-range facilities plan to the  
40 planning board of the municipality or municipalities in which the  
41 district is situate for the planning board's review and findings and the  
42 incorporation of the plan's goals and objectives into the municipal  
43 master plan adopted by the municipality pursuant to section 19 of  
44 P.L.1975, c.291 (C.40:55D-28).
- 45 h. (1) The commissioner shall develop, for the March 2002  
46 Report on the Cost of Providing a Thorough and Efficient Education  
47 issued by the commissioner pursuant to section 4 of P.L.1996, c.138  
48 (C.18A:7F-4), facilities efficiency standards for elementary, middle,

1 and high schools consistent with the core curriculum school delivery  
2 assumptions in the report and sufficient for the achievement of the  
3 core curriculum content standards, including the provision of required  
4 programs in Abbott districts and early childhood education programs  
5 in the districts in which these programs are required by the State. The  
6 area allowances per FTE student in each class of the district shall be  
7 derived from these facilities efficiency standards. The commissioner  
8 shall revise the facilities efficiency standards and the area cost  
9 allowance in accordance with such schedule as the commissioner  
10 deems necessary. The commissioner shall publish the revised facilities  
11 efficiency standards and the area cost allowance in the New Jersey  
12 Register and, within a reasonable period of time after 30 days  
13 following publication, shall file the revised facilities efficiency  
14 standards and the area cost allowance with the Office of  
15 Administrative Law for publication in the New Jersey Register and  
16 those standards shall become effective immediately upon filing.  
17 During the 30-day period the commissioner shall provide an  
18 opportunity for public comment on the proposed facilities efficiency  
19 standards and the area cost allowance.

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

36 Within a reasonable period of time after the effective date of  
37 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the  
38 facilities efficiency standards developed for the 2000-2001, 2001-  
39 2002, and 2002-2003 school years in the New Jersey Register. Within  
40 a reasonable period of time after 30 days after publication in the New  
41 Jersey Register, the commissioner shall file the facilities efficiency  
42 standards with the Office of Administrative Law and those standards  
43 shall become effective immediately upon filing with the Office of  
44 Administrative Law. During the 30-day period the commissioner shall  
45 provide an opportunity for public comment on the proposed facilities  
46 efficiency standards.

47 (2) Within 120 days of the effective date of P.L. , c. (C. )  
48 (pending before the Legislature as this bill), the development  
49 authority, in consultation with the commissioner, shall promulgate a

1 model school design program that shall establish uniform standards for  
2 the exterior and interior design of school facilities projects. The  
3 development authority may revise the model school design program as  
4 the development authority deems necessary to incorporate advances or  
5 improvements in materials, technology, construction methods, or  
6 educational standards.

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

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

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

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

36 m. By July 1, 2001, the commissioner shall study the Safe Schools  
37 Design Guidelines, prepared by the Florida Center for Community  
38 Design and Research, which address the issues of school safety and  
39 security through the design of school facilities. Based upon the  
40 commissioner's study, the commissioner shall issue recommendations  
41 to districts on the appropriateness of including the Safe Schools  
42 Design Guidelines in the design and construction of school facilities  
43 projects.

44 (cf: P.L.2007, c.260, s.40)

45

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

- 1           5. a. The development authority shall undertake and the financing  
2 authority shall finance the school facilities projects of SDA districts.
- 3           b. In the case of a district other than an SDA district, State  
4 support for the project shall be determined pursuant to section 9 or  
5 section 15 of P.L.2000, c.72 (C.18A:7G-9 or C.18A:7G-15), as  
6 applicable.
- 7           c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
8 contrary, the procedures for obtaining approval of a school facilities  
9 project shall be as set forth in **[this act]** P.L.2000, c.72 (C.18A:7G-1  
10 et al.); provided that any district whose school facilities project is not  
11 constructed by the development authority shall also be required to  
12 comply with the provisions of N.J.S.18A:18A-16 and, in the case of a  
13 school facilities project that has estimated total costs over  
14 \$10,000,000, shall be overseen by a non-conflicted construction  
15 management service provider, which holds a current, valid  
16 classification issued by the Division of Property Management and  
17 Construction in the Department of Treasury pursuant to its  
18 classification processes for construction managers, who shall serve  
19 from initial application to the commissioner for approval of the project  
20 through project completion.
- 21           d. (1) Any district seeking to initiate a school facilities project  
22 shall apply to the commissioner for approval of the project. The  
23 application may include, but not be limited to: a description of the  
24 school facilities project; a schematic drawing of the project or, at the  
25 option of the district, preliminary plans and specifications; a  
26 delineation and description of each of the functional components of the  
27 project; educational specifications detailing the programmatic needs of  
28 each proposed space; the number of unhoused students to be housed in  
29 the project; the area allowances per FTE student as calculated pursuant  
30 to section 8 of P.L.2000, c.72 (C.18A:7G-8); and the estimated cost to  
31 complete the project as determined by the district.
- 32           (2) (a) In the case of an SDA district school facilities project,  
33 based upon its educational priority ranking and the Statewide strategic  
34 plan established pursuant to subsection m. of this section, the  
35 commissioner may authorize the development authority to undertake  
36 preconstruction activities which may include, but need not be limited  
37 to, site identification, investigation, and acquisition, feasibility studies,  
38 land-related design work, design work, site remediation, demolition,  
39 and acquisition of temporary facilities. Upon receipt of the  
40 authorization, the development authority may initiate the  
41 preconstruction activities required to prepare the application for  
42 commissioner approval of the school facilities project. Site  
43 remediation and demolition preconstruction activities undertaken by  
44 the development authority pursuant to this subparagraph shall be  
45 included as part of the project charter of the SDA district school  
46 facilities project, which project charter covers all other construction  
47 activities of the school facilities project.

1       **(b) In the case of an SDA district school facilities project, the**  
2 **project design shall conform to the standards of the model school**  
3 **design program developed by the development authority pursuant to**  
4 **paragraph (2) of subsection h. of section 4 of P.L.2000, c.72**  
5 **(C.18A:7G-4). The development authority may permit an SDA district**  
6 **school facilities project to include design features that are considered**  
7 **excess costs provided that the design features do not exceed the lesser**  
8 **of <sup>4</sup>[10] 15<sup>4</sup> percent of total estimated project costs or <sup>4</sup>[\$2,000,000]**  
9 **\$4,000,000<sup>4</sup>.**

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

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

43       f. If the commissioner determines that the school facilities project  
44 complies with the facilities efficiency standards and the district's long-  
45 range facilities plan and does not exceed the area allowance per FTE  
46 student derived from those standards, the commissioner shall calculate  
47 the preliminary eligible costs of the project pursuant to the formulas  
48 set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1)

1 in the case of a county special services school district or a county  
2 vocational school district, the commissioner shall calculate the  
3 preliminary eligible costs to equal the amount determined by the board  
4 of school estimate and approved by the board of chosen freeholders  
5 pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or  
6 N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district,  
7 the commissioner shall calculate the preliminary eligible costs to equal  
8 the estimated cost as determined by the development authority.

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

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

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

31 (3) To house the district's central administration, a district may  
32 request an adjustment to the approved areas for unhoused students of  
33 2.17 square feet for each FTE student in the projected total district  
34 school enrollment if the proposed administrative offices will be housed  
35 in a school facility and the district demonstrates either that the existing  
36 central administrative offices are obsolete or that it is more practical to  
37 convert those offices to instructional space. To the extent that existing  
38 administrative space will continue to be used for administrative  
39 purposes, the space shall be included in the formulas set forth in  
40 section 7 of P.L.2000, c.72 (C.18A:7G-7).

41 If the commissioner approves excess facilities efficiency standards  
42 or additional area allowances pursuant to paragraph (1), (2), or (3) of  
43 this subsection, the commissioner shall calculate the preliminary  
44 eligible costs based upon the additional area allowances or excess  
45 facilities efficiency standards pursuant to the formulas set forth in  
46 section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the  
47 commissioner does not approve the excess facilities efficiency  
48 standards or additional area allowances, the district may either: modify



1 its submission so that the school facilities project meets the facilities  
2 efficiency standards; or pay for the excess costs.

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

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

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

46 The appeal shall outline the reasons why the preliminary eligible  
47 costs calculated for the project are inadequate and estimate the amount  
48 of the adjustment which needs to be made to the preliminary eligible

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

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

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

43 (1) In the event that the development authority determines that the  
44 school facilities project can be completed within the preliminary  
45 eligible costs: the final eligible costs shall be deemed to equal the  
46 preliminary eligible costs; the commissioner shall be deemed to have  
47 given final approval to the project; and the preliminary project report

1 shall be deemed to be the final project report delivered to the  
2 development authority pursuant to subsection j. of this section.

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

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

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

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

46 (d) For a school facilities project undertaken by the development  
47 authority, the development authority shall be responsible for any costs  
48 of construction, but only from the proceeds of bonds issued by the  
49 financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and

1 P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount  
2 originally projected by the development authority and approved for  
3 financing by the development authority, provided that the excess is the  
4 result of an underestimate of labor or materials costs by the  
5 development authority. After receipt by the development authority of  
6 the final project report, the district shall be responsible only for the  
7 costs associated with changes, if any, made at the request of the district  
8 to the scope of the school facilities project.

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

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

25 If any district which is included in district factor group A or B,  
26 other than an SDA district, is having difficulty financing the local  
27 share of a school facilities project, the district may apply to the  
28 commissioner to receive ~~100%~~ 100 percent State support for the  
29 project and the commissioner may request the approval of the  
30 Legislature to increase the State share of the project to ~~100%~~ 100  
31 percent.

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

35 m. (1) Within 90 days of the effective date of P.L.2007, c.137  
36 (C.52:18A-235 et al.), the commissioner shall develop an educational  
37 facilities needs assessment for each SDA district. The assessment  
38 shall be updated periodically by the commissioner in accordance with  
39 the schedule the commissioner deems appropriate for the district;  
40 except that each assessment shall at a minimum be updated within five  
41 years of the development of the district's most recent prior educational  
42 facilities needs assessment. The assessment shall be transmitted to the  
43 development authority to be used to initiate the planning activities  
44 required prior to the establishment of the educational priority ranking  
45 of school facilities projects pursuant to paragraph (2) of this  
46 subsection.

47 (2) Following the approval of an SDA district's long-range  
48 facilities plan or of an amendment to that plan, but prior to

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

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

32 (i) a<sup>1</sup> <sup>2</sup>include a<sup>2</sup> description of the project, which shall indicate  
33 whether the project will be new construction or renovation and  
34 whether the project will require the acquisition of land<sup>1</sup> ;

35 (ii) the total estimated project costs; and

36 (iii) the number of full-time equivalent staff needed to support the  
37 project<sup>1</sup> .

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

40 (i) new construction projects;

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

43 (iii) projects needed to replace school buildings that have been in  
44 use for <sup>1</sup> [50] 100<sup>1</sup>  or more years.

45 (c) Any amendment to an SDA district's long-range facilities plan  
46 that is submitted to the commissioner in the period between the five-  
47 year updates of the long-range facilities plan shall be considered by the  
48 development authority, in consultation with the commissioner, for

1 incorporation into the Statewide strategic plan. In making a  
2 determination on whether or not to amend the Statewide strategic plan,  
3 the development authority shall consider the cost of the amendment,  
4 the impact of the amendment upon the school development plans for  
5 other districts, and other appropriate factors.

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

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

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

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

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

39 q. The development authority shall determine the cause of any  
40 costs of construction which exceed the amount originally projected by  
41 the development authority and approved for financing by the financing  
42 authority.

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

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

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

46

47 <sup>1</sup>5. (New section) a. The State share of a school facilities  
48 project undertaken by a charter school or renaissance school project

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

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

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

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

43 (ii) building skin including, but not limited to, the repair or  
44 replacement of roofs, windows, and masonry;

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

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

- 1 (v) hazardous material abatement and required refinishing work,  
2 which hazardous material may include, but not be limited to, radon,  
3 lead, and asbestos;
- 4 (vi) security and communications systems upgrades;
- 5 (vii) technology infrastructure upgrades;
- 6 (viii) site drainage related to the remediation of an existing issue  
7 and not in conjunction with new construction;
- 8 (ix) the upgrade or replacement of existing elementary and  
9 secondary school playgrounds to meet lifecycle, safety, or consumer  
10 product safety codes;
- 11 (x) the renovation, or new construction, of early childhood  
12 classrooms;
- 13 (xi) projects necessary to address special population needs for  
14 program expansion and educational adequacy;
- 15 (xii) existing site upgrades, including upgrades to sidewalks,  
16 paving, fencing, and security lighting, but excluding upgrades to  
17 athletic fields and tracks; and
- 18 (xiii) renovation or new construction of capacity-generating  
19 classrooms to address overcrowding or substandard conditions;
- 20 (b) new construction projects; and
- 21 (c) major renovation and rehabilitation projects that seek to  
22 expand the capacity of a charter school or renaissance school  
23 project facility used for education purposes.
- 24 (2) In the event that a school facilities project for which a  
25 charter school or renaissance school project is seeking State support  
26 pursuant to this section is requested for a leased facility in which  
27 the charter school or renaissance school project is a lessee, the  
28 applicant charter school or renaissance school project shall submit  
29 the lease agreement or lease agreement addendum. The lease  
30 agreement or lease agreement addendum shall demonstrate that the  
31 lessor of the facility is a non-profit entity or government agency and  
32 that the term of the lease is no less than 10 years, inclusive of all  
33 lease renewal options. A charter school or renaissance school  
34 project shall not receive State support pursuant to this section in the  
35 event that the school facilities project for which the charter school  
36 or renaissance school project is seeking funds is requested for a  
37 leased facility in which the lessor is a for-profit entity.
- 38 (3) In the event that a school facilities project for which a  
39 charter school or renaissance school project is seeking State support  
40 pursuant to this section is requested for a leased facility in which  
41 the charter school or renaissance school project is not the only  
42 lessee, the charter school or renaissance school project shall not  
43 seek State support for, and final eligible costs approved pursuant to  
44 subsection c. of this section shall not include, any costs related to  
45 the improvement, alteration, modernization, renovation,  
46 reconstruction, maintenance, or capital maintenance of all or any  
47 part of the shared spaces of the facility, which shared spaces shall  
48 include, but need not be limited to, elevators, stairs, roofs, and  
49 common areas.



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

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

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

44 (1) upon the revocation or surrendering of a charter school's  
45 charter, the non-renewal of a charter school's charter or of a  
46 renaissance school project, or the closure of a charter school or  
47 renaissance school project. In the case of the revocation,  
48 surrendering, or non-renewal of a charter school's charter or the  
49 closure of a charter school, the fee simple title shall revert to the

1 State during and as part of the comprehensive closure plan  
2 implemented by the charter school's board of trustees pursuant to  
3 section 17 of P.L.1995, c.426 (C.18A:36A-17) and regulations  
4 promulgated thereto; or

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

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

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

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

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

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

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

38 (4) the process for the reversion to the State of a school facilities  
39 project pursuant to subsection e. of this section. **1**

40

41 **1**[6.] 5.<sup>1</sup> (New section) a. Notwithstanding the provisions of  
42 P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to  
43 the contrary, the board of education of a district other than an SDA  
44 district may enter into an agreement with a county improvement  
45 authority to construct a school facilities project and to issue its  
46 bonds to finance the local share of a project that is to be financed  
47 pursuant to section 15 of P.L.2000, c.72 (18A:7G-15), or to finance  
48 the total costs of a project that is not to be financed pursuant to

1 section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county  
2 improvement authority issued to finance the total costs of a school  
3 facilities project that is not to be financed pursuant to section 15 of  
4 P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt  
5 service aid in accordance with the formula established pursuant to  
6 section 9 of P.L.2000, c.72 (C.18A:7G-9).

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

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

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

33 e. When the bonds issued by a county improvement authority  
34 are no longer outstanding, the leases and liens of the county and the  
35 county improvement authority shall expire and the school facilities  
36 project shall be solely vested in the school district. The school  
37 district shall be responsible for the operation, maintenance, and  
38 improvement of the school facility upon the completion of the  
39 school facilities project.

40

41 **1[7.] 6.**<sup>1</sup> Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended  
42 to read as follows:

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

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

4 where

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

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

7 and where:

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

10 AC is the preliminary eligible costs determined pursuant to section  
11 7 of P.L.2000, c.72 (C.18A:7G-7);

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

14 DAP is the district's district aid percentage as defined pursuant to  
15 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be  
16 less than **[40%]** 40 percent<sup>1</sup>, except that if the project's design  
17 conforms to the standards of the model school design program  
18 established by the development authority pursuant to paragraph (2) of  
19 subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), the DAP  
20 shall be increased by 15 percent<sup>1</sup>. If the project's design incorporates  
21 the implementation of energy efficiency improvements or the  
22 installation of energy efficient features or equipment, the DAP shall be  
23 increased by no more than five percent<sup>2</sup>. In order to qualify for a  
24 DAP increase for the implementation of energy efficiency  
25 improvements or the installation of energy efficient features or  
26 equipment pursuant to this subsection, a district shall submit to the  
27 development authority and Department of Education a certification,  
28 along with evidential documentation, attesting that the project's design  
29 incorporates the implementation of energy efficiency improvements or  
30 the installation of energy efficient features or equipment<sup>2</sup>; and

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

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

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

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

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

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

24 Maintenance Percentage	Maintenance Factor (M)
25 .199% - .151%	75%
26 .150% - .100%	50%
27 Less than .100%	Zero

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

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

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

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

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

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

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

23 (1) the board of education has entered into a written contract with  
24 one or more municipalities, wherein the municipality shall annually  
25 remit to the board of education <sup>2</sup>~~not less than 60 percent~~ a portion<sup>2</sup>  
26 of the payments in lieu of taxes received by the municipality from one  
27 or more designated properties <sup>2</sup>, which portion shall be sufficient for  
28 the full repayment of the bonds<sup>2</sup>, and the board of education shall  
29 pledge all remittances to the full repayment of the bonds; and

30 (2) the bond issuance and contract has been approved by the  
31 <sup>4</sup>Local Finance Board pursuant to subsection b. of this section and the<sup>4</sup>  
32 commissioner pursuant to subsection <sup>4</sup>~~b.~~ c.<sup>4</sup> of this section.

33 b. <sup>4</sup>A municipality intending to enter into a contract to pledge a  
34 portion of the payments in lieu of taxes received by the municipality  
35 from one or more designated properties pursuant to this section shall  
36 obtain the approval of the Local Finance Board prior to the adoption of  
37 an ordinance or resolution, as applicable, authorizing the municipality  
38 to enter into the contract. The board shall be entitled to receive from  
39 the applicant an amount sufficient to provide for all reasonable  
40 professional and other fees and expenses incurred by it for the review,  
41 analysis, and determination with respect thereto. As part of the  
42 board's review and approval, the board shall consider whether the  
43 proposed contract will adversely impact the financial stability of the  
44 municipality.

45 c.<sup>4</sup> (1) If a board of education elects to issue bonds pursuant to  
46 this section, the board of education shall apply to the commissioner for  
47 approval of the bond issuance. <sup>4</sup>The commissioner shall be entitled to  
48 receive from the applicant an amount sufficient to provide for all

1 reasonable professional and other fees and expenses incurred for the  
2 review, analysis, and determination with respect thereto.<sup>4</sup> In addition  
3 to any other information that the commissioner may deem appropriate,  
4 the application shall include: a description of the school facilities  
5 project; a certification of the amount to be raised by the bonds; a  
6 description of the anticipated annual debt service costs, including the  
7 amounts to be supported by municipal remittances; and a copy of the  
8 contract.

9 (2) Within 30 days of receiving the application, the commissioner  
10 shall approve, conditionally approve, or reject the application. If the  
11 application is conditionally approved, the commissioner shall state, in  
12 writing, the revisions that shall be made to the contract in order for the  
13 application to be approved. If the commissioner does not approve,  
14 conditionally approve, or reject the application within 30 days of the  
15 date of receipt, the commissioner shall be deemed to have approved  
16 the application.

17 <sup>4</sup>**[c.] d.**<sup>4</sup> Any debt service on a bond issued by a school district  
18 pursuant to this section that is not supported by municipal remittances  
19 authorized under this section and is paid by the board of education  
20 shall be eligible for State debt service aid in accordance with the  
21 formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

22 <sup>4</sup>**[d.] e.**<sup>4</sup> The commissioner, in consultation with the Local  
23 Finance Board, <sup>4</sup>and the Local Finance Board, in consultation with the  
24 commissioner,<sup>4</sup> shall promulgate, pursuant to "Administrative  
25 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and  
26 regulations as may be necessary to implement the provisions of this  
27 section. At a minimum, the rules and regulations shall establish  
28 requirements and procedures concerning the process by which  
29 municipalities and districts may enter into contracts pursuant to this  
30 section.

31  
32 <sup>1</sup>**[9.] 8.**<sup>1</sup> Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended  
33 to read as follows:

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

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

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

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

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

42       (2) Within one year of the effective date of P.L.2007, c.137  
43 (C.52:18A-235 et al.), the development authority, in consultation with  
44 the commissioner, shall adopt pursuant to the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
46 regulations by which the development authority shall determine the  
47 capacity of an SDA district, deemed eligible by the commissioner  
48 pursuant to paragraph (1) of this subsection, to manage a school  
49 facilities project or projects identified by the development authority.



1 In making the determination, the development authority shall consider  
2 the experience of the SDA district, the size, complexity, and cost of  
3 the project, time constraints, and other relevant factors.

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

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

18 (5) If the development authority determines to delegate a school  
19 facilities project to an SDA district in accordance with paragraph (2)  
20 of this subsection, the SDA district shall be deemed to be in  
21 noncompliance with the grant agreement entered into pursuant to  
22 paragraph (4) of this subsection if the district enters into a contract  
23 with a contractor, subcontractor, or consultant which is debarred,  
24 suspended, or disqualified from State <sup>1</sup>[or],<sup>1</sup> development authority <sup>1</sup>,  
25 or federal government<sup>1</sup> contracting <sup>1</sup>at the time of the contract award<sup>1</sup>  
26 or with a firm which has not been prequalified by the development  
27 authority. If the district enters into a contract with a debarred,  
28 suspended, or disqualified contractor, subcontractor, or consultant,  
29 then the grant agreement shall be rendered null and void.  
30 <sup>2</sup>[<sup>1</sup>Notwithstanding the provisions of any law, rule, or regulation to  
31 the contrary, an SDA district to which the development authority has  
32 delegated management of a school facilities project may enter into a  
33 contract for work with a person or firm that was previously debarred,  
34 suspended, or disqualified from State, development authority, or  
35 federal government contracting.<sup>1</sup>]<sup>2</sup>

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

37

38 <sup>1</sup>[10.] 9.<sup>1</sup> Section 14 of P.L.2000, c.72 (C.18A:7G-14) is  
39 amended to read as follows:

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

41 a. The financing authority shall have the power, pursuant to the  
42 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
43 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue  
44 bonds and refunding bonds, incur indebtedness and borrow money  
45 secured, in whole or in part, by moneys received pursuant to sections  
46 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and  
47 C.18A:7G-19) for the purposes of: financing all or a portion of the  
48 costs of school facilities projects and any costs related to the issuance

1 thereof, including, but not limited to, the administrative, insurance,  
 2 operating and other expenses of the financing authority to undertake  
 3 the financing, and the development authority to undertake the  
 4 planning, design, and construction of school facilities projects; lending  
 5 moneys to local units to pay the costs of all or a portion of school  
 6 facilities projects and any costs related to the issuance thereof; funding  
 7 the grants to be made pursuant to section 15 of P.L.2000, c.72  
 8 (C.18A:7G-15); and financing the acquisition of school facilities  
 9 projects to permit the refinancing of debt by the district pursuant to  
 10 section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the  
 11 provisions of this section to the contrary, <sup>4</sup>if financial support is  
 12 provided to the development authority following a budget request  
 13 made directly to the Division of Budget and Accounting in the  
 14 Department of the Treasury for State support pursuant to subsection k.  
 15 of this section, <sup>4</sup> bonds and refunding bonds, or any indebtedness or  
 16 other borrowed moneys, secured, in whole or in part, by moneys  
 17 received pursuant to sections 17, 18, and 19 of P.L.2000, c.72  
 18 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19) <sup>4</sup>["<sup>1</sup>or,<sup>1</sup>"] or<sup>4</sup>  
 19 pursuant to this section after the effective date of P.L. , c. (C. )  
 20 (pending before the Legislature as this bill) shall not be issued for the  
 21 purposes of financing costs related to the issuance of the bonds,  
 22 indebtedness, or other borrowed moneys including, but not limited to,  
 23 the administrative <sup>4</sup>expenses (other than retained professional services  
 24 related to the issuance of the bonds, indebtedness, or other borrowed  
 25 moneys)<sup>4</sup>, <sup>1</sup>non-project<sup>1</sup> insurance <sup>4</sup>expenses<sup>4</sup>, operating and other  
 26 expenses of the financing authority to undertake the financing <sup>4</sup>["<sup>1</sup>, and  
 27 the development authority to undertake the planning, design, and  
 28 construction of school facilities projects. Bonds,]. If financial support  
 29 is provided to the development authority following a budget request  
 30 pursuant to subsection k. of this section, bonds,<sup>4</sup> indebtedness, or other  
 31 borrowed moneys issued pursuant to this section shall also not be  
 32 issued for the purposes of financing any costs related to the issuance of  
 33 moneys lent to local units to pay the costs of all or a portion of school  
 34 facilities projects. The administrative <sup>4</sup>expenses (other than retained  
 35 professional services related to the issuance of the bonds,  
 36 indebtedness, or other borrowed moneys)<sup>4</sup>, <sup>1</sup>non-project<sup>1</sup> insurance  
 37 <sup>4</sup>expenses<sup>4</sup>, operating <sup>4</sup>["<sup>1</sup>,]<sup>4</sup> and other expenses of the financing  
 38 authority related to undertaking the financing of school facilities  
 39 projects pursuant to this section shall be supported by State  
 40 appropriations <sup>4</sup>when financial support is made available following a  
 41 budget request pursuant to subsection k. of this section<sup>4</sup>. The  
 42 administrative, <sup>1</sup>non-project<sup>1</sup> insurance, operating, and other expenses  
 43 of the development authority <sup>4</sup>["<sup>1</sup>to undertake the planning, design, and  
 44 construction of school facilities projects]<sup>4</sup> shall be funded by State  
 45 appropriations pursuant to paragraph (2) of subsection o. of section 4  
 46 of P.L.2007, c.137, (C.52:18A-238) <sup>4</sup>when financial support is made  
 47 available following a budget request pursuant to subsection k. of this

1 section<sup>4</sup>. <sup>4</sup>[Bonds] If financial support is provided to the development  
 2 authority following a budget request pursuant to subsection k. of this  
 3 section, bonds<sup>4</sup> and refunding bonds, or any indebtedness or other  
 4 borrowed moneys issued pursuant to this section after the effective  
 5 date of P.L. , c. (C. ) (pending before the Legislature as this  
 6 bill) shall only be issued for the purposes of: financing all or a portion  
 7 of the costs of school facilities projects; lending moneys to local units  
 8 to pay the costs of all or a portion of school facilities projects; funding  
 9 the grants to be made pursuant to section 15 of P.L.2000, c.72  
 10 (C.18A:7G-15); <sup>4</sup>[and]<sup>4</sup> financing the acquisition of school facilities  
 11 projects to permit the refinancing of debt by the district pursuant to  
 12 section 16 of P.L.2000, c.72 (C.18A:7G-16) <sup>4</sup>; and paying for the  
 13 administrative expenses of the financing authority that are in  
 14 connection with retained professional services related to the issuance  
 15 of the bonds, indebtedness, or other borrowed moneys<sup>4</sup>. The aggregate  
 16 principal amount of the bonds, notes or other obligations issued by the  
 17 financing authority as authorized pursuant to P.L.2000, c.72  
 18 (C.18A:7G-1 et al.) shall not exceed: \$100,000,000 for the State share  
 19 of costs for county vocational school district school facilities projects;  
 20 \$6,000,000,000 for the State share of costs for Abbott district school  
 21 facilities projects; and \$2,500,000,000 for the State share of costs for  
 22 school facilities projects in all other districts. The aggregate principal  
 23 amount of the bonds, notes or other obligations issued by the financing  
 24 authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et  
 25 al.) shall not exceed: \$2,900,000,000 for the State share of costs of  
 26 SDA district school facilities projects; and \$1,000,000,000 for the  
 27 State share of costs for school facilities projects in all other districts,  
 28 \$50,000,000 of which shall be allocated for the State share of costs for  
 29 county vocational school district school facilities projects. This  
 30 limitation shall not include any bonds, notes or other obligations  
 31 issued for refunding purposes.

32 The financing authority may establish reserve funds to further  
 33 secure bonds and refunding bonds issued pursuant to this section and  
 34 may issue bonds to pay for the administrative, insurance and operating  
 35 costs of the financing authority and the development authority in  
 36 carrying out the provisions of this act. Notwithstanding the provisions  
 37 of this section to the contrary, the proceeds of bonds issued pursuant to  
 38 this section after the effective date of P.L. , c. (C. ) (pending  
 39 before the Legislature as this bill) shall not pay for any costs related to  
 40 the issuance of the bonds, including the administrative <sup>4</sup>expenses  
 41 (other than retained professional services related to the issuance of the  
 42 bonds, indebtedness, or other borrowed moneys)<sup>4</sup>, <sup>1</sup>non-project<sup>1</sup>  
 43 insurance and operating costs of the financing authority and the  
 44 development authority in carrying out the provisions of P.L.2000, c.72  
 45 (C.18A:7G-1 et al.). Such costs of the financing authority shall be  
 46 supported by State appropriations <sup>4</sup>when financial support is made  
 47 available following a budget request pursuant to subsection k. of this  
 48 section<sup>4</sup>. Such costs of the development authority shall be funded by

1 State appropriations pursuant to paragraph (2) of subsection o. of  
2 section 4 of P.L.2007, c.137, (C.52:18A-238) <sup>4</sup>when financial support  
3 is made available following a budget request pursuant to subsection k.  
4 of this section<sup>4</sup>. In addition to its bonds and refunding bonds, the  
5 financing authority shall have the power to issue subordinated  
6 indebtedness, which shall be subordinate in lien to the lien of any or all  
7 of its bonds or refunding bonds as the financing authority may  
8 determine.

9 b. The financing authority shall issue the bonds or refunding  
10 bonds in such manner as it shall determine in accordance with the  
11 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
12 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);  
13 provided that notwithstanding any other law to the contrary, no  
14 resolution adopted by the financing authority authorizing the issuance  
15 of bonds or refunding bonds pursuant to this section shall be adopted  
16 or otherwise made effective without the approval in writing of the  
17 State Treasurer; and refunding bonds issued to refund bonds issued  
18 pursuant to this section shall be issued on such terms and conditions as  
19 may be determined by the financing authority and the State Treasurer.  
20 The financing authority may, in any resolution authorizing the  
21 issuance of bonds or refunding bonds issued pursuant to this section,  
22 pledge the contract with the State Treasurer provided for pursuant to  
23 section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or  
24 may pledge all or any part of the repayments of loans made to local  
25 units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the  
26 payment or redemption of the bonds or refunding bonds, and covenant  
27 as to the use and disposition of money available to the financing  
28 authority for payment of the bonds and refunding bonds. All costs  
29 associated with the issuance of bonds and refunding bonds by the  
30 financing authority for the purposes set forth in this act may be paid by  
31 the financing authority from amounts it receives from the proceeds of  
32 the bonds or refunding bonds, and from amounts it receives pursuant  
33 to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-  
34 18 and C.18A:7G-19). The costs may include, but shall not be limited  
35 to, any costs relating to the issuance of the bonds or refunding bonds,  
36 administrative costs of the financing authority attributable to the  
37 making and administering of loans and grants to fund school facilities  
38 projects, and costs attributable to the agreements entered into pursuant  
39 to subsection d. of this section. Notwithstanding the provisions of this  
40 section to the contrary, <sup>4</sup>if financial support is provided to the  
41 development authority following a budget request made directly to the  
42 Division of Budget and Accounting in the Department of the Treasury  
43 for State support pursuant to subsection k. of this section,<sup>4</sup> the  
44 proceeds of bonds and refunding bonds that are issued pursuant to this  
45 section after the effective date of P.L. , c. (C. ) (pending before  
46 the Legislature as this bill) shall not pay for the administrative costs of  
47 the financing authority associated with the issuance of the bonds and  
48 refunding bonds including, but not limited to, administrative costs

1 <sup>4</sup>(other than retained professional services related to the issuance of  
2 the bonds, indebtedness, or other borrowed moneys)<sup>4</sup> of the financing  
3 authority attributable to the making and administering of loans and  
4 grants to fund school facilities projects, and costs attributable to the  
5 agreements entered into pursuant to subsection d. of this section. Such  
6 costs of the financing authority shall be supported by State  
7 appropriations <sup>4</sup>when financial support is made available following a  
8 budget request pursuant to subsection k. of this section<sup>4</sup>.

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

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

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

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

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

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

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

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

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

43 d. The resolution authorizing the issuance of bonds or refunding  
44 bonds pursuant to this section may also provide for the financing  
45 authority to enter into any revolving credit agreement, agreement  
46 establishing a line of credit or letter of credit, reimbursement  
47 agreement, interest rate exchange agreement, currency exchange  
48 agreement, interest rate floor or cap, options, puts or calls to hedge

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

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

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

42 g. The State hereby pledges and covenants with the holders of any  
43 bonds or refunding bonds issued pursuant to this act that it will not  
44 limit or alter the rights or powers vested in the financing authority by  
45 this act, nor limit or alter the rights or powers of the State Treasurer in  
46 any manner which would jeopardize the interest of the holders or any  
47 trustee of the holders, or inhibit or prevent performance or fulfillment  
48 by the financing authority or the State Treasurer with respect to the  
49 terms of any agreement made with the holders of the bonds or

1 refunding bonds or agreements made pursuant to subsection d. of this  
2 section; except that the failure of the Legislature to appropriate  
3 moneys for any purpose of this act shall not be deemed a violation of  
4 this section.

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

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

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

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

44 (3) (a) the SDA District Emergent Project Fund, in which shall be  
45 deposited any funds made available for emergent projects in SDA  
46 districts under the "Emergent Condition Remediation Program"  
47 established pursuant to section 20 of P.L. , c. (C. ) (pending  
48 before the Legislature as this bill), which funds shall include, but not

1 be limited to, the proceeds of bonds issued pursuant to subsection a. of  
2 this section for the State share of costs for SDA district emergent  
3 projects, the proceeds of any general obligation or other bonds that  
4 may be authorized for SDA district emergent projects, and any State  
5 appropriations for SDA district emergent projects;

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

12 (4) the Charter School and Renaissance School Project  
13 Construction and Maintenance Fund in which shall be deposited any  
14 funds made available for school facilities projects of charter schools or  
15 renaissance school projects located in SDA districts approved pursuant  
16 to section 5 of P.L. , c. (C. ) (pending before the Legislature as  
17 this bill), which funds shall include, but not be limited to, the proceeds  
18 of bonds issued pursuant to subsection a. of this section for the State  
19 share of costs for school facilities projects of charter schools and  
20 renaissance school projects physically located in SDA districts, the  
21 proceeds of any general obligation bonds that may be authorized for  
22 SDA district charter school or renaissance school project school  
23 facilities projects or any State appropriations for SDA district charter  
24 school or renaissance school project school facilities projects<sup>1</sup>.

25 j. In the event that the annual appropriations act provides for  
26 direct funding for school facilities projects, or in the event that a  
27 separate act appropriates direct funding of school facilities projects  
28 from the “New Jersey Debt Defeasance and Prevention Fund”  
29 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no  
30 less than<sup>1</sup> [50] 70<sup>1</sup> percent of the direct funding shall be appropriated  
31 to the SDA District Project Fund and the SDA District Emergent  
32 Project Fund. The remaining funds for school facilities projects shall  
33 be<sup>1</sup> [utilized in a manner to be determined by the development  
34 authority] disbursed to the Regular Operating District Construction  
35 and Maintenance Grants Fund<sup>1</sup>.

36 <sup>4</sup>k. In the event that the financing authority issues bonds or incurs  
37 indebtedness pursuant to this section for the purpose of financing all or  
38 a portion of the costs of school facilities projects and for the purpose  
39 of providing funding to the development authority to undertake school  
40 facilities projects, the development authority may submit a budget  
41 request directly to the Division of Budget and Accounting in the  
42 Department of the Treasury, for State support to provide supplemental  
43 financing for the development authority’s operations in carrying out  
44 the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.).<sup>4</sup>

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

46  
47 <sup>1</sup>[11.] 10.<sup>1</sup> Section 15 of P.L.2000, c.72 (C.18A:7G-15) is  
48 amended to read as follows:



1       15. a. In the case of a district other than an SDA district, for any  
2 project approved by the commissioner after the effective date of **[this**  
3 **act]** P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect to  
4 receive a one-time grant for the State share of the project in  
5 accordance with the provisions of subsection b. of this section rather  
6 than annual debt service aid under section 9 of P.L.2000, c.72  
7 (C.18A:7G-9). The State share payable to the district shall equal the  
8 product of the project's final eligible costs and the district aid  
9 percentage or **[40%]** 40 percent, whichever is greater <sup>2</sup>**[**, except that if  
10 the project's design conforms to the standards of the model school  
11 design program established by the development authority pursuant to  
12 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72  
13 (C.18A:7G-4), the district aid percentage shall be increased by 15  
14 percent above the amount calculated under section 3 of P.L.2000, c.72  
15 (C.18A:7G-3)]<sup>2</sup>. If the project's design incorporates the  
16 implementation of energy efficiency improvements or the installation  
17 of energy efficient features or equipment, the district aid percentage  
18 shall be increased by no more than five percent. <sup>2</sup>In order to qualify  
19 for a district aid percentage increase for the implementation of energy  
20 efficiency improvements or the installation of energy efficient features  
21 or equipment pursuant to this subsection, a district shall submit to the  
22 development authority and Department of Education a certification,  
23 along with evidential documentation, attesting that the project's design  
24 incorporates the implementation of energy efficiency improvements or  
25 the installation of energy efficient features or equipment.<sup>2</sup>

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

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

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

44

45       <sup>1</sup>**[12.]** 11.<sup>1</sup> Section 23 of P.L.2000, c.72 (C.18A:7G-23) is  
46 amended to read as follows:

47       23. a. Not less than the prevailing wage rate determined by the  
48 Commissioner of Labor and Workforce Development pursuant to

1 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be  
2 paid to workers employed in the performance of construction  
3 contracts in connection with any school facilities project that is  
4 undertaken by the development authority, a redevelopment entity,  
5 **[or]** a district, a charter school or renaissance school project, a  
6 county improvement authority, or a private entity, when the private  
7 entity is undertaking construction on a school facilities project  
8 under a public-private partnership, and any contractor who violates  
9 the provisions of this subsection shall be prohibited from  
10 subsequently bidding on any State or district contract.

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

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

18

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

43

44 <sup>1</sup>**[14.] 13.**<sup>1</sup> Section 57 of P.L.2000, c.72 (C.18A:7G-31) is  
45 amended to read as follows:

46 57. a. Notwithstanding any provision of this act or any other  
47 law or regulation to the contrary, a board of education or a board of  
48 school estimate, as appropriate, may, through the adoption of a

1 board resolution, establish a capital reserve account. The account  
2 shall be established and held in accordance with GAAP and shall be  
3 subject to annual audit. The funds in the capital reserve account  
4 shall be used to finance the district's long-range facilities plan  
5 required pursuant to subsection a. of section 4 of **[this act]**  
6 P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall  
7 not exceed the total amount of local funds required to implement  
8 the plan.

9 b. A board of education or a board of school estimate, as  
10 appropriate, may appropriate funds in the district's annual budget  
11 for the establishment of the capital reserve account pursuant to  
12 subsection a. of this section or to supplement the funds in the  
13 account as required to meet the needs of the long-range facilities  
14 plan.

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

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

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

32

33 <sup>1</sup>**[15.] 14.**<sup>1</sup> Section 60 of P.L.2000, c.72 (C.18A:7G-34) is  
34 amended to read as follows:

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

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

46 (2) Proof of any contractor or trade license required by law for any  
47 trade or specialty area in which the contractor is seeking

- 1 prequalification and a statement as to whether any contractor or trade  
2 license has been revoked;
- 3 (3) A statement as to bonding capacity, which shall be from a  
4 surety authorized to issue bid, performance and payment bonds in the  
5 State of New Jersey in accordance with N.J.S.2A:44-143 through  
6 N.J.S.2A:44-147 to the contractor, and shall indicate aggregate  
7 bonding limits;
- 8 (4) A list of the names and titles of all individuals who own 10%  
9 or more of any class of stock in the corporation or are a 10% or more  
10 partner in the firm. If any of the aforementioned stockholders or  
11 partners is itself a corporation, or a partnership, that entity shall also  
12 provide the information specified herein;
- 13 (5) Disclosure of any judgments, convictions or criminal  
14 indictments for any conduct constituting a crime under local, State or  
15 federal law<sup>1</sup>. The prospective bidder shall also disclose whether, in  
16 the past five years, the following have been convicted of a criminal  
17 offense under local, State, or federal law: the contractor; the  
18 contractor's corporate directors or officers; any employee of the  
19 contractor serving in a supervisory capacity or who is empowered to  
20 make discretionary decisions with respect to bids or public works  
21 contracts; or any individual who owns five percent or more of any  
22 class of stock in the corporation or is a five percent or more partner in  
23 the firm. Failure to disclose a conviction of a criminal offense  
24 pursuant to this paragraph shall constitute cause for the denial or  
25 revocation of a contractor's prequalification status<sup>1</sup>;
- 26 (6) Disclosure of any unsatisfied judgments, injunctions or liens  
27 obtained by a governmental agency including, but not limited to,  
28 judgments based on taxes owed and fines and penalties assessed by  
29 any government agency;
- 30 (7) Disclosure of any determination for violations of federal, State  
31 or local laws, rules or regulations, including health laws,  
32 unemployment insurance or workers' compensation coverage or claim  
33 requirements, the "Employee Retirement Income Security Act of  
34 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
35 environmental laws, safety laws, licensing laws, tax laws and antitrust  
36 laws;
- 37 (8) Disclosure of any federal, State or local debarments, non-  
38 responsibility findings or denials of prequalification;
- 39 (9) Disclosure of any bankruptcy filings or proceedings;
- 40 (10) A statement as to past performance, which shall give an  
41 accurate and complete record of work completed in the past five years  
42 by the contractor giving the names of the projects, type of work,  
43 location, contract price, bid and final contract amount paid and the  
44 names of the owner and of the architect or engineer in charge for the  
45 owner. This statement shall also disclose any labor problems  
46 experienced, any failure to complete a contract on schedule, any  
47 penalties, judgments, orders or liens imposed by reason of any contract  
48 undertaken within the five-year period and whether the contractor has

1 been defaulted for cause on any project as determined by an  
2 unappealed or nonappealable decision. This statement shall also  
3 indicate the status of any litigation pending against the potential  
4 bidder. The contractor shall be required to attach to this statement all  
5 performance evaluations in his possession for any work performed by  
6 the contractor on any public or private projects;

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

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

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

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

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

26 (1) a trade or work classification; and

27 (2) an aggregate rating limit.

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

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

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

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

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

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

1       <sup>1</sup>15. (New section) a. As part of the application process  
2 established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for  
3 the prequalification of a contractor that desires to bid on school  
4 facilities projects, the development authority shall seek certification  
5 from the Department of Labor and Workforce Development and the  
6 Department of the Treasury that the contractor is in substantial good  
7 standing with the respective department or has entered into an  
8 agreement with the respective department that includes a practical  
9 corrective action plan for the contractor.

10       b. As part of the application process established under section  
11 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a  
12 contractor that desires to bid on school facilities projects, the  
13 development authority shall undertake a moral integrity review,  
14 which shall include a criminal history record check, judgment  
15 search, and lien search of:

16       (1) the contractor;

17       (2) the contractor's corporate directors or officers;

18       (3) any employee of the contractor who serves in a supervisory  
19 capacity or that is empowered to make discretionary decisions with  
20 respect to bids or contracts for public works contracts; or

21       (4) any individual who owns five percent or more of any class  
22 of stock in the corporation or is a five percent or more partner in the  
23 firm.

24       c. The development authority shall not approve the application  
25 of a contractor for prequalification to bid on a school facilities  
26 projects if the contractor has been convicted of a criminal offense  
27 under local, State, or federal law or if, at the time of the application,  
28 the contractor is disbarred, suspended, or disqualified from State,  
29 development authority, or federal government contracting.

30       d. The development authority shall not approve the application  
31 of a contractor for prequalification to bid on school facilities  
32 projects if the contractor is prohibited from contracting with any  
33 public body pursuant to subsection d. of section 1 of P.L.2019,  
34 c.366 (C.34:1A-1.16).<sup>1</sup>

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

38       61. a. A contractor's prequalification classification shall be  
39 valid for 24 months. A contractor shall be reclassified after the 24-  
40 month period in order to remain eligible to bid on school facilities  
41 projects.

42       b. Any material changes relevant to the prequalification  
43 process shall be reported by the contractor to the development  
44 authority in writing within 10 days. Based on the information  
45 provided, the development authority may change the classification  
46 or revoke prequalification for cause. The development authority  
47 may revoke a contractor's prequalification if the contractor fails to

1 report material changes relevant to the prequalification process  
2 within 10 days.

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

4

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

7 62. a. A mandatory uniform performance evaluation shall be  
8 conducted on all school facilities projects undertaken by the  
9 development authority. The evaluation shall, at a minimum, include  
10 cost, schedule adherence and quality.

11 b. A contractor shall be notified of a performance evaluation.  
12 The contractor shall be afforded an opportunity to respond to an  
13 adverse evaluation. Following the opportunity for the contractor to  
14 respond to an adverse evaluation, the development authority may  
15 revoke a contractor's prequalification to bid on school facilities  
16 projects<sup>1</sup>, provided that the contractor had a below average score  
17 according to the development authority's scoring criteria for the  
18 mandatory uniform evaluation conducted pursuant to subsection a. of  
19 this section<sup>1</sup>.

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

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

23

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

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

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

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

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

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

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

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

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

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

10  
11       19. (New section) a. The development authority and an SDA  
12 district to which the development authority has delegated management  
13 of a school facilities project, as well as any contractor or consultant  
14 retained thereby, shall not enter into a contract for work with any  
15 person or firm that <sup>1</sup>**[has been]** is currently<sup>1</sup> debarred, suspended, or  
16 disqualified from State, development authority, or federal government  
17 contracting.

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

28       c. <sup>1</sup>(1)<sup>1</sup> The development authority or the SDA district to which  
29 the development authority has delegated management of a school  
30 facilities project shall include in its bid specification for any work or  
31 services on an approved school facilities project that all bidders submit  
32 a sworn statement by the bidder, or an officer or partner of the bidder,  
33 indicating whether the bidder is, at the time of the bid, included on the  
34 State Treasurer's, the development authority's or the federal  
35 government's list of debarred, suspended or disqualified bidders as a  
36 result of action taken by any state or federal agency, as the case may  
37 be. Bid specifications for the approved school facilities project shall  
38 state that the district shall immediately notify the development  
39 authority in writing whenever it appears that a bidder is on the State  
40 Treasurer's, the development authority's, or the federal government's  
41 list.

42       <sup>1</sup>(2)<sup>1</sup> The inclusion of the bidder on any of the lists <sup>1</sup>enumerated  
43 in paragraph (1) of this subsection<sup>1</sup> shall constitute cause for the  
44 immediate termination of any contract for a school facilities project,  
45 <sup>1</sup>**[and]** provided, however, that the development authority or SDA  
46 district to which the development authority has delegated management  
47 of a school facilities project is able to replace the bidder without  
48 significantly impacting the cost and delivery date of the project. The



1 inclusion of the bidder on any of the lists enumerated in paragraph (1)  
2 of this subsection<sup>1</sup> shall <sup>1</sup>also<sup>1</sup> result in the development authority's  
3 immediate suspension of the bidder from contracting or engaging in  
4 work or services on a school facilities project <sup>1</sup>during the period of the  
5 bidder's debarment, suspension, or disqualification<sup>1</sup>.  
6

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

16 b. Under the Emergent Condition Remediation Program  
17 established pursuant to subsection a. of this section, the development  
18 authority shall create a process whereby contractors prequalified by  
19 the development authority to bid on school facilities projects apply to  
20 be a part of a pool of contractors available to address emergent  
21 conditions in SDA districts under a standing retainer agreement  
22 subject to the development authority's project labor agreement <sup>2</sup>for  
23 emergent projects in accordance with the provisions of <sup>4</sup>section 2 of<sup>4</sup>  
24 P.L.2002, c.44 <sup>4</sup>[(C.52:38-1 et seq.)<sup>2</sup>] (C.52:38-2)<sup>4</sup>. The prequalified  
25 contractors that are part of the pool of contractors established pursuant  
26 to this subsection shall be available for any emergent project in any  
27 SDA district. Nothing in this subsection shall be construed as requiring  
28 the retainer of prequalified contractors for specific emergent projects.

29 <sup>1</sup>c. As used in this section, "emergent project" means a school  
30 facilities project or other capital project eligible for State funding that  
31 would alleviate a condition that, if not corrected on an expedited basis,  
32 would render a building or facility so potentially injurious or  
33 hazardous that it causes an imminent peril to the health and safety of  
34 students or staff.<sup>1</sup>  
35

36 21. (New section) Notwithstanding the provisions of any law,  
37 rule, or regulation to the contrary, an SDA district to which the  
38 development authority has delegated management of a school  
39 facilities project shall not enter into a cooperative pricing system or  
40 agreement for construction services on school facilities projects.  
41

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

43 18A:18A-4. a. Every contract for the provision or performance  
44 of any goods or services, the cost of which in the aggregate exceeds  
45 the bid threshold, shall be awarded only by resolution of the board  
46 of education to the lowest responsible bidder after public  
47 advertising for bids and bidding therefor, except as is provided  
48 otherwise in this chapter or specifically by any other law.

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

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

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

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

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

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

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

45 (4) the bidder is debarred or suspended from contracting with  
46 any of the agencies or departments of the executive branch of the  
47 State of New Jersey at the time of the contract award, whether or  
48 not the action was based on experience with a board of education

1 or, in the case of a school facilities project, with the New Jersey  
2 Economic Development Authority **[.]** or the New Jersey Schools  
3 Development Authority;

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

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

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

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

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

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

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

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

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

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

1 with the term of the suspension or debarment by the State agency or  
2 department.

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

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

8

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

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

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

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

26

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

29 2. a. As used in this section:

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

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

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

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

47 "School district" shall have the same meaning as provided in  
48 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local  
49 school district, regional school district, or county special services

1 school district or county vocational school established and  
2 operating under the provisions of Title 18A of the New Jersey  
3 Statutes that can demonstrate to the satisfaction of the  
4 Commissioner of Education and the Chief Executive Officer of the  
5 Schools Development Authority that a school facility is necessary  
6 due to overcrowding or is in need of replacement. The term "school  
7 district" shall include a charter school established under P.L.1995,  
8 c.426 (C.18A:36A-1 et seq.)

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

19 (2) A public-private partnership agreement may include an  
20 agreement under which a school district and a private entity enter  
21 into a lease of a revenue-producing public building, structure, or  
22 facility in exchange for up-front or structured financing by the  
23 private entity for the project. Under the lease agreement, the  
24 private entity shall be responsible for the management, operation,  
25 and maintenance of the building, structure, or facility. The private  
26 entity shall receive some or all, as per the agreement, of the revenue  
27 generated by the building, structure, or facility, and shall operate  
28 the building, structure, or facility in accordance with school district  
29 standards. At the end of the lease term, subsequent revenue  
30 generated by the building, structure, or facility, along with  
31 management, operation, and maintenance responsibility, shall revert  
32 to the school district. A lease agreement entered into pursuant to  
33 this section shall be limited in duration to a term of not more than  
34 30 years. A lease agreement shall be subject to all applicable  
35 provisions of current law governing leases by a school district not  
36 inconsistent with the provisions of this section.

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

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

45 (2) For the purposes of facilitating the financing of a project  
46 pursuant to this section, a public entity may become the owner or  
47 lessee of the project or the lessee of the land, or both, may become  
48 the lessee of a building, structure, or facility to which the school

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

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

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

39 e. (1) All building construction projects under a public-private  
40 partnership agreement entered into pursuant to this section shall  
41 contain a project labor agreement. The project labor agreement  
42 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et  
43 seq.), and shall be in a manner that to the greatest extent possible  
44 enhances employment opportunities for individuals residing in the  
45 county of the project's location. The general contractor,  
46 construction manager, design-build team, or subcontractor for a  
47 construction project proposed in accordance with this paragraph  
48 shall be registered pursuant to the provisions of P.L.1999, c.238  
49 (C.34:11-56.48 et seq.), and shall be classified by the Division of

1 Property Management and Construction, or shall be prequalified by  
2 the Department of Transportation, as appropriate, to perform work  
3 on a public-private partnership project.

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

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

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

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

45 (6) Prior to entering into a public- private partnership, the  
46 school district at a public hearing shall find that the project is in the  
47 best interest of the public by finding that (i) it will cost less than the  
48 public sector option, or if it costs more there are factors that warrant  
49 the additional expense, (ii) there is a public need for the project and

1 the project is consistent with existing long-term plans, (iii) there are  
2 specific significant benefits to the project, (iv) there are specific  
3 significant benefits to using the public-private partnership instead  
4 of other options including No-Build, (v) the private development  
5 will result in timely and efficient development and operation, and  
6 (vi) the risks, liabilities and responsibilities transferred to the  
7 private entity provide sufficient benefits to warrant not using other  
8 means of procurement.

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

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

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



1 or necessary. The application shall also include a resolution by the  
2 school district's governing body of its intent to enter into a public-  
3 private partnership agreement pursuant to this section.

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

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

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

46 g. A project with an expenditure of under \$50 million  
47 developed under a public-private partnership agreement shall  
48 include a requirement that precludes contractors from engaging in  
49 the project if the contractor has contributed to the private entity's

1 financing of the project in an amount of more than 10% of the  
2 project's financing costs.

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

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

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

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

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

1 Authority, Department of Education, and Schools Development  
2 Authority.

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

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

1 the results of the negotiations, the school district may, at its sole  
2 discretion, terminate negotiations.

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

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

13 (8) Nothing in this section shall be construed as or deemed a  
14 waiver of the sovereign immunity of the State, the local government  
15 unit or an affected locality or public entity or any officer or  
16 employee thereof with respect to the participation in or approval of  
17 all or any part of the public-private project.  
18 (cf: P.L.2018, c.90, s.2)

19

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

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

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

32

33 <sup>1</sup>[26. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended  
34 to read as follows:

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

1 charter school physically located in an SDA district may construct a  
2 facility with public funds other than federal funds and be subject to  
3 the provisions of the "Public School Contracts Law,"  
4 N.J.S.18A:18A-1 et seq., provided that the public funds are  
5 provided for a school facilities project approved pursuant to the  
6 provisions of section 5 of P.L. , c. (C. ) (pending before the  
7 Legislature as this bill).  
8 (cf: P.L.2011, c.140, s.3)]<sup>1</sup>  
9

10 <sup>1</sup>[27. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to  
11 read as follows:

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

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

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

47 d. Notwithstanding the provisions of the "Public School  
48 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or

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

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

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

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

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

35 (cf: P.L.2014, c.61, s.3)]<sup>1</sup>

36

37 <sup>1</sup>**[28.]** 26.<sup>1</sup> Section 12 of P.L.1991, c.431 (C.40A:20-12) is  
38 amended to read as follows:

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

1 agreement with an urban renewal entity for the development or the  
2 redevelopment of the property, or the provision of a redevelopment  
3 relocation housing project, or the provision of a low and moderate  
4 income housing project has been entered into and is in effect as  
5 required by P.L.1991, c.431 (C.40A:20-1 et seq.).

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

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

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

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

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

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

1 the project if the project is undertaken in units, or not more than 50  
2 years from the execution of the first financial agreement implementing  
3 a project under the redevelopment agreement. As used in this  
4 subsection, "redevelopment agreement" means an agreement entered  
5 into pursuant to subsection f. of section 8 of P.L.1992, c.79  
6 (C.40A:12A-8) between a municipality or redevelopment entity and a  
7 redeveloper.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37

38 <sup>1</sup>~~29~~ 27<sup>1</sup> Section 3 of P.L.2007, c.137 (C.52:18A-237) is  
39 amended to read as follows:

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

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

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

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

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

38           (2) Each member appointed by the <sup>4</sup>Governor upon the  
39 recommendation of the<sup>4</sup> Senate President and Speaker of the General  
40 Assembly may be removed from office by the <sup>4</sup>Governor upon the  
41 recommendation of the<sup>4</sup> Senate President or Speaker as applicable, for  
42 cause, after a public hearing, and may be suspended by the <sup>4</sup>Governor  
43 upon the recommendation of the<sup>4</sup> Senate President or Speaker as  
44 applicable pending the completion of the hearing. Each member before  
45 entering upon the member's duties shall take and subscribe an oath to  
46 perform the duties of the office faithfully, impartially and justly to the

- 1 best of the member's ability. A record of the oath shall be filed in the  
2 Office of the Secretary of State.
- 3 e. A chairperson shall be appointed by the Governor from the  
4 public members. The members of the development authority shall  
5 elect from their remaining number a vice-chairperson, a secretary, and  
6 a treasurer thereof. The development authority shall employ an  
7 executive director who shall be its chief executive officer. The powers  
8 of the development authority shall be vested in the members thereof in  
9 office from time to time and ~~eight~~ <sup>1</sup>~~nine~~ <sup>10</sup> members of the  
10 development authority shall constitute a quorum at any meeting  
11 thereof. Action may be taken and motions and resolutions adopted by  
12 the development authority at any meeting thereof by the affirmative  
13 vote of at least ~~eight~~ <sup>1</sup>~~nine~~ <sup>10</sup> members of the development  
14 authority. No vacancy in the membership of the development  
15 authority shall impair the right of a quorum of the members to exercise  
16 all the powers and perform all the duties of the development authority.
- 17 f. Each member of the development authority shall execute a  
18 bond to be conditioned upon the faithful performance of the duties of  
19 such member in such form and amount as may be prescribed by the  
20 Director of the Division of Budget and Accounting in the Department  
21 of the Treasury. Such bonds shall be filed in the Office of the  
22 Secretary of State. At all times thereafter the members and treasurer  
23 of the development authority shall maintain such bonds in full force  
24 and effect. All costs of such bonds shall be borne by the development  
25 authority.
- 26 g. The members of the development authority shall serve without  
27 compensation, but the development authority may reimburse its  
28 members for actual expenses necessarily incurred in the discharge of  
29 their duties. Notwithstanding the provisions of any other law to the  
30 contrary, no officer or employee of the State shall be deemed to have  
31 forfeited or shall forfeit any office or employment or any benefits or  
32 emoluments thereof by reason of the acceptance of the office of ex  
33 officio member of the development authority or any services therein.
- 34 h. Each ex officio member of the development authority may  
35 designate an officer or employee of the member's department to  
36 represent the member at meetings of the development authority, and  
37 each such designee may lawfully vote and otherwise act on behalf of  
38 the member for whom the person constitutes the designee. Any such  
39 designation shall be in writing delivered to the development authority  
40 and shall continue in effect until revoked or amended by writing  
41 delivered to the development authority.
- 42 i. The development authority shall appoint from among its  
43 members an audit committee and such other committees as it deems  
44 necessary or conducive to the efficient management and operation of  
45 the development authority.
- 46 j. The development authority may be dissolved by act of the  
47 Legislature on condition that the development authority has no debts  
48 or obligations outstanding or that provision has been made for the

1 payment or retirement of such debts or obligations. Upon any such  
2 dissolution of the development authority, all property, funds and assets  
3 thereof shall be vested in the State.

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

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

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

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

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

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

36  
37 <sup>1</sup>**[30.]** 28.<sup>1</sup> Section 4 of P.L.2007, c.137 (C.52:18A-238) is  
38 amended to read as follows:

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

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

1 compensation from funds available to the development authority  
2 therefor, all without regard to the provisions of Title 11A of the New  
3 Jersey Statutes, provided, however, that an affirmative vote of the  
4 development authority shall be required in the hiring, termination, and  
5 disciplining of <sup>1</sup>[employees] the management team<sup>1</sup> of the  
6 development authority, <sup>1</sup>[as well as in the transfer of any employees  
7 of the development authority among different subunits of the  
8 development authority] which shall include the Chief Executive  
9 Officer, the Vice President and Chief Financial Officer, and the Vice  
10 President of Corporate Governance<sup>1</sup>;

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

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

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

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

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

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

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

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

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

19

20 <sup>1</sup>29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to  
21 read as follows:

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

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

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

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

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



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

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

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

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

21

22 <sup>1</sup>30. (New section) As used in sections 31 through 34 of P.L. \_\_\_\_,  
23 c. (C. \_\_\_\_ ) (pending before the Legislature as this bill):

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

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

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

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

42 “Department” means the Department of Education.

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

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

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

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

8 “Loan program” means the “Charter School and Renaissance  
9 School Project Facilities Loan Program” established pursuant to  
10 section <sup>4</sup>[31] <sup>4</sup>32<sup>4</sup> of P.L. , c. (C. ) (pending before the  
11 Legislature as this bill).

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

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

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

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

35 <sup>4</sup>“Title” means ownership, simple or in fee, or a 99-year ground  
36 leasehold.<sup>4</sup>

37  
38 <sup>1</sup>31. (New section) Notwithstanding the provisions of section  
39 10 of P.L.1995, c.426 (C.18A:36A-10), section 7 of P.L.2011, c.176  
40 (C.18A:36C-7), or any other law, rule, or regulation to the contrary:

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

47 b. a charter school, renaissance school project, or any other  
48 eligible borrower may accept public funds in the form of a loan for

1 a school facilities project pursuant to the provisions of sections 30  
2 through 34 of P.L. , c. (C. ) (pending before the Legislature  
3 as this bill);

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

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

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

20  
21 <sup>1</sup>32. (New section) a. The authority shall establish and administer  
22 a loan program to be known as the “Charter School and Renaissance  
23 School Project Facilities Loan Program” to provide eligible borrowers  
24 with a loan including, but not limited to, subordinate loans, to  
25 undertake or facilitate school facilities projects for non-profit charter  
26 schools and non-profit renaissance school projects located in an SDA  
27 district.

28 b. (1) The authority, in consultation with the department, shall  
29 annually review the applications for school facilities projects  
30 submitted pursuant to subsection c. of this section and may approve  
31 applications for loans on a quarterly basis. The authority <sup>4</sup>, in  
32 consultation with the department,<sup>4</sup> shall consider the critical need of a  
33 school facilities project in making a determination on a submitted  
34 application. At a minimum, the criteria and methodology for  
35 determining critical need shall prioritize, in order from highest to  
36 lowest priority:

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

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

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

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

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

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

6        (vi) security and communication systems upgrades;

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

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

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

16        (c) major renovation and rehabilitation projects <sup>2</sup>, including  
17 projects<sup>2</sup> that seek to expand the capacity of a charter school or  
18 renaissance school project facility used for educational purposes of a  
19 charter school or renaissance school project that operates grade levels  
20 permitted within the school’s charter and within the municipality in  
21 which the charter school or renaissance school project’s charter has  
22 permitted them to operate.

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

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

43        c. An eligible borrower seeking a loan for a school facilities  
44 project pursuant to the provisions of this section shall apply to the  
45 authority and department in a form and manner prescribed by the  
46 authority in consultation with the department. In the case of a charter  
47 school or renaissance school project established after the effective date  
48 of P.L. , c. (C. ) (pending before the Legislature as this bill),

1 the authority shall not approve a loan for a school facilities project  
 2 until after the charter school's first renewal pursuant to section 17 of  
 3 P.L.1995, c.426 (C.18A:36A-17) or after the renaissance school  
 4 project's first renewal under section 10 of P.L.2011, c.176  
 5 (C.18A:36C-10) or of a charter school or renaissance school project  
 6 placed on probationary status by the Commissioner of Education. In  
 7 addition to any other information the authority and department deem  
 8 appropriate, the application shall require the eligible borrower to  
 9 submit a detailed plan of the anticipated use of loan proceeds, full  
 10 project costs, and all sources of funding.

11 d. (1) The authority and department may approve applications for  
 12 loans on a quarterly basis, subject to the availability of funds in the  
 13 loan fund established pursuant to section 33 of P.L. \_\_\_\_\_,  
 14 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill). Upon  
 15 approval of the application, the authority shall provide loans <sup>2</sup>[that  
 16 are] with an interest rate that is equal to<sup>2</sup> the lower of one-half of the  
 17 Triple A Bond Rate available on the date of loan approval or 1.75  
 18 percent to eligible borrowers seeking to undertake school facilities  
 19 projects for charter schools and renaissance school projects located in  
 20 SDA districts. The terms of the loan and the repayment schedule shall  
 21 be established by the authority.

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

26 e. <sup>2</sup>(1)<sup>2</sup> The authority shall require, as a condition of a loan for  
 27 a school facilities project pursuant to the provisions of sections 30  
 28 through 34 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as  
 29 this bill) on a school facility owned by the charter school or  
 30 renaissance school project, that, notwithstanding the provisions of  
 31 section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule or  
 32 regulation to the contrary, in the event the authorization to operate a  
 33 charter school <sup>2</sup>is revoked, not renewed, or surrendered<sup>2</sup> or <sup>2</sup>the  
 34 authorization to operate a<sup>2</sup> renaissance school project is terminated or  
 35 expires for any reason, and no substitute or replacement owner or  
 36 operator for that charter school or renaissance school project has been  
 37 approved prior to the <sup>2</sup>[termination or expiration]<sup>2</sup> date <sup>2</sup>that the  
 38 operations of the charter school or renaissance school project cease<sup>2</sup>,  
 39 the title to the charter school or renaissance school project shall revert  
 40 to <sup>2</sup>[the board of education of the district in which the charter school  
 41 or renaissance school project is located] another eligible borrower<sup>2</sup> or  
 42 the <sup>4</sup>[State] Department of the Treasury<sup>4</sup> <sup>2</sup>, except as provided  
 43 pursuant to paragraph (2) of this subsection,<sup>2</sup> for consideration in an  
 44 amount calculated as follows:

45 <sup>2</sup>[(1)] (a)<sup>2</sup> if the principal and interest due on any outstanding  
 46 debt used to finance a school facilities project pursuant to the  
 47 provisions of sections 30 through 34 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending

1 before the Legislature as this bill) of a charter school or renaissance  
 2 school project is equal to or greater than the fair market value of the  
 3 charter school or renaissance school project, as determined by a  
 4 certified appraiser agreed to by the board of education of the district in  
 5 which the charter school or renaissance school project is located and  
 6 the owner of the charter school or renaissance school project, <sup>2</sup>[the  
 7 board of education of the district in which the charter school or  
 8 renaissance school project is located] <sup>3</sup>[the] an<sup>3</sup> eligible borrower<sup>2</sup> or  
 9 the <sup>4</sup>[State] Department of the Treasury<sup>4</sup> shall assume any  
 10 outstanding debt used to finance the school facilities project of the  
 11 charter school or renaissance school project, and thereafter <sup>2</sup>[the board  
 12 of education of the district in which the charter school or renaissance  
 13 school project is located] an eligible borrower<sup>2</sup> or the State shall be  
 14 legally obligated for the payment thereof; or

15 <sup>2</sup>[(2)] (b)<sup>2</sup> if the fair market value of the charter school or  
 16 renaissance school project is greater than the amount of the principal  
 17 and interest due on the outstanding debt used to finance a school  
 18 facilities project pursuant to the provisions of sections 30 through 34  
 19 of P.L. , c. (C. ) (pending before the Legislature as this bill) of  
 20 a charter school or renaissance school project, <sup>2</sup>[the board of  
 21 education of the school district in which the charter school or  
 22 renaissance school project is located or]<sup>2</sup> the State shall pay to the  
 23 owner of the charter school or renaissance school project the fair  
 24 market value of the charter school or renaissance project, provided  
 25 that, to the extent that any debt used to finance the school facilities  
 26 project pursuant to the provisions of sections 30 through 34  
 27 of P.L. , c. (C. ) (pending before the Legislature as this bill) of  
 28 a charter school or renaissance school project, is then outstanding, the  
 29 owner of the charter school or renaissance school project shall utilize  
 30 the funds received from <sup>2</sup>[the board of education of the district in  
 31 which the charter school or renaissance school is located or]<sup>2</sup> the State  
 32 pursuant to this <sup>2</sup>[paragraph] subparagraph<sup>2</sup> to retire the outstanding  
 33 debt. <sup>2</sup>If the school district in which the charter school or renaissance  
 34 school project is located does not exercise its right of first refusal  
 35 established pursuant to paragraph (2) of this subsection, the <sup>4</sup>[State]  
 36 Department of the Treasury<sup>4</sup> may sell the property to another charter  
 37 school or renaissance school project <sup>3</sup>or another eligible borrower<sup>3</sup>.

38 (2) The authority shall require, as a condition of a loan for a school  
 39 facilities project pursuant to the provisions of sections 30 through 34  
 40 of P.L. , c. (C. ) (pending before the Legislature as this bill) on  
 41 a school facility owned by the charter school or renaissance school  
 42 project that, notwithstanding the provisions of section 7 of P.L.2013,  
 43 c.149 (C.18A:36C-16) or any other law, rule, or regulation to the  
 44 contrary, in the event the authorization to operate a charter school is  
 45 revoked, not renewed, or surrendered or the authorization to operate a  
 46 renaissance school project is terminated or expired for any reason, and  
 47 no substitute or replacement owner or operator for that charter school

1 or renaissance school project has been approved prior to the date that  
 2 the operations of the charter school or renaissance school project  
 3 cease, the board of education of the district in which the charter school  
 4 or renaissance school project is located shall have the right of first  
 5 refusal of the title to the charter school or renaissance school project  
 6 school facility. If the title transfers to the board of education, the State  
 7 shall assume, pursuant to subparagraph (a) of paragraph (1) of this  
 8 subsection, or pay, any outstanding debt used to finance a school  
 9 facilities project of the charter school or renaissance school project  
 10 pursuant to the provisions of sections 30 through 34 of  
 11 P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>

12 f. The authority, in consultation with the department, shall  
 13 promulgate within <sup>4</sup>[180 days] 12 months<sup>4</sup> following the date of  
 14 enactment of P.L. , c. (C. ) (pending before the Legislature as  
 15 this bill), pursuant to the “Administrative Procedures Act,” P.L.1968,  
 16 c.410 (C.52:14B-1 et seq.), such rules and regulations as may be  
 17 necessary to implement the provisions of this section, which rules and  
 18 regulations shall at a minimum establish:

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

21 (2) the process for the reversion to the board of education of the  
 22 district in which the charter school or renaissance school project is  
 23 located<sup>2</sup>, an eligible borrower,<sup>2</sup> or the State of a school facilities  
 24 project pursuant to subsection e. of this section, which shall be  
 25 consistent with the requirements of section 7 of P.L.2013, c.149  
 26 (C.18A:36C-16).

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

34 h. The authority shall not approve a second or subsequent loan  
 35 pursuant to the provisions of the loan program to an eligible borrower  
 36 who is in arrears or default of a prior loan issued pursuant to the  
 37 provisions of the loan program.<sup>1</sup>

38 <sup>2</sup>i. In the event that the aggregate amount of a loan provided  
 39 pursuant to this section exceeds \$5,000,000 for a school facilities  
 40 project approved pursuant to the provisions of sections 30 through 34  
 41 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
 42 the authority shall require as a condition of the loan that the school  
 43 facilities project be subject to the provisions of <sup>3</sup>[the Schools  
 44 Development Authority’s] a<sup>3</sup> project labor agreement.<sup>2</sup>

45

46 <sup>1</sup>33. (New section) a. The authority shall establish and  
 47 maintain the “Charter School and Renaissance School Project  
 48 Facilities Loan Fund,” which shall be a non-lapsing, revolving fund

1 that shall serve as the repository of all monies used to support the  
2 loan program.

3 b. All loans provided under section <sup>4</sup>[31] <sup>32</sup> of P.L. , c.  
4 (C. ) (pending before the Legislature as this bill) shall be issued  
5 from monies held in the loan fund. All monies received by the  
6 authority from the repayment of loans and the interest thereon shall  
7 be deposited into the loan fund.<sup>1</sup>

8  
9 <sup>1</sup>34. (New section) The Legislature shall annually appropriate  
10 to the New Jersey Economic Development Authority for deposit  
11 into the “Charter School and Renaissance School Project Facilities  
12 Loan Fund” such funds as are necessary for the implementation of  
13 sections 30 through 33 of P.L. , c. (C. ) (pending before the  
14 Legislature as this bill) until such time as the loan program becomes  
15 self-sustaining. The New Jersey Economic Development Authority  
16 may also utilize such other funds, including federal funds, as  
17 available, for deposit into the “Charter School and Renaissance  
18 School Project Facilities Loan Fund.”<sup>1</sup>

19  
20 <sup>2</sup>35. (New section) Notwithstanding the provisions of section  
21 10 of P.L.1995, c.426 (C.18A:36A-10) or any other law, rule, or  
22 regulation to the contrary, a charter school located in an SDA  
23 district may construct a facility with public funds other than federal  
24 funds, including loan funds received pursuant to the provisions of  
25 sections 30 through 34 of P.L. , c. (C. ) (pending before the  
26 Legislature as this bill), and be subject to the provisions of the  
27 “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., provided  
28 that the public funds are provided for a school facilities project  
29 approved pursuant to section 32 of P.L. , c. (C. ) (pending  
30 before the Legislature as this bill).<sup>2</sup>

31  
32 <sup>3</sup>[<sup>2</sup>36. (New section) Notwithstanding the provisions of section  
33 7 of P.L.2011, c.176 (C.18A:36C-7) or any other law, rule, or  
34 regulation to the contrary, a renaissance school project located in an  
35 SDA district may construct a facility with public funds, including  
36 loan funds received pursuant to sections 30 through 34 of P.L. , c.  
37 (C. ) (pending before the Legislature as this bill), and be  
38 subject to the provisions of the “Public School Contracts Law,”  
39 N.J.S.18A:18A-1 et seq., provided that the public funds are  
40 provided for a school facilities project approved pursuant to section  
41 32 of P.L. , c. (C. ) (pending before the Legislature as this  
42 bill).<sup>2</sup>]<sup>3</sup>

43  
44 <sup>1</sup>[<sup>31.</sup> <sup>2</sup>[<sup>35.1</sup> <sup>3</sup>[<sup>37.2</sup> <sup>36.</sup><sup>3</sup> This act shall take effect  
45 immediately.